

April 7, 2008

Eric T. Nordlof
General Counsel
Public School Employees of Washington
P.O. Box 798
Auburn, WA 98071-0798

RE: Director's Review Request for Karen A. Flowers v. Central Washington University

Dear Mr. Nordlof:

On March 31, 2008, the Department of Personnel received a request for a Director's review you filed on behalf of Karen A. Flowers. Ms. Flowers alleges that Central Washington University (CWU) violated WAC 357-22-035 and WAC 357-22-040(2) with regard to information in her personnel file.

On April 2, 2008, Director's Review Coordinator, Karen Wilcox, contacted the Human Resource Office at CWU to inquire whether or not Ms. Flowers was subject to the provisions of a collective bargaining agreement (CBA). After learning that Ms. Flowers was not subject to the provisions of a CBA, I considered her request for a Director's review in accordance with RCW 41.06.170(2). However, after reviewing the documentation submitted with the Director's review request, I have determined this request is untimely filed.

RCW 41.06.170(2) states, in part, the following:

An employee who is . . . adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal . . . not later than thirty days after the effective date of such action . . .

WAC 357-49-010(4) further states, in relevant part:

. . . an employee who has been adversely affected by a violation of the civil service laws or rules **may request a director's review within thirty calendar days of the date the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim** or the stated effective date, whichever is later. **(Emphasis added).**

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In your February 25, 2008 letter to Angela Beaudry, Director of Operations in CWU's Human Resource Office, you indicated Ms. Flowers had received "a document styled as a letter of reprimand," dated January 17, 2008, from her supervisor, Mary Ellen Reimund, Chair of Law and Justice. Similarly, Ms. Beaudry indicated Ms. Flowers received a January 17, 2008 letter of reprimand, delivered by Ms. Reimund on January 18, 2008. The January 17, 2008 letter includes a notation indicating the letter was copied to Ms. Flowers' personnel file. Therefore, on or around January 17, 2008, Ms. Flowers reasonably had knowledge of the action giving rise to her claim CWU violated WAC 357-22-035 and WAC 357-22-040(2).

The Department of Personnel did not receive Ms. Flowers' request for a Director's review until March 31, 2008, which was 74 days past the date on the letter of reprimand that included the notation to Ms. Flowers' personnel file. As a result, Ms. Flowers' request for a Director's review is untimely and the Department of Personnel lacks jurisdiction to consider her request.

Ms. Flowers may appeal this determination (lack of jurisdiction) to the Personnel Resources Board. 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 address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

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

Sincerely,

Teresa Parsons, SPHR
Director's Review Program Supervisor
Legal Affairs Division

c: Karen A. Flowers
Angela Beaudry, CWU