

May 27, 2009

TO: Clarice Thomas

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

SUBJECT: Clarice Thomas v. Seattle Central Community College (SCCC)
RULE-09-003 (Remedial Action)

On March 4, 2009, the Department of Personnel received your request for a Director's review. Based on the information provided, it appeared you were requesting the Director to take remedial action to confer permanent status. On March 20, 2009, I wrote a letter to you and SCCC indicating that I needed additional information about your temporary employment history with the college. By letter dated April 9, 2009, Kathryn Woodley with SCCC Human Resources indicated you were initially hired as an hourly laundry worker for the culinary program on January 10, 1994. Ms. Woodley also provided an Employer Cost Report summarizing your work hours for each pay period between February 29, 2008 and March 15, 2009.

At our request, Ms. Woodley provided additional time records. Ms. Woodley included electronic timecards for the pay periods of January 1, 2008 through February 29, 2008, and January 1, 2009 through February 28, 2009. Therefore, the documents in the record show the total number of hours you worked between January 1, 2008 and March 15, 2009.

Nature of Request

Remedial action is addressed in Article 4.6 of the Collective Bargaining Agreement (CBA) between the State of Washington and Washington Federation of State Employees Higher Education. The CBA indicates that an individual may request remedial action in accordance with Chapter 357-49 WAC. WAC 357-49-010(5) provides, in part, that an individual may make a request for remedial action per WAC 357-19-450.

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.)

Director's Determination

As the Director's designee, I carefully considered all of the documentation and exhibits in the file. After reviewing your time records, I conclude the number of hours worked do not meet the conditions to confer permanent status, as outlined in WAC 357-19-450(1). Therefore, I am denying your request for remedial action to confer permanent status.

Rationale for Determination

Your original hire date was January 10, 1994. 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 . . .*" (emphasis added). In this case, your first twelve consecutive month period was from January 10, 1994 through January 9, 1995. The next twelve consecutive month period ran from January 10, 1995 through January 9, 1996, and the pattern continued. The most recent twelve consecutive month period you worked would have been January 10, 2008 through January 9, 2009. At the time of your request, you had worked almost two months into the current twelve consecutive month period of January 10, 2009 through January 9, 2010.

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." Since a new twelve consecutive month period began on January 10, 2009, a request for remedial action based on any hours in excess of 1,050 for the period of January 10, 2008 through January 9, 2009 would need to have been filed within 30 days of that knowledge. Since we did not receive your request for a Director's review until March 4, 2009, such a request would likely have been untimely. In any case, the time records provided for January 10, 2008 through January 9, 2009 show a total number of 838.5 hours worked for that period.

In order for the Director to take remedial action for the current twelve consecutive month period of January 10, 2009 through January 9, 2010, you would need to work

more than 1,050 hours during the period. At the time of your request on March 4, 2009, you had worked the following hours for the current twelve consecutive month period:

January 10 – 15, 2009:	15.75 hours
January 16 – 31, 2009:	48 hours
February 1 – 15, 2009:	42 hours
February 16 – 28, 2009:	<u>43.75 hours</u>
<i>Subtotal</i>	149.5 hours

In addition, the time records provided show 39.75 hours worked for the pay period ending March 15, 2009. When added to the hours worked for January and February 2009, the total is 189.25. You have not reached the 1,050 hour threshold necessary for the Director to consider taking remedial action.

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. If a party plans to file an appeal to the PRB in person, please note the following locations, based on the date filed:

Through June 25, 2009, you may file in person at ***2828 Capitol Blvd.***, Olympia, Washington.

June 26 – July 2, 2009, you may file in person at ***521 Capitol Way South***, Olympia, Washington.

Beginning July 6, 2009, you may file in person at ***600 South Franklin***, Olympia, Washington.

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

c: Lynn Greene, ARC (via email)
Jennifer Mason, WFSE
Kathryn Woodley, SCCC
Fred Schunerman, SCC District

Enclosure: List of Exhibits

List of Exhibits

1. Request for Director's Review form received March 4, 2009
2. March 20, 2009 letter to Ms. Thomas and Kathryn Woodley, SCCC, from Teresa Parsons, DOP, requesting additional information
3. April 9, 2009 letter from Kathryn Woodley, SCCC, responding to Ms. Parson's letter with attachments:
 - a. January 1994 Employment Notice for Ms. Thomas
 - b. 3/08 to 3/09 time record for Ms. Thomas
4. January 2009 and February 2009 Electronic Timecard
5. January 2008 and February 2008 Electronic Timecard
6. January 26, 2009 email from Karen Wilcox to Rebecca Jansson with attached email correspondence concerning Ms. Thomas's request.