BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

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| ROXANNA HANSEN,<br><br>Appellant,<br><br>v.<br><br>EVERETT COMMUNITY COLLEGE,<br><br>Respondent. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | Case No. SUSP-98-0002<br><br>FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE BOARD |

## I. INTRODUCTION

1.1 **Hearing.** This appeal came on for hearing before the Personnel Appeals Board, GERALD L. MORGEN, Vice Chair, and NATHAN S. FORD JR., Member. The hearing was held in the Olympus Hall Board Room on the campus of Everett Community College in Everett, Washington, on September 14, 1999. WALTER T. HUBBARD, Chair, did not participate in the hearing or in the decision in this matter.

1.2 **Appearances.** Appellant Roxanna Hansen was not present and no representative appeared on her behalf. Respondent Everett Community College was represented by Scott Majors, Assistant Attorney General.

1.3 **Nature of Appeal.** This is an appeal from the disciplinary sanction of a five-day suspension for insubordination, neglect of duty and mistreatment of the public for Appellant allegedly contradicting the direct orders of her supervisor, placing service to students at risk, and behaving in a discourteous and inconsiderate manner.

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1.4 **Citations Discussed.** WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084 (1983); Countryman v. Dep't of Social and Health Services, PAB No. D94-025 (1995); McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987); Johnson v. Lower Columbia College, PAB No. D93-077 (1994).

## II. FINDINGS OF FACT

2.1 Appellant Roxanna Hansen was a Program Support Supervisor for the Center for Disability Services and a permanent employee of Respondent Everett Community College (ECC). Appellant and Respondent are subject to Chapters 41.06 and 41.64 RCW and the rules promulgated thereunder, Titles 251 and 358 WAC. Appellant filed a timely appeal on January 12, 1998.

2.2 By letter dated December 11, 1997, Appellant was informed of her five-day suspension, effective December 15, 1997 through December 19, 1997. The letter charged Appellant with insubordination, neglect of duty, and mistreatment of the public. The basis of the discipline was detailed in five notices of unsatisfactory work which encompassed the allegations that Appellant exhibited a pattern of repeated actions which (1) contradicted the direct orders of her supervisor, (2) placed service to students at risk, and (3) resulted in complaints about Appellant's discourteous and inconsiderate behavior.

2.3 By letter dated October 23, 1995, Appellant was given a notice of unsatisfactory work. This letter was the result of (1) a student complaint concerning Appellant's inappropriate and unprofessional behavior, (2) Appellant's failure to meet established deadlines, (3) Appellant's failure to properly report her absences to her supervisors, and (4) Appellant's failure to obtain approval before deviating from the Center for Disability Services' hours of operation.

2.4 By letter dated August 15, 1995, Appellant was given a second notice of unsatisfactory work. This letter was the result of Appellant varying the hours of operation of the Center for Disability Services without obtaining prior approval. Appellant's action was a direct violation of the previous instructions she had been given regarding office hours.

2.5 By letter dated June 3, 1996, Appellant was given a third notice of unsatisfactory work. This letter was the result of Appellant's failure to report her May 31, 1996 absence to her supervisor. Appellant's action was a direct violation of her supervisor's instructions regarding office hours and reporting of absences or late arrivals.

2.6 By letter dated July 28, 1997, Appellant was given a fourth notice of unsatisfactory work. This letter was the result of Appellant's failure to respond to an Office of Civil Rights ADA Complaint in a timely manner as direct by her supervisor and the ECC Personnel Office.

2.7 By letter dated November 26, 1997, Appellant was given a fifth notice of unsatisfactory work. This letter was the result of (1) complaints from a student and one of Appellant's subordinates concerning Appellant's unprofessional and inappropriate behavior; (2) Appellant failing to work her approved normal work schedule and leaving the her work station unattended, and (3) Appellant altering the prearranged location for testing for the Center for Disability Services without obtaining permission from her supervisor to do so and then representing to her supervisor that her second-line supervisor had given permission when he had not. Appellant's actions were a violation of her supervisor's instructions and expectations that Appellant be honest and that all communications about Appellant's job duties would go directly to the supervisor's office.

2.8 By letter dated December 2, 1997, Appellant was provided a predisciplinary notice. The notice stated that Appellant had an opportunity to provide reasons why she should not be disciplined for her continued pattern of unsatisfactory work and her failure to remediate her behaviors. Appellant's response to the predisciplinary notice was to be submitted on or before 5 p.m. on December 10, 1997. Appellant's response consisted of the following handwritten statement on the notice: "I don't agree with any of the above. I have not been able to access my union representative in a timely fashion."

2.9 Appellant was notified of unsatisfactory work on five separate occasions and she failed to respond to the charges in the predisciplinary letter. As a result, Susan Carroll, the appointing authority, determined that formal the disciplinary action of a five-day suspension was appropriate.

## III. ARGUMENTS OF THE PARTIES

3.1 Respondent argues that despite repeated attempts by Respondent to correct Appellant's behavior, she continued to exhibit a pattern of unsatisfactory work, failure to follow supervisory instructions, and inappropriate, unprofessional interactions with students and subordinates. Furthermore, Respondent argues that Appellant did not respond to the predisciplinary notice and failed to provide reasons why the discipline should not be taken. Therefore, Respondent asserts that a five-day suspension was appropriate.

3.2 Appellant did not provide a defense to the charges nor did she dispute the appropriateness of the disciplinary sanction before the Board.

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## IV. CONCLUSIONS OF LAW

4.1 The Personnel Appeals Board has jurisdiction over the parties hereto and the subject matter herein.

4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting the charges upon which the action was initiated by proving by a preponderance of the credible evidence that Appellant committed the offenses set forth in the disciplinary letter and that the sanction was appropriate under the facts and circumstances. WAC 358-30-170; Baker v. Dep't of Corrections, PAB No. D82-084 (1983).

4.3 Insubordination is the refusal to comply with a lawful order or directive given by a superior and is defined as not submitting to authority, willful disrespect or disobedience. Countryman v. Dep't of Social and Health Services, PAB No. D94-025 (1995).

4.4 Neglect of duty is established when it is shown that an employee has a duty to his or her employer and that he or she failed to act in a manner consistent with that duty. McCurdy v. Dep't of Social & Health Services, PAB No. D86-119 (1987).

4.5 Abuse of fellow employees is established when it is shown that the employee wrongfully or unreasonably treats another by word or deed. Johnson v. Lower Columbia College, PAB No. D93-077 (1994)

4.6 Respondent has met its burden of proof that Appellant's behavior constituted neglect of duty, insubordination and mistreatment or abuse of fellow employees or members of the public. Appellant engaged in a continued pattern of unsatisfactory work, inappropriate and unprofessional

behavior, failed to report her absences, failed to obtain authorization for deviations from scheduled work hours and scheduled hours of operation for the Center for Disability Services, and failed to follow the instructions of her supervisor. Respondent provided Appellant ample opportunity to correct these performance deficiencies, yet she failed to do so. Therefore, the disciplinary sanction of a five-day suspension is appropriate, and the appeal should be denied.

## V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Roxanna Hansen is denied.

DATED this _____ day of _____, 1999.

WASHINGTON STATE PERSONNEL APPEALS BOARD

_____
Gerald L. Morgen, Vice Chair

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Nathan S. Ford Jr., Member

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