BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

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| LINDA LEE,<br><br>Appellant,<br><br>v.<br><br>COMMUNITY COLLEGES OF SPOKANE,<br><br>Respondent. | Case No. RULE-04-0032<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, BUSSE NUTLEY, Vice Chair, and GERALD L. MORGEN, Member. The hearing was held at the Attorney General's Office in Spokane, Washington, on October 5, 2005.

1.2 **Appearances.** Appellant Linda Lee was present and was represented by Electra Jubon, Senior Field Representative, of the Washington Federation of State Employees. Assistant Attorney General Donna Stambaugh represented Respondent Community Colleges of Spokane.

1.3 **Nature of Appeal.** This is an appeal alleging Respondent violated rules related to the examination procedure for appointment into a classified position when it failed to provide a



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documented job analysis and further violated the rules when it failed to certify Appellant, who was the sole employee on the institution-wide layoff list for the same classification, to the position.

## II. FINDINGS OF FACT

2.1 Appellant is a permanent employee for Respondent Community Colleges of Spokane (CCS). 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 with the Personnel Appeals Board on November 5, 2004.

2.2 Appellant has been employed in the Publications and Graphics Department at CCS for approximately eight years. For approximately four years, Appellant has worked in the Information Technology Applications Specialist II job classification as a Web Master in the district office. In early 2003, Appellant's position was reduced in force to a half-time position, and she was placed on the institution-wide layoff list for the Information Technology Applications Specialist II classification.

2.3 In October 2004, Appellant was the only employee on the layoff list for the Information Technology Applications Specialist II classification. By letter dated October 26, 2004, Human Resources Representative Yvonne Montoya Zamora informed Appellant that two positions within the Information Technology Applications Specialist II classification had been approved for recruitment. Ms. Zamora provided Appellant with supplemental examinations for each position, a Web Developer and a Help Desk position, and informed her that she needed to pass the "essential elements" portion of the exams. The supplemental exams were due by November 2, 2004.



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2.4 Prior to submitting the supplemental exam, Appellant asked Ms. Zamora to provide her with a written, formal job analysis that served as a basis for the essential elements of the Web Developer position. Ms. Zamora then checked with Human Resources Representative Michael Lenker, who had been working with the position's supervisor, Dick Hol, to develop a job description. At the time, the Web Developer position was a newly created position, and there was no documented job analysis, which Ms. Zamora conveyed to Appellant.

2.5 WAC 251-01-220 defines job analysis as "[a]ny systematic procedure for gathering, documenting and analyzing information about the job content and requirements for a class or position in a class." Although there was not a document entitled "job analysis," Mr. Lenker believed the job description essentially served as a job analysis. He further believed that his collaboration with Mr. Hol on developing the job description was equivalent to a systematic procedure for analyzing the necessary job information.

2.6 On November 2, 2004, Appellant submitted the Essential Elements section for the Web Developer position, under protest, due to the lack of a job analysis and because she was the only person on the layoff register. Appellant did not apply for the Help Desk position.

2.7 On November 5, 2004, Appellant filed a rule violation appeal alleging CCS had violated WAC 251-17-010 and WAC 251-18-255 when it did not have a documented job analysis to justify the job elements of the Web Developer position, which were included in the examination; and WAC 251-18-240 and WAC 251-19-080 when it failed to certify her into a position for which she was the only employee on the institution-wide layoff list in that classification.



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## III. ARGUMENTS OF THE PARTIES

3.1 Appellant contends that CCS violated 251-18-240 and WAC 251-19-080 when it required her to apply for a position for which she should have been automatically qualified, based on her status on the institution-wide layoff list. Appellant further contends that CCS violated WAC 251-17-010 and WAC 251-18-255 by not having a documented job analysis to support the essential elements of the Web Developer position that it required applicants to complete and pass. Appellant asserts the record supports there was no job analysis and argues that the steps taken to prepare the job description do not meet the professional or systematic standards necessary to constitute a job analysis.

3.2 Respondent contends the sole issue is whether or not there was a job analysis, and CCS asserts a job analysis did exist. Respondent argues the Web Developer position was a newly created position that required specialized knowledge and that the essential elements of the position derived from the job description and asserts that information was included in the supplemental portion of the exam. Respondent asserts that while there may not be a specific form that says "job analysis," it argues there was a systematic procedure in place.

## IV. CONCLUSIONS OF LAW

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

4.2 In an appeal of an alleged rule violation, Appellant has the burden of proof. (WAC 358-30-170).

4.3 The issue is whether or not CCS appropriately justified the specific position requirements for the Web Developer position by conducting an approved job analysis, as required by WAC 251-18-255, and if not, whether CCS then violated WAC 251-18-240(a) by requiring Appellant to



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compete for a position in a classification in which she held permanent status and for which hers was the only name on the institution-wide layoff list for the class.

4.4 WAC 251-18-255 states that "specific position requirements shall be justified by a job analysis in accordance with WAC 251-17-010(2)."

4.5 WAC 251-17-010 more specifically addresses the examination for appointment into a classified position and states in part:

> (2) All job elements included in examinations . . . shall be justified by documented job analysis.
>
> . . .
>
> (4) Job analysis methods shall meet professional standards and be approved by the director before they are used to develop examinations.

4.6 WAC 251-01-110 defines director as the director of the Department of Personnel.

4.7 Even though CCS's Human Resources Department had a job description for the Web Developer position, no documented job analysis was completed. Furthermore, no evidence exists that the job description for this position had been approved by the director of the Department of Personnel as an accepted job analysis method, as required by WAC 251-17-010(4). Therefore, we conclude that CCS violated WAC 251-18-255 and WAC 251-17-010.



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4.8 WAC 251-18-240(1) states ". . . the personnel officer shall provide the following number of names to the employing official in writing: (a) When there are names on the institution-wide layoff list for the class, a single name for each vacancy to be filled by the certification."

4.9 WAC 251-19-080(4) states that permanent status appointments shall be made under "[c]ertification from a layoff list for a class in which the employee had permanent status at the time of layoff or lower classes in the same class series for which the employee is qualified."

4.10 Appellant's name was the only name on the institution-wide layoff list for the Information Technology Applications Specialist II classification; therefore, Appellant's name should have been submitted for the vacancy to be filled by the certification. In addition, Appellant held permanent status in the same classification in a half-time position at the time CCS required her to compete for the position by submitting responses to a supplemental examination. As a result, we conclude that CCS violated WAC 251-18-240 and WAC 251-19-080.

4.11 Under the facts and circumstance, Appellant's appeal should be granted. We conclude Appellant should have been appointed to the vacant, full-time Web Developer position (Information Technology Applications Specialist II) on October 26, 2004. As a remedy for violating rights afforded Appellant by the rules discussed above, Appellant is awarded back pay commensurate with the range and step for which she should have been appointed on October 26, 2004, less amounts received for her employment in a part-time position during the same period.



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## V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Linda Lee is granted. IT IS FURTHER ORDERED that the Community Colleges of Spokane appoint Appellant to the full-time Web Developer position, effective October 26, 2004.

DATED this _____ day of _____, 2005.

WASHINGTON STATE PERSONNEL APPEALS BOARD

_____
Busse Nutley, Vice Chair

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Gerald L. Morgen, Member



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