BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

KATHLEEN AHMU, Appellant, vs. DEPARTMENT OF CORRECTIONS, Respondent.	CASE NO. R-LO-11-002 FINDINGS, CONCLUSIONS, AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This matter came before the Personnel Resources Board, DJ MARK, Chair, and JOSEPH PINZONE, Vice Chair. The hearing was held on April 26, 2012, in Olympia, Washington.

1.2 **Appearances.** Appellant Kathleen Ahmu is representing herself in this matter. She did not appear at the hearing. David Slown, Assistant Attorney General, represented Respondent Department of Corrections.

1.3 **Nature of Appeal.** This is an appeal of the layoff options offered to Appellant.

II. PRELIMINARY MATTER

2.1 This appeal was originally scheduled for an October 12, 2011, hearing. On October 4, 2011, Appellant orally requested a continuance. The Board granted Appellant's request.

2.2 The appeal was then scheduled for a December 22, 2011, hearing. On December 19, 2011, Appellant orally requested a continuance. The Board granted Appellant's request.

2.3 The appeal was then scheduled for an April 26, 2012, hearing. On April 25, 2012, Appellant orally requested a continuance. The Board orally denied Appellant's request and hereby confirms its oral ruling.

2.4 Subsequent to the Board's oral ruling, Board staff contacted the parties and informed them that the hearing would proceed on April 26, 2012, as scheduled.

2.5 The April 26, 2012, hearing was scheduled to begin at 10 a.m. The hearing convened at 10:08 a.m. but Appellant had not arrived. The Board recessed the hearing for 15 minutes and during the recess, Board staff confirmed that Appellant had not telephoned or left a message regarding her failure to appear. Following the recess, the Board reconvened and proceeded with the hearing.

III. FINDINGS

3.1 Appellant Kathleen Ahmu is a permanent employee for Respondent Department of Corrections (DOC). Appellant and Respondent are subject to Chapter 41.06 RCW and the rules promulgated thereunder, Title 357 WAC. Appellant filed a timely appeal with the Personnel Resources Board on March 16, 2011.

3.2 Appellant has been employed by the State of Washington since 1997. During her employment at DOC, Appellant worked as a Correctional Officer 1, Correctional Officer 2, Correctional Sergeant, Corrections Custody Officer 3, as well as a Correctional Lieutenant. At the time of her layoff, Appellant was working at the Washington Corrections Center for Women (WCCW) in a Washington Management Service (WMS) Band 1 Correctional Lieutenant position. WCCW is located in Pierce County.

3.3 In November 2010, DOC experienced budget cuts that resulted in the closure of McNeil Island Correction Center (MICC). MICC is located in Pierce County. Employees at MICC were laid off and as a result, many of the employees at WCCW were bumped from their positions by more senior staff from MIIC. Appellant was one of the WCCW staff bumped from her position.

3.4 Jane Parnell, Superintendent at WCCW, credibly testified that as a result of MICC employees exercising their layoff options, WCCW experienced a turnover of nearly one quarter of its staff. Ms. Parnell explained that Correctional Lieutenants have a dual career path. One path

is to a position within prison administration. This position is responsible for the day-to-day operations of the prison including custody of offenders. The other path is to a Correctional Unit Supervisor (CUS). The CUS is responsible for classifying and managing offenders including, but not limited to, determining the offender's level of custody, where the offender lives, the privileges the offender receives, and the offender's eligibility for programs such as the work release program.

3.5 A preponderance of the credible testimony established that due to the large percentage of staff coming into WCCW from MICC and in order to minimize disruption to WCCW programs and operations, Ms. Parnell determined that in order to bump into a CUS position, an employee must have experience in offender classification. Ms. Parnell credibly testified that she made this decision with the concurrence of Earl Wright, Deputy Director of Prisons Command B, and Marcos Rodriguez, DOC Operations Manager.

3.6 As demonstrated by her employment history at DOC, Appellant had never been employed as a CUS and did not have experience in offender classification.

3.7 Marcos Rodriguez credibly testified that the applicable rules and layoff policy were followed in determining Appellant's layoff options. He testified that the layoff team first looked for vacant funded WMS Band 1 positions with the same point value and for which Appellant had the required skills and abilities. Finding none, the team then looked for WMS Band 1 positions held by less senior employees and for which Appellant had the required skills and abilities. However, all of the less senior WMS Band 1 Lieutenant positions were being offered to more senior employees from MICC. The team proceeded in descending order and next looked for positions in which Appellant had held status and which were filled by less senior employees.

3.8 By letter dated February 9, 2011, Appellant was notified of her layoff and was provided thirteen layoff options. Because multiple employees were offered the same layoff options, the DOC layoff team asked employees to prioritize the options. The team awarded the options based

on seniority and employee preference. Appellant was appointed to the Corrections and Custody Officer 3 position that was her tenth preference.

3.9 DOC's WMS layoff policy, Policy 810-815, sets forth the process to be followed when layoffs occur. The policy states, in relevant part:

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> III. Option
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> A. A formal option, the position that the employee has a right to, if one exists, will be provided to a Washington Management Service employee in descending order with the appropriate layoff unit:
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> 1. A funded vacant Washington Management Service position that has the same point value as the employee's current position for which the employee has the required job skills.
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> 2. A filled Washington Management Service position at the same point value held by the least senior employee. The employee being laid off must have the required job skills for the position.
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> 3. A funded Washington General Service position, which is vacant or filled by the least senior incumbent at the same or similar salary in a classification for which the employee has held permanent status. A vacant position will be offered before a filled position. To determine same or similar salary, the employee's current salary must be within the salary range of the Washington General Service classification.
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> 4. A funded Washington Management Service position that is vacant or filled at a lower point value in descending order in conjunction with Washington General Service positions which the employee has held status and are at lower salary ranges. A vacant position will be offered before a filled position. The employee must have greater seniority than the employee occupying a position and must have the required job skills for Washington Management Service positions.
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> . . . .

3.10 WAC 357-58-465 provides:

> (1) Within the layoff unit, a permanent employee scheduled for layoff from a WMS position must be offered the option to take a position, if available, that meets the following criteria:
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> (a) The employee has the required competencies for the position.

(b) The WMS position is at the same salary standard and/or evaluation points. If no option to a position with the same salary standard and/or evaluation points is available, the employer must consider other WMS positions with a lower salary standard and/or evaluation points, or general service positions in accordance with WAC 357-46-035(1) in descending salary order if the employee has held permanent status in a WGS classification. At the agency's discretion, the employee may be offered a vacant position at higher evaluation points.

(c) The position being offered as the option is funded and vacant. If no vacant position is available, the position being offered as the option must be occupied by the employee with the lowest retention rating.

(2) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an acting position in the layoff unit for which the employee is qualified.

IV. ARGUMENTS OF THE PARTIES

4.1 Respondent asserts that DOC implemented Appellant's layoff appropriately and in compliance with DOC policy and the civil service rules. Respondent argues that Appellant was offered the appropriate layoff options. Respondent contends that in light of the high staff turnover at WCCW resulting from the closure of MICC, the superintendent correctly determined that classification experience was required for CUS positions to maintain program operations. Respondent argues that Appellant did not possess classification experience and therefore, a layoff option to a CUS position was not appropriate.

4.2 Appellant did not appear at the hearing. However, in her appeal form, Appellant stated that she should have been offered an option to a CUS position held by a less senior employee. Appellant maintained that requiring classification experience for bumping into CUS position was contrary to past practice. She claimed that she possessed the skills necessary for a CUS position and suggested that the requisite skills could have been learned at a one week adult services academy.

V. CONCLUSIONS

5.1 The Personnel Resources Board has jurisdiction over the parties and the subject matter.

5.2 In a hearing on appeal from a layoff action, Respondent has the burden of proof of supporting both the basis for the action taken and compliance with the civil service laws or rules governing the action. WAC 357-52-110.

5.3 In its opening statement, Respondent acknowledged that Appellant was a very fine Lieutenant and that there were no problems with her performance. It appears that Appellant was a valued and respected employee of WCCW.

5.4 However, in regard to Appellant's layoff, Respondent met its burden of proof. Respondent established that the appropriate policy and the applicable civil service rules were followed. Respondent proved that due to the unique circumstances caused by the closure of MICC, including the high rate of staff turnover at WCCW and need to minimize disruption, classification experience was essential for those staff bumping into CUS positions. At the time of her layoff, Appellant did not possess that experience.

5.5 Respondent has met its burden of proof and the appeal should be denied.

VI. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Kathleen Ahmu is denied.

DATED this _____ day of _____, 2012.

WASHINGTON PERSONNEL RESOURCES BOARD

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DJ MARK, Chair

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JOSEPH PINZONE, Vice Chair