BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

SHAWN MATLOCK, Appellant, vs. CENTRAL WASHINGTON UNIVERSITY, Respondent.	CASE NO. R-DISM-05-004 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This matter came before the Washington Personnel Resources Board, LAURA J. ANDERSON, Chair; MARSHA TADANO LONG, Vice-Chair; and LARRY GOODMAN, Member. The hearing was held on April 13, 2006, at the Personnel Appeals Board in Olympia, Washington.

1.2 **Appearances.** Appellant Shawn Matlock was present and represented himself *Pro Se*. Valerie Petrie, Assistant Attorney General, represented Respondent Central Washington University (CWU).

1.3 **Nature of Appeal.** This is an appeal from a disciplinary sanction of dismissal for failure to assign food production staff at off-site events, failure to properly maintain production guides and failure to follow directions regarding student-employee schedules.

II. FINDINGS OF FACT

2.1 Appellant Shawn Matlock was a permanent employee for Respondent Central Washington University. Appellant and Respondent are subject to Chapter 41.06 RCW and the rules promulgated thereunder at Title 357 WAC. Appellant filed a timely appeal with the Personnel Resources Board on September 14, 2005.

2.2 By letter dated August 18, 2005, Rob Borngrebe, Director of Dining Services, notified Appellant of his dismissal for failure to properly assign food production staff at off-site events; failure to properly maintain Pro-Guides; (production guides) and failure to follow directives regarding student-employee schedules. Appellant's dismissal was effective at the end of his shift on August 18, 2005. Pursuant to WAC 357-40-030, Appellant received pay in lieu of the required fifteen calendar days' notice period.

2.3 Appellant began employment with Central Washington University in 1997. At the time of his dismissal, Appellant was a Food Service Manager A in Dining Services at CWU where he was assigned the duties of the Sous Chef position. In February 2004, Appellant voluntarily demoted into the Sous Chef position from a Food Service Manager B position. There are many similarities between the duties of the Food Service Manager A and the Food Service Manager B. However, the Food Service Manager A generally manages a smaller operation with fewer employees than the Food Service Manager B. For example, at CWU the Food Service Manager B position is responsible for all facets of food production provided through the campus's dining department while the Food Service Manager A position held by Appellant is responsible for food production for residential, conference and catering functions.

2.4 As the Sous Chef, Appellant's duties included, in part, supervising food production employees in the preparation, presentation and service of food including scheduling employees to work at off-site events and at on-campus locations and completing administrative duties such as assuring that the food Pro-Guides were completed.

2.5 Before demoting to the Sous Chef position, Appellant was counseled on a number of occasions about the importance of managing the schedules of staff, student employees and on-

call employees to assure adequate coverage for on-campus food preparation and off-site events without incurring excessive labor and overtime costs. In addition, Appellant was counseled about the importance of becoming proficient in using the computer to complete administrative functions such as entering time into Kronos, the time keeping software utilized by Dining Services, completing information for the Pro-Guides, and utilizing reports from the Computrition software for tracking menus, food production information, such as actual consumption and leftover food products, and tracking and ordering inventory.

2.6 After assuming the Sous Chef position, Appellant continued to have administrative responsibilities, but to a lesser degree than he had as the Food Service Manager B. Appellant's Sous Chef position description form, which he signed on May 21, 2004, and May 27, 2004, indicates that Appellant supervised a Cook Lead, 2 Cooks, 3 Food Worker Leads and up to 10 student employees and was responsible for daily operations of Tunstall Commons and Munson kitchens.

2.7 Appellant's duties as Sous Chef included assuring that food was prepared for catering and off-site events and that a sufficient quantity of food was delivered to the events in a timely manner. In addition, his duties included scheduling production staff, student employees and on-call student-employees, monitoring customer counts and consumption, reviewing inventory and ordering food, assuring that information required to be input into Computrition was recorded, and utilizing information and reports that were produced from Computrition.

Failure to properly assign food production staff at off-site events.

2.8 For off-site events, Appellant was responsible for assigning a production staff person to monitor food consumption during meal service and to order additional food from the kitchen as needed to assure that the quantity of food was sufficient to meet the consumption needs of the event participants and that the food was delivered to the event in a timely manner to meet the

participants' schedule. Appellant was aware of this responsibility. During a meeting on June 23, 2005, Appellant's supervisor, Chef Paul Rogers, confirmed to Appellant the expectation that a food production employee would be assigned to monitor every off-site food event.

2.9 On June 27, 2004, Appellant assisted with inventory during the afternoon. The following day, June 28, 2005, he was responsible for his regular duties which included an off-site event. The event occurred as scheduled, but a production staff person was not present at the event to monitor food consumption. As a result, food shortages occurred and conference participants left the conference to obtain food from off-campus sources. Conference participants were upset because they had paid for meals that were supposed to be provided by CWU Dining Services. Appellant was notified of the problem and his supervisor once again directed him to assure that a production staff person was present to monitor all off-site events. Yet, on June 29, 2005, another off-site event occurred and Appellant again failed to assure that a production staff person was at the event.

Failure to properly maintain Pro-Guides.

2.10 CWU Dining Services utilizes a computerized system for managing labor, tracking menus, recording actual food consumption, forecasting future food consumption, creating daily prep lists, ordering food and supplies, tracking inventory and managing food costs. Judy McNeil is a Program Assistant for Dining Services. She is responsible for inputting the information she receives from food service staff into the computerized system utilizing the Computrition software. Staff records information on the Pro-Guides. The completed Pro-Guides are then provided to Ms. McNeil for input into Computrition. Ms. McNeil testified that from time to time, she has had problems receiving information from all of the Dining Services units.

2.11 In December 2003, prior to his voluntary demotion, Appellant received a counseling memo which discussed the importance of maintaining the computer system. Appellant was

aware of his responsibility to utilize Computrition and to assure that the Pro-Guides were completed. He was also aware of the necessity of having accurate up-to-date information in Computrition in order to generate useful reports and to forecast information.

2.12 Following his voluntary demotion, Appellant continued to be responsible for providing information for input in the system and for properly utilizing information and reports generated by Computrition. Appellant's Sous Chef position description provides, in part, that he was to utilize information and reports from the computerized menu management system and to work with Computrition data entry staff to up-date the database. Appellant's July 22, 2004 performance evaluation indicated that he needed to continue to improve his computer skills in Word, Excel, Group Wise and Computrition and recommended that he take classes to improve these skills.

2.13 Subsequent to his July 22, 2004, performance evaluation, Appellant was scheduled to attend a computer class. But Appellant, by his own admission, decided not to complete the class.

2.14 At a meeting on June 23, 2005, Appellant's supervisor again directed him to utilize the Pro-Guides. Yet, on June 29, 2005, Appellant's supervisor reviewed the Pro-Guides for the previous week and found that the information from Appellant's unit had not been completed.

Failure to follow directives regarding student-employee schedules.

2.15 Appellant was aware of his responsibility to control labor costs, including labor costs for student employees and on-call student-employees. On May 12, 2005, Appellant's supervisor provided Appellant with a letter of expectations. One of the specific concerns that Appellant was directed to correct immediately was:

> Production labor costs must be controlled and in order to assist with that process you are directed to develop and maintain an on call list of student employees for

> catering functions. *You cannot guarantee hours to student catering staff nor can you schedule people in order to maintain there* (sic) *work hours.*

2.16 Prior to the development of 2005 summer schedule, Appellant, his supervisor and others spoke about staffing needs. They agreed that student Shion Taki would be scheduled to work in Mary's Market in the Samuelson Union Building (SUB) and that student Robyn Townsend would be an on-call employee to provide back up for Mary's Market and catering. Subsequently, Appellant's supervisor saw Ms. Townsend working in Mary's Market. On June 23, 2005, Appellant's supervisor asked Appellant why he saw Ms. Townsend working in the SUB and Appellant said that she was working on-call. However, when Appellant's supervisor reviewed Ms. Townsend's time in Kronos, the timekeeping software, he found that both she and Shion Taki had been working every day. When Appellant's supervisor spoke to Ms. Townsend she said that Appellant had directed her to continue working consistently and not on an on-call basis.

2.17 Prior to determining the level of discipline to impose, Mr. Borngrebe considered Appellant's entire employment history with CWU and the information Appellant provided at the July 25, 2005, pre-disciplinary meeting. Mr. Borngrebe knew that Appellant's reputation and abilities as a skilled and talented chef were exceptional. However, Mr. Borngrebe found that Appellant had received a letter of reprimand regarding use of overtime, a notice of unsatisfactory performance addressing in part, utilizing the computerized production system and monitoring and controlling food and labor costs, and verbal counseling regarding his failure to follow directives, to maintain the computer systems, to monitor product and labor costs and to properly supervise employees. Mr. Borngrebe also found that following his voluntary demotion, Appellant continued to fail to follow directives to improve in these areas in spite of repeated oral counseling and receiving a May 12, 2005, Letter of Expectations. Mr. Borngrebe determined that Appellant had been given many opportunities to improve and be successful, but he continued to disregard management's coaching, instructions and directions for improvement.

Because Appellant continually failed to take responsibility for the administrative aspects of his job, Mr. Borngrebe concluded that he could no longer trust Appellant to continue as an employee and determined that dismissal was appropriate.

III. ARGUMENTS OF THE PARTIES

3.1 Respondent argues that Appellant had a history of performance deficiencies and that in spite of repeated efforts to assist and counsel Appellant, he continually failed to meet expectations, failed to follow the directives of his supervisor, and failed to adhere to the requirements and administrative responsibilities of his position. Respondent asserts that Appellant's failure to assure staff was present to monitor off-site events resulted in disastrous consequences in which participants were upset and the University and Dining Services were embarrassed; that his refusal to utilize the Pro-Guides and computer system negatively impacted Dining Services' ability to have reliable information for menu planning, forecasting, inventory, and cost control; and that his failure to follow directives regarding scheduling student employees and on-call student employees negatively impacted Dining Services' ability to plan for future staffing needs and control costs. Respondent does not dispute that Appellant was a talented chef and that Dining Services wished to retain him as an employee. Yet, even after accepting Appellant's voluntary demotion to a position with less administrative responsibility Respondent contends that Appellant continued to refuse to complete the administrative aspects of his position. Respondent asserts that it made every effort to help Appellant be a successful employee but that Appellant's refusal to follow directives and improve his performance left the appointing authority with no alternative but dismissal.

3.2 Appellant argues that following his voluntary demotion, the Food Services Manager B position remained vacant for a period of time which required that he perform duties of both positions until Chef Paul Rogers was hired in October 2004. Appellant acknowledges that there were aspects of his job that he may not have done well, but contends that he strived to do the

best that he could. Appellant argues that his performance as a chef was excellent and that his performance evaluations show that he met expectations. Appellant asserts that he assigned staff to the off-site events, but that he was not in the kitchen and that the persons assigned were not sent to monitor the event. Appellant contends that the Pro-Guides and Computrition reports were of minimal value in forecasting for conferences and catering events because Dining Services did not continually cycle the menus as each group was different. Appellant asserts that he maintained and utilized the Pro-Guides as he felt they were to be used and that he relied on others to complete the Pro-Guides as part of the team effort. Appellant argues that he did what he needed to do to improve his performance but concedes that while he did enroll in the computer class, he did not complete the class. Appellant further argues that he successfully carried out the responsibilities of the Sous Chef position and that dismissal was not warranted. In addition, Appellant argues that he was given insufficient time to prepare for the pre-disciplinary meeting.

IV. CONCLUSIONS OF LAW

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

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 357-52-110.

4.3 The record before the Board establishes that Appellant was given notice of the pre-disciplinary meeting on July 21, 2005. The meeting was scheduled for July 25, 2005. The notice included the charges against Appellant, outlined the evidence which formed the basis for the charges, informed Appellant that Mr. Borngrebe was contemplating disciplinary action up to and including dismissal, and provided Appellant an opportunity to respond to the charges at the meeting

or in writing and to present any other information he believed Mr. Borngrebe should consider. The notice also informed Appellant of his right to have representation during the meeting. There is no evidence in the record showing that Appellant requested more time to prepare for the meeting or that he requested more time to seek representation. Respondent provided Appellant with sufficient notice and due process prior to taking the disciplinary action that is the subject of this appeal.

4.4 Respondent has met its burden of proof. Appellant failed to assure that a production staff person was in attendance to monitor the off-site events on June 28 and 29, 2005. Appellant also failed to assure that the Pro-Guides were completed and failed to assure that on-call staff were utilized for on-call purposes only rather than continuously scheduled for work. Appellant was given extensive counseling, written expectations and oral directives regarding his administrative responsibilities. Yet, Appellant failed to demonstrate improvement or to demonstrate a desire to improve, as shown by his admitted failure to complete the computer class.

4.5 Appellant admits that he did not complete the computer training, testified that he utilized the Pro-Guides as he thought they should be used, and conceded that he probably could have improved in some aspects of his job. Appellant's acknowledgement at the hearing on this appeal of the need to improve his performance is not sufficient to overcome his refusal to comply with the repeated clear directives of his supervisor, with the written expectations for his position, or with the duties clearly outlined in his position description. In spite of Respondent's repeated efforts to help Appellant be successful, he failed to meet expectations in regard to the administrative functions assigned to his position.

4.6 Dismissal is appropriate under the proven facts and circumstances and the appeal should be denied.

V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Shawn Matlock is denied.

DATED this _____ day of _____, 2006.

WASHINGTON PERSONNEL RESOURCES BOARD

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LAURA J. ANDERSON, Chair

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MARSHA TADANO LONG, Vice-Chair

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LARRY GOODMAN, Member