BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

WASHINGTON FEDERATION OF STATE EMPLOYEES, Appellant, v. EASTERN WASHINGTON UNIVERSITY, Respondent.	Case No. R-EXEM-16-001 FINDINGS, CONCLUSIONS AND ORDER OF THE BOARD

INTRODUCTION

Hearing. This matter came before the Personnel Resources Board, NANCY HOLLAND YOUNG, Chair, and SUSAN MILLER, Vice Chair. The hearing was held on August 31, 2016, at the Attorney General's Office in Spokane, WA. Appellant and Respondent submitted written closing arguments on September 30, 2016.

Appearances. Appellant Washington Federation of State Employees (WFSE) was present and was represented by Laura Hartless, WFSE Representative. Respondent Eastern Washington University (EWU) was represented by Cheryl Wolfe, Assistant Attorney General.

Nature of Appeal. This is an appeal of five exemptions. Appellant alleges that five vacant classified Information Technology (IT) positions should remain in classified service and not be exempted from civil service.

FINDINGS

Appellant WFSE is the labor organization that represents the five vacant IT positions at EWU. 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 21, 2016.

By letter dated October 27, 2015, EWU notified WFSE of their proposed reorganization plans for the IT department. The reorganization included removing eleven (11) positions from classified service and placing them in exempt service. Five of the positions were vacant and are the subject of this proceeding.

Prior to this reorganization, five vacant positions, C99914; C99636; C99743; C99803; and C99785 were in classified service as IT Specialists (ITS). EWU's HR staff determined the vacant PDs, updated as a result of the reorganization, met the exemption under RCW 41.06.070 (2)(a), which states, in relevant part:

> (2) The following classifications, positions and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:
> (a)…other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming…
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> …

ARGUMENTS OF THE PARTIES

Summary of Appellant's Arguments. Appellant asserts the IT positions fit squarely into the ITS job classes and EWU is inappropriately exempting the positions from civil service. Appellant further asserts that keeping the positions within the appropriate classified job classes would not hinder the department's reorganization plan and contends classified positions performed this work prior to the reorganization.

Theresa Parsons, HR Classification Specialist with WFSE, provided testimony as to which job class each of the five positions could be allocated. After careful review of each position description (PD) and based on her experience as a Director's Review Specialist and an Assistant to the Personnel Appeals Board, Ms. Parsons contends that each of the five positions fit into the ITS 4, ITS 5, or IT Systems/Applications Specialist 6 (ITS/AS 6) job classes. Ms. Parsons further contends positions exempted under RCW 41.06.07(2)(a) have substantial responsibility at levels befitting the Chief Information Officer, Dr. Gary Pratt, or the Chief Technology Officer (CTO), Greg Crary.

Ms. Parsons further testified that the entire statute of RCW 41.06.070(2)(a) should be considered so that statements are not taken out of context. The statute speaks to positions that "direct and control program operations, resources and program results."

Summary of Respondent's Arguments. Respondent contends the duties and responsibilities of these positions exceed the ITS 5 level. Respondent further contends they did not consider allocating the positions to ITS/AS 6 because the definition states positions serve "as the highest level authority for an agency…" and states the Chief Information Officer (CIO), not these positions, fit that definition. Respondent agrees with Appellant that classified employees have previously performed this work.

Dr. Pratt testified that EWU's prior structure was one level deep, i.e., subordinates reported to a single supervisor. With the new organization, additional senior managers, i.e., those who could make crucial decisions about resources, could provide faster turnaround times and better customer service. By placing the classified positions into exempt managerial and senior technical positions, Dr. Pratt maintains the goal of streamlining service could be accomplished.

Mr. Crary testified he had a role in creating the new PDs and asserts the positions have substantial responsibility for program operations, resources and results, including managing

project budgets. Mr. Crary contends that prior to the updated PDs, the positions did not make hiring decisions, have budgetary responsibility and could not make contract decisions. Now they have full responsibility in allocating resources.

Respondent asserts Ms. Parsons' experience in allocating positions does not include experience interpreting and applying RCW 41.06.070.

CONCLUSION OF THE BOARD

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

The Washington State Legislature, Section 1 (Respondent's Exhibit 12), states:

> The legislature acknowledges the academic freedom of institutions of higher education, and seeks to improve their efficiency and effectiveness in carrying out their missions. **By this act, the legislature intends to increase the flexibility of institutions of higher education to manage personnel, construction, purchasing, printing and tuition** (Emphasis added)**.**

The purpose of RCW 41.06.070 (2)(a) is to allow higher education the freedom to exempt employees, thus allowing them the flexibility to organize their personnel according to their strategic plan and customer service strategy, provided the positions meet the provisions of the statute. Per the statute, positions must have "…substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results…" or carry out "…senior computer systems and network programming…"

In keeping with the intent of the legislature for higher education institutions, the Board looks at duties and responsibilities that reasonably align with the provisions of RCW 41.06.070 (2)(a).

According to testimony and the PDs, the Board finds sufficient managerial responsibility is delegated to the following positions, thus meeting the exemption under RCW 41.06.070 (2)(a):

- Senior Manager, Customer IT Solutions
- Enterprise services Senior Manager
- Senior Manager, Project Management Office

According to testimony and PDs, the Board finds sufficient senior computer systems and network programming responsibility delegated to the following position, thus meeting the exemption under RCW 41.06.070 (2)(a):

- Enterprise Architect

EWU found the Senior Manager, Identity and Access, aligned with the provision of senior computer systems and network programming. While this may change as EWU refines the draft PDs, the Board finds the current PDs for these positions best fit the managerial provision under RCW 41.06.070 (2)(a).

The decision of the Board in this case is specific to these positions, per the PDs and testimonies, and may or may not reflect future decisions for higher education exemptions.

Per WAC 357-52-110, in a hearing on an exemption, Appellant has the burden of proof. Appellant has not met the burden of proof.

V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of WASHINGTON FEDERATION OF STATE EMPLOYEES is denied.

DATED this _____ day of _____, 2016.

WASHINGTON PERSONNEL RESOURCES BOARD

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NANCY HOLLAND YOUNG, Chair

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SUSAN MILLER, Vice Chair