BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

JEFFREY PERKINS, Appellant, vs. DEPARTMENT OF CORRECTIONS, Respondent.	CASE NO. R-LO-10-020 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This matter came before the Personnel Resources Board, DJ MARK, Chair; JOSEPH PINZONE, Vice Chair; and LAURA ANDERSON, Member. The hearing was held on December 21, 2011, in the Personnel Resources Board hearing room in Olympia, Washington.

1.2 **Appearances.** Appellant Jeffrey Perkins was present and appeared *pro se*. Andrew Scott, 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. FINDINGS OF FACT

2.1 Appellant Jeffrey Perkins is a permanent employee for Respondent Department of Corrections (DOC) at Coyote Ridge Corrections Center (CRCC). 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 December 28, 2010.

2.2 During his employment with DOC, Appellant worked in a number of positions, including Correctional Officer, Correctional Sergeant, Corrections Specialist 3 and Human Resource

Consultant 3. At the time of his layoff, Appellant was a Human Resource Consultant 3 training specialist for the COACH program.

2.3 At the outset of the hearing, the parties stipulated to the admission of all exhibits and to the following facts:

- The COACH program was eliminated.
- Appellant was given proper notice of his layoff.
- DOC abided by all of the requisite processes and procedures in conducting Appellant's layoff.

2.4 In addition, at the outset of the hearing, Appellant withdrew his allegation that he should have been offered a Human Resource Consultant position as a layoff option. As a result, the remaining issue to be decided by the Board was whether there were Corrections Specialist 3 positions that should have been offered to Appellant as formal layoff options.

2.5 After Appellant was informed of his impending layoff, human resources (HR) staff at CRCC gathered information from Appellant to be used in determining his layoff options. Appellant provided his resume and a Skills, Abilities, and Experience Worksheet. CRCC's HR staff forwarded Appellant's information to the DOC layoff team. In addition, the layoff team reviewed Appellant's personnel file, including his seniority date and work history, and his training record. Based on the information reviewed, including the information provided by Appellant, the layoff team identified three Corrections Specialist 3 positions as possible layoff options.

2.6 DOC's layoff team did not determine whether Appellant possessed the skills and experience required to be successful in the Corrections Specialist 3 positions. Rather, they forwarded the information to the CRCC Superintendent Jeffrey Uttecht, the appointing authority

for the positions. Mr. Uttecht reviewed Appellant's skills, abilities, and education and determined he did not meet the qualifications for Corrections Specialist 3 positions.

2.7 The Corrections Specialist 3 classification encompasses a number of DOC programs such as the former COACH program, offender grievances and hearings, roster management, and administrative segregation. The qualifications for positions allocated to Corrections Specialist 3 classification vary and are determined by each positions' appointing authority based on a review of duties and responsibilities of the position.

2.8 One of the positions considered as an option for Appellant was position #RX50, an Administrative Segregation Corrections Specialist. The position description for #RX50 documents the position requirements. Superintendent Uttecht credibly testified that this position requires experience in offender classification and security levels which is typical gained by progression through the DOC Classification Counselor class series. Superintendent Uttecht determined that Appellant had not been a Classification Counselor and did not possess the classification experience, training, and knowledge necessary to perform the duties of the Administrative Segregation Corrections Specialist position.

2.9 The remaining two the positions considered as options for Appellant were Grievance Coordinator positions #3300 and #CZ15. The position descriptions for #3300 and #CZ15 document the position requirements. These positions require a Bachelor's degree and three years of professional experience in adult or juvenile corrections, social services or closely related field or an equivalent combination of education and experience. Superintendent Uttecht credibly testified that while Appellant had 56 quarter hours of education and had worked in correctional facilities, he did not meet the educational requirement or equivalent necessary to perform the duties of a Grievance Coordinator.

2.10 Kevin Bovenkamp, Director of the Organizational Development Unit, was Appellant's appointing authority at the time of his layoff. By letter dated October 25, 2010, Mr. Bovenkamp notified Appellant of his layoff and of his formal layoff options. Appellant was offered three Sergeant positions which he was asked to rank in order of preference. Appellant ranked the positions and accept his option on October 29, 2010.

2.11 WAC 357-46-015 states: "The employer must have a layoff procedure. When the employer determines a layoff is necessary, the procedure must be followed. The layoff procedure must be available either electronically or in writing to employees subject to layoff."

2.12 DOC Policy 810.810, Layoff-Washington General Service, is the layoff procedure for the agency's general service employees. The policy provides, in relevant part:

> II. Seniority
>
> A. Seniority is the basis for granting layoff options subject to the employee possessing the required skills and abilities for the position . . .
>
> . . . .
>
> III. Options
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> A. The permanent employee involved in a layoff action has rights to another position as provided for by this policy. If a formal option exists within the appropriate layoff unit, it will be provided to the employee being laid off. When an option has been determined, no further options will be identified.
>
> 1. The laid off employee must have the skills and abilities to perform the duties of the position that is provided as a formal option.
>
> . . . .
>
> 6. The employee must have the required skills and abilities of the position that is being offered as an option to exercise the option.
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> a. Skills and abilities needed for a position are documented criteria found in the following:
>
> . . . .
>
> 3) Position descriptions,
>
> . . . .

2.13 WAC 357-46-045 states:

> In establishing competency and other position requirements, employers may use any of the following documented criteria:
>
> 1) Licensing/certification requirements;
> 2) Position description;
> 3) Class specification;
> 4) Skills/competencies listed on the position's most recent recruitment announcement or the last announcement used to fill the position;
> 5) Bona fide occupational requirement(s) approved by the Washington human rights commission; or
> 6) Additional documented competencies or requirements not reflected in the position description.

2.14 Respondent established the competencies and position requirements for the Administrative Segregation Corrections Specialist and the Grievance Coordinator positions using the position descriptions.

III. ARGUMENTS OF THE PARTIES

3.1 Respondent asserts that DOC implemented the layoffs appropriately and in compliance with DOC policy and the civil service rules. Respondent acknowledges that guidance documents developed by the Department of Personnel indicate that job analysis must be completed. However, Respondent argues that the rules do not require that a formal job analysis be performed and documented. Respondent asserts that the agency performed an informal job analysis to determine the positions' requirements and documented those requirements in the position description forms in compliance with the rules. Respondent contends that Appellant did not possess the education, skills, abilities, and experience required for the Corrections Specialist 3 positions held by less senior employees. Therefore, Respondent asserts that the layoff action should be affirmed.

3.2 Appellant argues that DOC was required to conduct a formal job analysis to document the qualifications of the positions and to state why those qualifications were necessary. Appellant further argues that DOC should not set position requirements above those documented by the

Department of Personnel in the specification for the Corrections Specialist 3 classification. Appellant notes that the position description for the Administrative Segregation Corrections Specialist does not indicate that progression through the Correctional Counselor classification series is required and asserts that he met 80 percent or more of the requirements of the position.

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 layoff action, Respondent has the burden of proof. WAC 357-52-110.

4.3 Respondent met its burden of proof. Respondent proved that Appellant did not possess the education, skills, abilities, or experience required for placement in one of the three Corrections Specialist 3 positions at issue in this appeal.

4.4 Respondent compiled with the rules in determining the position requirements. The civil service rules do not prohibit an agency from setting position requirements above those listed a classification specification. Rather, WAC 357-46-045 provides that agencies may establish competency and other position requirements. In addition, Appellant provided no evidence to establish that the civil service rules require that a formal job analysis must be conducted and documented in order to determine the specific requirements of a position.

4.5 In Warner v. Dep't. of Social and Health Services, R-LO-10-013 (2010), the Board concluded that the appellant should not have been offered a specific position as a layoff option because, while she had some experience in some of the competencies and possessed some of the skills required for a position, she did not have the scope or breadth of experience, skills, and knowledge required for the position in its entirety.

4.6 Further, in Eliasson v. Employment Security Dep't., PRB Case No. R-LO-05-001 (2006), the Board stated "[a]n employee can only be placed in a position if he/she meets the required competencies of the position." See also, Hagen v. Dep't. of General Administration, PRB Case No. R-LO-10-004 (2010) and Blanton v. Dep't. of Corrections, PRB Case No. R-LO-10-021 (2011).

4.7 It is clear that Appellant is a valued and respected employee of CRCC. However, while he had some knowledge of the Administrative Segregation Corrections Specialist work, he did not establish that he had the scope or breadth of classification experience, training, and knowledge required for the position. Further, Appellant did not establish that he possessed the education or equivalency required for the Grievance Coordinator positions.

4.8 Respondent has met its burden of proof that the identification of Appellant's formal layoff options complied with the applicable civil service rules and DOC policy. Therefore, the appeal should be denied.

V. ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Jeffrey Perkins 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

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LAURA ANDERSON, Member