

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-070**

AMANDA ALLEN

APPELLANT

**FINAL ORDER
SUSTAINING HEARING OFFICER'S
VS. FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF JUVENILE JUSTICE
and
PERSONNEL CABINET**

APPELLEES

*** **

The Board, at its regular February 2024 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated January 11, 2024, and the Corrected – Director's Signature Findings of Fact, Conclusions of Law and Recommended Order dated January 17, 2024, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer are approved, adopted, and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 14th day of February, 2024.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day emailed and mailed to:
Amanda Allen
Hon. Jonathan Gifford
Hon. Catherine Stevens
Hon. Rosemary Holbrook (Personnel Cabinet)
Melanie Jenkins

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-070**

AMANDA ALLEN

APPELLANT

**V. CORRECTED – DIRECTOR’S SIGNATURE
FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDED ORDER**

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF JUVENILE JUSTICE
and
PERSONNEL CABINET**

APPELLEES

** ** ** ** ** **

This matter came on for a pre-hearing conference on July 27, 2023, at 11:30 a.m., ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Mark A. Sipek, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant Amanda Allen was present and was not represented by legal counsel. The Appellee Justice and Public Safety Cabinet, Department of Juvenile Justice was present and was represented by the Hon. Jonathan Gifford. The Appellee Personnel Cabinet was present and was represented by the Hon. Catherine Stevens. All parties appeared by telephone.

The purposes of the pre-hearing conference were to determine the specific penalization(s) alleged by the Appellant, to determine the specific section of KRS Chapter 18A that authorizes this appeal, to determine the relief sought by the appellant, to define the issues, to address any other matters relating to this appeal, and to discuss the option of mediation.

BACKGROUND AND FINDINGS OF FACT

1. The Appellant filed her appeal with the Personnel Board on March 25, 2023, appealing an applicant rejection. The Appellant is currently employed as a Social Service Worker II with the Justice and Public Safety Cabinet, Department of Juvenile Justice (DJJ). She applied for and was selected by DJJ to fill an opening for a Social Service Specialist, however, the Appellee Personnel Cabinet, determined that the Appellant did not meet the minimum qualifications for the position.

2. The minimum qualifications for the Social Service Specialist position are a master’s degree in social work, sociology, psychology, marriage and family therapy or a related field, plus three (3) years of professional social work experience; or a bachelor’s degree supplemented by

five (5) years of professional social work experience. The Appellee Personnel Cabinet determined that the Appellant's work experience as a Social Service Worker I and Social Service Worker II counts as professional social work experience. This experience, however, only constitutes for little more than one (1) year. The Appellant contended that her work experience in the Youth Worker Series should count as professional social work experience and thus, she would have the requisite number of years of professional social work.

3. In April/May 2023, the Appellant applied for a position with DJJ as a Social Service Specialist (Requisition 23-03829). The Social Service Specialist job classification specification sets forth the minimum requirements for the job class as follows:

MINIMUM REQUIREMENTS:

EDUCATION:

A master's degree in social work, sociology, psychology, marriage and family therapy or a related field.

EXPERIENCE, TRAINING, OR SKILLS: Must have three years of professional social work experience.

Substitute EDUCATION for EXPERIENCE:
NONE.

Substitute EXPERIENCE for EDUCATION:
A bachelor's degree supplemented by five years of professional social work experience will substitute for the primary education and experience requirements.

4. The Personnel Cabinet, Division of Career Opportunities performed a Minimum Qualification Review of the Appellant's application. On May 19, 2023, the Personnel Cabinet determined she did not meet the minimum qualifications for the Social Service Specialist position. Although the Appellant has a bachelor's degree, she does not possess the "five years of professional social work experience" necessary to meet the minimum qualification of the Social Service Specialist position. The Personnel Cabinet's determination is the subject of this appeal.

5. The Personnel Cabinet attached to its Motion for Summary Judgment an Affidavit of Teresa Harris (Harris) the Personnel Program Manager, Division of Career Opportunities, HR Certification Branch, Kentucky Personnel Cabinet. Harris has been the Personnel Program Manager of the HR Certification Branch since September 16, 2020. Additionally, she has been employed by state government in the field of human resources for almost 20 years. One of the responsibilities of the HR Certification Branch is to review the minimum qualifications of applicants before they are appointed to a classified position in an agency. Harris is familiar with KRS Chapter 18A and the regulations pertaining to personnel matters with the Executive Branch of Kentucky state government.

6. As the Personnel Program Manager of the HR Certification Branch, Harris supervises four (4) Personnel Program Analysts/Personnel Program Consultants. In May 2023, Harris was the supervisor of Personnel Program Analyst Christopher Cross. In May 2023, upon the request of the Justice and Public Safety Cabinet, Department of Juvenile Justice, Cross performed a Minimum Qualifications Review of the Appellant's application for Social Service Specialist (Requisition 23-038829). A true copy of the application submitted by the Appellant and reviewed by Cross is attached to Harris's Affidavit as Exhibit B. A true copy of the Job Class Specification for Social Service Specialist is attached to Harris' Affidavit as Exhibit C.

7. On May 19, 2023, Cross communicated with the Appellant the determination that she did not meet the minimum qualifications for the Social Service Specialist position. A true copy of his email exchange with the Appellant is attached to Cross' Affidavit as Exhibit A. The minimum qualifications for the Social Service Specialist job classification are a "master's degree in social work, sociology, psychology, marriage or family therapy or a related field" plus "three years of professional social work experience." In lieu of the master's degree, a "bachelor's degree supplemented by five years of professional social work experience will substitute for the primary education and experience requirements."

8. The Appellant's application indicates she earned a master's degree in Human Resources in 2019 and a bachelor's degree in Criminal Justice in 2016. Her master's degree is not in social work, sociology, psychology, marriage or family therapy or a related field. Accordingly, in order to meet the minimum qualifications for the Social Service Specialist position, the Appellant was required to demonstrate a total of five (5) years of "professional social work experience."

9. Subsequent to Cross's determination, Harris reviewed the Appellant's application and the Job Class Specification for Social Service Specialist. Based on Harris' years of experience in reviewing applications for minimum qualifications and her understanding the type of job experience required to qualify for the Social Service Specialist job classification, it was her determination that the Appellant did not meet the minimum qualifications required for a Social Service Specialist.

10. The type of work experience required for a Social Service Specialist is stated very specifically in the Job Class Specification: "professional social work experience." The Appellant's application indicates that she was employed as a Social Worker I with DJJ from April 1, 2022, through March 31, 2023. On April 1, 2023, the Appellant was reclassified to a Social Service Worker II. The Appellant's work experience in both of these roles would be considered as "professional social work experience." The primary characteristic of the Social Service Worker job series is providing professional social work. The Appellant has other previous employment with DJJ in the Youth Worker job series, however, employment as a Youth Worker is not considered "professional social work experience." The primary characteristic of the Youth Worker job series is providing supervision and transportation to court committed delinquent youth.

11. As of May 9, 2023, when the job posting closed, the Appellant had approximately thirteen (13) months of the required five (5) years of “professional social work experience” necessary to meet the minimum qualifications for the Social Service Specialist position.

12. Based upon Harris’ review of the Appellant’s application, the Job Class Specification, coupled with Harris’ experience expertise in performing and overseeing employees performing qualifications reviews, it is her determination that Cross was correct on May 19, 2023, when he concluded that the Appellant did not meet the minimum qualifications for Social Service Specialist.

13. The Appellant responded to the Personnel Cabinet’s Motion for Summary Judgment. In the narrative part of her response, she stated as follows:

I, Amanda Allen, am appealing the applicant rejection for the position of Social Service Specialist (23-03829), due to not obtaining five years of professional experience in the field. I would like to express why I believe the rejection is unwarranted and why I feel as if I am qualified for the position. I have been with the Department of Juvenile Justice since 10/3/2016. I began my career with the Department at Westport Group Home as a Youth Worker I, within a year I had moved up to a Youth Worker 2. Throughout my time at the Group Home, I was able to move up to a Youth Worker 3 Supervisor. After the state abruptly shut the Group Home down, I was transferred to Jefferson Regional Juvenile Detention Center in June of 2021, where I remained a Youth Work 3 Supervisor. I transferred to the Community Building as a Social Service Worker I on 4/1/22, after serving a year in the community, I was promoted to a Social Service Worker 2 on 4/1/23. Not only have I been able to handle my caseload, but I have also taken on the responsibility of the BI Electronic Monitoring units within the office, handling the youthful spreadsheet, and being a participate in the Leadership Academy of 2023. I have an associate's degree in Criminal Justice, bachelor of science in Criminal Justice, and a masters degree in Human Resource Leadership.

Youth Worker position entails the following: Reaching out to youths and building relationships with them. Being a youth worker, you work more with the youth in a Group Home then you do out in the community. You see these youth every day. The youth worker is setting up and running projects. Managing and developing community programs and resources. Undertaking administrative tasks, including applying for project funding, budgeting writing and presenting reports to all stakeholders. Collaborating with other organizations such as police, school and community groups.

Recruiting, training, and managing staff. Attending regular development and training opportunities to stay up on heather (sic) and safety issues.

Traveling to various locations for events or meetings. Reaching out to youths and building relations with them. Encouraging youths to take part in planning activities, community or educational projects and testing and reviewing activities. Advocating, addressing and educating on the youth's interest, influences and issues. Providing guidance and support to youths through teaching and mentoring. Youth workers are also building supportive relationships, dealing and providing health issues, gangs, violence, abuse and relationships. Youth workers have excellent verbal communications skills, sensitivity and understanding, ability to work well with others, patience and the ability to remain calm in stressful situations, to be thorough and pay attention to details involving the youth. CPR trained, Aikido fully trained, mental health protocols, transported the youth to school, after school activities, hospital, doctors appointments, Bed checks, daily shift logs, daily chores, homework, counseling sessions, phone calls, treatment teams, discipline actions (Holding youths accountable), de-escalation skills. Writing referrals for youths to return back into the community. Getting them in individual counseling, housing, schools/college. We find the youths independent living if not able to return back home. We make CPS referrals. Referrals individually for therapy. (sic)

14. The Appellant also included a number of other documents with her response including her degrees, her personnel evaluations, her position description, and leadership and training documents.

15. The Department of Juvenile Justice filed a notice stating that it reviewed the Personnel Cabinet's Motion for Summary Judgment and the Appellant's response and had no response to the motion and respectfully requested that the matter be taken under submission.

16. Upon review of the documents and the submissions, the Hearing Officer finds there are no genuine issues of material fact. This appeal can be decided as a matter of law based on the appeal form, the motion for summary judgment, and the Appellant's response, including all of the attachments.

17. The Hearing Officer finds that the Appellant had a bachelor's degree but failed to demonstrate with her past work experience that she had the requisite five (5) years of professional experience in social work. She did not meet the minimum qualifications for the position of Social Service Specialist.

CONCLUSIONS OF LAW

1. When examining applicants for positions, the General Assembly clearly expressed its intent that the Personnel Cabinet "be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or

physical fitness, which in [its] judgment, serves the need to discover the relative fitness of applicants." KRS 18A.110(7)(c). Based upon this authority, the Personnel Cabinet has implemented a method to review an individual's application in concert with a Job Class Specification to determine if the applicant meets the minimum qualifications of a position assigned to a certain job classification.

2. The Personnel Board has previously held that "(t)he legislature has given the Personnel Cabinet the authority to set class specifications and to review the qualifications of applicants and eligibles. Absent some clear abuse of discretion or arbitrary action, the discretion of the Personnel Cabinet over this area should not be disturbed." *Mercer v. Justice Cabinet, et al.*, 2001 WL 36147190 (KY PB 2000-387). See also *Klatt v. Justice & Public Safety Cabinet, et al.*, 2019 WL 6050251 (KY PB 2017-210 and 2017-240).

3. The Personnel Cabinet's determination that the Appellant's demonstrated work experience does not satisfy the requirement of five (5) years of professional social work experience is consistent with KRS Chapter 18A and is not arbitrary or capricious.

4. The Personnel Cabinet has met its burden of proof to establish just cause for its determination the Appellant did not meet the minimum qualifications for a Social Service Specialist position. As a result, there is no relief the Personnel Board can grant the Appellant and there is no need for an evidentiary hearing. KRS 18A.095(18)(a).

5. There are no genuine issues of material fact in dispute in this appeal and judgment is appropriate as a matter of law based on the appeal form, including attachments, the statements of the parties at the pre-hearing conference, and the Personnel Cabinet's Motion for Summary Judgment, including attachments. KRS 13B.090(2) and KRS 18A.095(18)(a).

6. Because all the events underlying this Appeal occurred before the effective date of Senate Bill 153, all references to KRS Chapter 18A are to the sections in effect at the time of the events associated with this Appeal.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **AMANDA ALLEN VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE AND PERSONNEL CABINET (APPEAL NO. 2023-070)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within fifteen (15) days of the date on

which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal, a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

SO ORDERED at the direction of the Hearing Officer this 17 day of January, 2024.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day emailed and mailed to:

Amanda Allen
Hon. Jonathan Gifford
Hon. Catherine Stevens
Hon. Rosemary Holbrook (Personnel Cabinet)

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2023-070**

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**V. FINDINGS OF FACT, CONCLUSIONS OF LAW,
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The purposes of the pre-hearing conference were to determine the specific penalization(s) alleged by the Appellant, to determine the specific section of KRS Chapter 18A that authorizes this appeal, to determine the relief sought by the Appellant, to define the issues, to address any other matters relating to this appeal, and to discuss the option of mediation.

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2. The minimum qualifications for the Social Service Specialist position are a master's degree in social work, sociology, psychology, marriage and family therapy, or a related field, plus

three (3) years of professional social work experience; or a bachelor's degree supplemented by five (5) years of professional social work experience. The Appellee Personnel Cabinet determined that the Appellant's work experience as a Social Service Worker I and Social Service Worker II counts as professional social work experience. This experience, however, only constitutes for little more than one (1) year. The Appellant contended that her work experience in the Youth Worker Series should count as professional social work experience and, thus, she would have the requisite number of years of professional social work.

3. In April/May 2023, the Appellant applied for a position with the Department of Juvenile Justice (DJJ) as a Social Service Specialist (Requisition 23-03829). The Social Service Specialist job classification specification sets forth the minimum requirements for the job class as follows:

MINIMUM REQUIREMENTS:

EDUCATION:

A master's degree in social work, sociology, psychology, marriage and family therapy or a related field.

EXPERIENCE, TRAINING, OR SKILLS: Must have three years of professional social work experience.

Substitute EDUCATION for EXPERIENCE:
NONE.

Substitute EXPERIENCE for EDUCATION:
A bachelor's degree supplemented by five years of professional social work experience will substitute for the primary education and experience requirements.

4. The Personnel Cabinet, Division of Career Opportunities, performed a Minimum Qualification Review of the Appellant's application. On May 19, 2023, the Personnel Cabinet determined she did not meet the minimum qualifications for the Social Service Specialist position. Although the Appellant has a bachelor's degree, she does not possess the "five years of professional social work experience" necessary to meet the minimum qualifications of the Social Service Specialist position. The Personnel Cabinet's determination is the subject of this appeal.

5. The Personnel Cabinet attached to its Motion for Summary Judgment an Affidavit of Teresa Harris (Harris) the Personnel Program Manager, Division of Career Opportunities, HR Certification Branch, Kentucky Personnel Cabinet. Harris has been the Personnel Program Manager of the HR Certification Branch since September 16, 2020. Additionally, she has been employed by state government in the field of human resources for almost 20 years. One of the responsibilities of the HR Certification Branch is to review the minimum qualifications of applicants before they are appointed to a classified position in an agency. Harris is familiar with

KRS Chapter 18A and the regulations pertaining to personnel matters with the Executive Branch of Kentucky state government.

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7. On May 19, 2023, Cross communicated with the Appellant the determination that she did not meet the minimum qualifications for the Social Service Specialist position. A true copy of his email exchange with the Appellant is attached to Cross' affidavit as Exhibit A. The minimum qualifications for the Social Service Specialist job classification are a "master's degree in social work, sociology, psychology, marriage or family therapy or a related field" plus "three years of professional social work experience." In lieu of the master's degree, a "bachelor's degree supplemented by five years of professional social work experience will substitute for the primary education and experience requirements."

8. The Appellant's application indicates she earned a master's degree in Human Resources in 2019 and a bachelor's degree in Criminal Justice in 2016. Her master's degree is not in "social work, sociology, psychology, marriage or family therapy or a related field." Accordingly, in order to meet the minimum qualifications for the Social Service Specialist position, the Appellant was required to demonstrate a total of five (5) years of "professional social work experience."

9. Subsequent to Cross's determination, Harris reviewed the Appellant's application and the Job Class Specification for Social Service Specialist. Based on Harris' years of experience in reviewing applications for minimum qualifications and her understanding of the type of job experience required to qualify for the Social Service Specialist job classification, it was her determination that the Appellant did not meet the minimum qualifications required for a Social Service Specialist.

10. The type of work experience required for a Social Service Specialist is stated very specifically in the Job Class Specification: "professional social work experience." The Appellant's application indicates that she was employed as a Social Worker I with DJJ from April 1, 2022, through March 31, 2023. On April 1, 2023, the Appellant was reclassified to a Social Service Worker II. The Appellant's work experience in both of these roles would be considered as "professional social work experience." The primary characteristic of the Social Service Worker job series is providing professional social work. The Appellant has other previous employment with DJJ in the Youth Worker job series, however, employment as a Youth Worker is not

considered “professional social work experience.” The primary characteristic of the Youth Worker job series is providing supervision and transportation to court committed delinquent youth.

11. As of May 9, 2023, when the job posting closed, the Appellant had approximately thirteen (13) months of the required five (5) years of “professional social work experience” necessary to meet the minimum qualifications for the Social Service Specialist position.

12. Based upon Harris’ review of the Appellant’s application, the Job Class Specification, coupled with Harris’ experience expertise in performing and overseeing employees performing qualifications reviews, it is her determination that Cross was correct on May 19, 2023, when he concluded that the Appellant did not meet the minimum qualifications for Social Service Specialist.

13. The Appellant responded to the Personnel Cabinet’s Motion for Summary Judgment. In the narrative part of her response, she stated as follows:

I, Amanda Allen, am appealing the applicant rejection for the position of Social Service Specialist (23-03829), due to not obtaining five years of professional experience in the field. I would like to express why I believe the rejection is unwarranted and why I feel as if I am qualified for the position. I have been with the Department of Juvenile Justice since 10/3/2016. I began my career with the Department at Westport Group Home as a Youth Worker I, within a year I had moved up to a Youth Worker 2. Throughout my time at the Group Home, I was able to move up to a Youth Worker 3 Supervisor. After the state abruptly shut the Group Home down, I was transferred to Jefferson Regional Juvenile Detention Center in June of 2021, where I remained a Youth Work 3 Supervisor. I transferred to the Community Building as a Social Service Worker I on 4/1/22, after serving a year in the community, I was promoted to a Social Service Worker 2 on 4/1/23. Not only have I been able to handle my caseload, but I have also taken on the responsibility of the BI Electronic Monitoring units within the office, handling the youthful spreadsheet, and being a participate in the Leadership Academy of 2023. I have an associate’s degree in Criminal Justice, bachelor of science in Criminal Justice, and a masters degree in Human Resource Leadership.

Youth Worker position entails the following: Reaching out to youths and building relationships with them. Being a youth worker, you work more with the youth in a Group Home then you do out in the community. You see these youth every day. The youth worker is setting up and running projects. Managing and developing community programs and resources. Undertaking administrative tasks, including applying for project funding, budgeting writing and presenting reports to all stakeholders. Collaborating with other organizations such as police, school and community groups.

Recruiting, training, and managing staff. Attending regular development and training opportunities to stay up on heather (sic) and safety issues. Traveling to various locations for events or meetings. Reaching out to youths and building relations with them. Encouraging youths to take part in planning activities, community or educational projects and testing and reviewing activities. Advocating, addressing and educating on the youth's interest, influences and issues. Providing guidance and support to youths through teaching and mentoring. Youth workers are also building supportive relationships, dealing and providing health issues, gangs, violence, abuse and relationships. Youth workers have excellent verbal communications skills, sensitivity and understanding, ability to work well with others, patience and the ability to remain calm in stressful situations, to be thorough and pay attention to details involving the youth. CPR trained, Aikido fully trained, mental health protocols, transported the youth to school, after school activities, hospital, doctors appointments, Bed checks, daily shift logs, daily chores, homework, counseling sessions, phone calls, treatment teams, discipline actions (Holding youths accountable), de-escalation skills. Writing referrals for youths to return back into the community. Getting them in individual counseling, housing, schools/college. We find the youths independent living if not able to return back home. We make CPS referrals. Referrals individually for therapy. (sic)

14. The Appellant also included a number of other documents with her response including her degrees, personnel evaluations, Position Description, and leadership and training documents.

15. The Department of Juvenile Justice filed a notice stating that it reviewed the Personnel Cabinet's Motion for Summary Judgment and the Appellant's response and had no response to the motion and respectfully requested that the matter be taken under submission.

16. Upon review of the documents and the submissions, the Hearing Officer finds there are no genuine issues of material fact. This appeal can be decided as a matter of law based on the Appeal Form, the Motion for Summary Judgment, and the Appellant's response, including all of the attachments.

17. The Hearing Officer finds that the Appellant had a bachelor's degree but failed to demonstrate with her past work experience that she had the requisite five (5) years of professional experience in social work. She did not meet the minimum qualifications for the position of Social Service Specialist.

CONCLUSIONS OF LAW

1. When examining applicants for positions, the General Assembly clearly expressed its intent that the Personnel Cabinet “be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in [its] judgment, serves the need to discover the relative fitness of applicants.” KRS 18A.110(7)(c). Based upon this authority, the Personnel Cabinet has implemented a method to review an individual’s application in concert with a Job Class Specification to determine if the applicant meets the minimum qualifications of a position assigned to a certain job classification.

2. The Personnel Board has previously held that “[t]he legislature has given the Personnel Cabinet the authority to set class specifications and to review the qualifications of applicants and eligibles. Absent some clear abuse of discretion or arbitrary action, the discretion of the Personnel Cabinet over this area should not be disturbed.” *Mercer v. Justice Cabinet, et al.*, 2001 WL 36147190 (KY PB 2000-387). See also *Klatt v. Justice & Public Safety Cabinet, et al.*, 2019 WL 6050251 (KY PB 2017-210 and 2017-240).

3. The Personnel Cabinet’s determination that the Appellant’s demonstrated work experience does not satisfy the requirement of five (5) years of professional social work experience is consistent with KRS Chapter 18A and is not arbitrary or capricious.

4. The Personnel Cabinet has met its burden of proof to establish just cause for its determination the Appellant did not meet the minimum qualifications for a Social Service Specialist position. As a result, there is no relief the Personnel Board can grant the Appellant and there is no need for an evidentiary hearing. KRS 18A. 095(18)(a).

5. There are no genuine issues of material fact in dispute in this appeal and judgment is appropriate as a matter of law based on the appeal form, including attachments, the statements of the parties at the pre-hearing conference, and the Personnel Cabinet’s Motion for Summary Judgment, including attachments. KRS 13B.090(2) and KRS 18A.095(18)(a).

6. Because all the events underlying this Appeal occurred before the effective date of Senate Bill 153, all references to KRS Chapter 18A are to the sections in effect at the time of the events associated with this Appeal.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **AMANDA ALLEN VS. JUSTICE AND PUBLIC SAFETY CABINET DEPARTMENT OF JUVENILE JUSTICE AND PERSONNEL CABINET (APPEAL NO. 2023-070)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within fifteen (15) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal, a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

SO ORDERED at the direction of the Hearing Officer this 11 day of January, 2024.

KENTUCKY PERSONNEL BOARD

**MARK A. SIPEK
EXECUTIVE DIRECTOR**

A copy hereof this day emailed and mailed to:

Amanda Allen
Hon. Jonathan Gifford
Hon. Catherine Stevens
Hon. Rosemary Holbrook (Personnel Cabinet)