

**CERTIFICATION OF PERSONNEL BOARD RECORDS**

I certify that attached hereto is a true and correct copy of the Findings of Fact, Conclusions of Law and Recommended Order and Final Order in the case of **GHADA EL-DABBAGH V. OFFICE OF THE STATE BUDGET DIRECTOR (APPEAL NO. 2019-266)** as the same appears of record in the office of the Kentucky Personnel Board.

Witness my hand this 15<sup>th</sup> day of November, 2021.

  
\_\_\_\_\_  
**MARK A. SIPEK, SECRETARY  
KENTUCKY PERSONNEL BOARD**

Copy to Secretary, Personnel Cabinet

COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2019-266

**GHADA EL-DABBAGH**

**APPELLANT**

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

**OFFICE OF THE STATE BUDGET DIRECTOR**

**APPELLEE**

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The Board, at its regular November 2021 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated October 21, 2021, 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 **SUSTAINED**.

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 18<sup>th</sup> day of November, 2021.

**KENTUCKY PERSONNEL BOARD**

  
\_\_\_\_\_  
**MARK A. SIPEK, SECRETARY**

A copy hereof this day sent to:

Hon. Kembra Sexton Taylor  
Hon. Robert Long  
Hon. Rosemary Holbrook (Personnel Cabinet)  
Stacy Perry

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2019-266**

**GHADA EL-DABBAGH**

**APPELLANT**

**VS.**

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND RECOMMENDED ORDER**

**OFFICE OF THE STATE BUDGET DIRECTOR**

**APPELLEE**

\*\*\*\*    \*\*\*\*    \*\*\*\*    \*\*\*\*    \*\*\*\*

This matter came on for a pre-hearing conference on March 19, 2020, at 1:30 p.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, Ghada El-Dabbagh, was not present, however, she was represented by the Hon. Kembra Sexton Taylor, who appeared by telephone. The Appellee, Office of the State Budget Director, was present and represented by the Hon. Cary Bishop.

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

**BACKGROUND**

1. The Hearing Officer notes the Appellant filed her appeal with the Personnel Board on December 4, 2019, appealing from a five (5) - day suspension and alleging discrimination and retaliation.

2. Both parties were interested in receiving discovery in order to be prepared to move forward in this matter.

3. On May 11, 2020, a second pre-hearing conference was held. At that time, counsel for the Appellant requested a dispositive motion schedule, which was set. The Appellant has filed its Motion for Summary Judgment, the Appellee has filed a response, and the Appellant has filed a reply. This matter is now submitted to the Hearing Officer for a ruling on the Appellant's Motion for Summary Judgment.

**FINDINGS OF FACT**

1. In her Motion for Summary Judgment, the Appellant argues that the Appellee failed to comply with the provisions of KRS 18A.095(8) when her appointing authority issued her a five (5) - day suspension in a letter dated November 26, 2019. A copy of this two (2) - page letter from designated appointing authority, Stacy Perry, to the Appellant, is attached to this Recommended Order as **Recommended Order Attachment A**.

2. Specifically, the Appellant argues that this suspension letter does not adequately notify the Appellant of the “specific action, the date, time, and place” and the names of the parties involved” as is required by KRS 18A.095(8).

3. Considering the suspension letter carefully, it is clear that the Agency suspended the Appellant because they allege she improperly copied the analysis and writing of others, nearly word for word, and presented it as her own work. Importantly, in the fourth paragraph of page one (1) of the letter, the appointing authority set out very specific examples of previous instructions the Appellant had been given to not copy the work of others. The letter referenced an email from February 21, 2018; a meeting that occurred on October 17, 2019, (as referred to in an email dated November 22, 2019); an email dated October 23, 2019; and the Appellant’s mid-year interim review, dated August 1, 2019. In addition, copies of each of these were attached to the suspension letter (Attachment A, marked 1, 2, 3, and 4). The Hearing Officer finds that the Appellee gave excellent notice in its suspension letter of occasions in the past when the Appellant was warned not to copy the work of others.

4. That same close reading of the suspension letter, however, demonstrates that the Appellant was not suspended for any of these very specific instances detailed in paragraph 3, above. Instead, the appointing authority detailed the exact reason the Appellant was being suspended in the two (2) paragraphs at the top of page 2 of the suspension letter. According to the letter, the Appellant was suspended because she was alleged to have failed to produce supporting data and analysis to substantiate the work she performed on the Support Education Excellence in Kentucky (SEEK) Program. She was specifically accused of failing to provide analysis for 150 of the 172 districts in her analysis. She is also specifically accused of committing errors in her work in addition to stating that the results of the Appellant’s analysis could not be replicated by others. Critically, the problem with the specific allegations contained in the two (2) paragraphs at the top of page 2 is that they clearly do not set out the “specific action, the date, time, and place” and “the names of the parties involved” required by KRS 18A.095(8). Instead, the actual allegations set out in those paragraphs are for the vague, broad charges previously mentioned, including the unhelpful allegation that the Appellant “committed errors in your work.”

5. Counsel for the Appellant discussed these procedural deficiencies in the suspension letter in a paragraph at the bottom of page 2 of the Appellant’s Motion for Summary Judgment. The Hearing Officer finds that the paragraph adequately summarized the insufficiency of the suspension letter and hereby incorporates following portion herein:

The suspension letter does not specify the “review or written analysis” that is the subject of the suspension. If the work product Ms. Perry had in mind was the SEEK analysis mentioned at the top of page two, she does not provide even the most basic information, such as: when the work was performed; what were the errors; who determined that the work was defective; and what attempts were made to replicate the results. Ms. Perry was able to list dates, describe certain communications, and attach copies of interchanges between Ms. El-Dabbagh and her supervisor in which Appellant had ostensibly been *previously instructed* on how to perform her job. Yet, there is no specific work product adequately identified in or appended to the suspension letter to inform Ms. El-Dabbagh of what conduct or work performance eventually led to the suspension.

KRS 18A.095(8) provides:

A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

- (a) The demotion, suspension, or other penalization;
- (b) The effective date of the demotion, suspension, or other penalization;
- (c) The specific reason for the action including:
  1. The statutory or regulatory violation;
  2. The specific action or activity on which the demotion, suspension, or other penalization is based;
  3. The date, time, and place of the action or activity; and
  4. The name of the parties involved; and
- (d) That he or she has the right to appeal to the board within sixty (60) days, excluding the day that he or she received notification of the personnel action.

6. The Hearing Officer finds that the suspension letter failed to give the Appellant adequate notice of the specific action or action she was being suspended for, the date, time, place, and the names of the parties involved.

7. Lastly, in its response, the Appellee argues that it was not required to give the Appellant specific notice because this is only a suspension and not a dismissal. The Appellee also argues that any lack of specificity can be corrected through the discovery process. However, both of these arguments ignore the very specific language in KRS 18A.095(8) and the Hearing Officer rejects any such argument.

### CONCLUSIONS OF LAW

1. The suspension letter issued to the Appellant in this case lacks the specificity required by KRS 18A.095(8); as a result, the Appellant is entitled to summary judgment as a matter of law.
2. This result is consistent with a long line of Personnel Board cases, starting with Goss v. Personnel Board, 456 S.W.2d 819 (Ky. 1970). In Goss, the Court of Appeals found that adequate notice must include “dates, places, and names” so the employee has an opportunity to respond.
3. The Personnel Board has a long-established history of requiring that notices of discipline must comply with the notice requirements mandated by KRS 18A.095(8) whether they are for dismissals, demotions, suspensions, or other penalizations. See Natasha Murray v. Education and Workforce Development Cabinet, Department of Education, 2015 WL 3503924 (KY PB 2015-015) (Dismissal); William P. Wise III v. Justice Cabinet, Kentucky State Police, 1997 WL 34671829 (KY PB 1996-271) (Dismissal); Joseph Ross v. Labor Cabinet, 2012 WL 269175 (KY PB 2011-031) (Dismissal); Johnny Hamm v. Revenue Cabinet, 2001 WL 36147146 (KY PB 2001-177) (Demotion); Dan Duvall v. Corrections Cabinet, 1991 WL 11688098 (KY PB 1989-506, 1989-583, 1989-607 & 1989-718) (Demotion & Suspension); Howard D. Kinney v. Public Protection and Regulation Cabinet, Department of Alcoholic Beverage Control, 1993 WL 13648536 (KY PB 1991-877) (Demotion); Ronald G. Sebree v. Justice Cabinet, Kentucky State Police, Facilities Security, 1995 WL 17873624 (KY PB 1995-181) (Demotion); Raymond S. Mitchell and James T. Bingham v. Department of Military Affairs, 1989 WL 1641733 (KY PB 1988-620 & 1988-621) (Suspension); Tony Moore v. Transportation Cabinet, 2020 WL 4057462 (KY PB 2019-212) (Suspension).

### RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the appeal of **GHADA EL-DABBAGH V. OFFICE OF THE STATE BUDGET DIRECTOR (APPEAL NO. 2019-266)** be **SUSTAINED** and that the Appellant’s five (5) - day suspension be **SET ASIDE**. Furthermore, that the Appellant be reimbursed for her back pay and benefits, and that she otherwise be made whole. KRS 18A.105 and 18A.095(24), and 200 KAR 12:030.

### 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 five (5) 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

**NOTICE OF EXCEPTION AND APPEAL RIGHTS**

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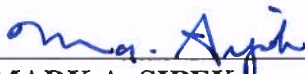
**Any document filed with the Personnel Board shall be served on the opposing party.**

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.

**ISSUED** at the direction of **Hearing Officer Mark A. Sipek**, this 21 day of October, 2021.

**KENTUCKY PERSONNEL BOARD**

  
\_\_\_\_\_  
**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof this day mailed to:

Hon. Kembra Sexton Taylor  
Hon. Cary Bishop  
Hon. Rosemary Holbrook (Personnel Cabinet)



Commonwealth of Kentucky  
Finance and Administration Cabinet

Matthew G. Bevin  
Governor

OFFICE OF ADMINISTRATIVE SERVICES  
DIVISION OF HUMAN RESOURCES

Room 188, Capitol Annex  
702 Capital Avenue  
Frankfort, KY 40601-3462  
(502) 564-0408 / Fax (502) 564 2613

William M. Landrum III  
Secretary

Stacy M. Perry  
Division Director

November 26, 2019

Ghada El-Dabbagh

Dear Ms. El-Dabbagh,

In accordance with KRS 18A.095, you are notified that you are suspended from duty and pay for a period of five (5) working days from your position as a Financial Investment & Forecasting Program Specialist within the Governor's Office for Policy Research within the Office of the State Budget Director. This suspension will take place Wednesday, November 27, 2019 through Thursday, December 5, 2019. You will be paid for the Thanksgiving holidays. You will return to work at your regularly scheduled time on Friday, December 6, 2019.

You are suspended pursuant to 101 KAR 1:345, Section 1, for unsatisfactory performance of duties. Specifically, you have misrepresented a review and analysis written by other individuals as your own.

You have repeatedly copied analysis and writing of others, nearly word for word, and presented it as your own. While it is appropriate to occasionally reference other authorities in your reports, writing and analysis performed by others should be correctly cited as attributed to show which portions of a report may be relied upon as analysis directly performed by the OSBD and which are not. You have consistently failed to disclose portions of your reports that are not based upon your own review and analysis. Mere copying of other's written work in your reports raises concerns that you have not undertaken any independent analysis of topics assigned for your review. By using plagiarized work as your own, you cause reputational harm to the OSBD.

You have previously been instructed that you are not to misrepresent the written work of others as your own. Specifically in an email dated February 21, 2018, a meeting on October 17, 2019, and an email dated October 23, 2019. The issue was also addressed in your 2019 midyear interim review on August 1, 2019. Copies of each are attached.




Additionally, when instructed to provide supporting data and analysis to substantiate work you reported performing on the Support Education Excellence in Kentucky (SEEK) program, you failed to provide sufficient information to show you had performed any analysis whatsoever regarding more than 150 of the 172 districts in your presented analysis. Further, errors were found in the work you did produce that would prevent the programs from running or generating a complete forecast.

Your failure to provide any supporting data and analysis regarding your SEEK program calculations, in light of the above-cited instances where you have presented written analysis of others as your own, leads me to conclude that you did not personally perform any analysis regarding more than 150 of the 172 SEEK districts. This is supported by the fact that the results you reported cannot be replicated. You knowingly allowed the OSBD to make a budget recommendation to another agency based on an assumption that you had completed a proper analysis of the district by district SEEK data. Numerous agencies depend on the OSBD's expertise in performing analytical forecasting in building their biennial budgets. Budget recommendations that cannot be supported with written data or analysis undermine confidence in the accuracy and reliability of OSBD's work.

The Kentucky Employee Assistance Program (KEAP) is available to you and the Cabinet urges you to contact a KEAP representative to utilize the resources available to you through that agency. The telephone number for KEAP is 502-564-5788 or 1-800-445-5327.

In accordance with KRS 18A.095, you may appeal this action to the Personnel Board within sixty (60) calendar days after receipt of this notice, excluding the date the notification is received. Such appeal must be filed in writing using the attached appeal form and in the manner prescribed on the form.

Sincerely,

  
\_\_\_\_\_  
Stacy M. Perry, Appointing Authority  
Finance and Administration Cabinet

Attachment: Referenced Emails  
Appeal Form

C: Thomas Stephens, Secretary, Personnel Cabinet  
John Chilton, Executive Director, Office of the State Budget Director  
Michael Jones, Deputy Executive Director, Governor's Office of Policy Research

**Perry, Stacy M (Finance OAS)**

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**From:** Jones, Michael (OSBD)  
**Sent:** Wednesday, February 21, 2018 10:45 AM  
**To:** El-Dabbagh, Ghada (OSBD)  
**Subject:** RE: HB 117- Act relating to a district board of education's levy of an equivalent tax rate

Ghada,

The reviews of bills performed by our offices should be our own work.

While it is perfectly fine for our offices to use the work of others within our own offices, as we speak with one voice as an executive branch organization; I think it is inappropriate to copy the work of LRC.

Additionally, some of the changes you made to the text of the LRC review result in contradictory conclusions.

For example, from the LRC review:

[HB117] "does not impact the school board's authority to raise revenue through other types of tax levies, such as occupational taxes, utility taxes, or increasing the general property tax rate without including a five cents equivalent tax rate that is subject to recall."

From your review:

"The bill only impacts the school board's authority to raise revenue through other types of tax levies, such as occupational taxes, utility taxes, or increasing the general property tax rate without including a five cents equivalent tax rate that is subject to recall."

The LRC's sentence says HB117 has no impact on the school board's authority to raise revenue through other taxes, but yours says that the bill only impacts the school board's authority to raise revenue through other types of taxes. I don't know if you disagree with the LRC's analysis, or if this was just a typographical error in copying the text.

As this bill is of little consequence to the General Fund, and time is not of the essence, please put the review into your own words.

I believe Michaela may have also looked at this bill, so you may want to work together.

Michael

From: El-Dabbagh, Ghada (OSBD)  
Sent: Friday, February 16, 2018 2:20 PM  
To: Jones, Michael (OSBD) <JMichael.Jones@ky.gov>  
Subject: HB 117- Act relating to a district board of education's levy of an equivalent tax rate

Thanks,

Ghada El-Dabbagh  
Governor's Office for Economic Analysis  
Office of State Budget Director  
702 Capitol Ave./ Suite 297  
Frankfort, KY 40601  
(502)564-7300  
[Ghada.Eldabbagh@Ky.gov](mailto:Ghada.Eldabbagh@Ky.gov)

**Perry, Stacy M (Finance OAS)**

**From:** Jones, Michael (OSBD)  
**Sent:** Friday, November 22, 2019 11:16 AM  
**To:** Perry, Stacy M (Finance OAS)  
**Subject:** FW: Pari-Mutuel wagering taxes- Tax Expenditure Report

**From:** Jones, Michael (OSBD)  
**Sent:** Thursday, October 24, 2019 1:47 PM  
**To:** El-Dabbagh, Ghada (OSBD) <Ghada.ElDabbagh@ky.gov>  
**Cc:** Harkenrider, Greg (OSBD) <Greg.Harkenrider@ky.gov>  
**Subject:** RE: Pari-Mutuel wagering taxes- Tax Expenditure Report

Ghada,

In our previous discussion, on October 17<sup>th</sup>, I was pointing out the problem of using the text of the KRS without context, and the resulting confusion for the reader in the work you submitted. To imply that such discussions concerning the quality of your work is a form of discrimination is inaccurate and inappropriate.

For example, here is a single paragraph that you submitted:

*In 2000, charitable gaming did not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races. One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated if a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located and twenty-five percent (25%) to the governing body of the county in which the facility is located. Thirty percent (30%) shall be allocated to the host track; 2. Forty-six and one-half percent (46.5%) to the purse program at the host track; 3. Thirteen and one-half percent (13.5%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith; 4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc., to be expended as follows: a. Up to three percent (3%) for capital improvements and promotion of off-track betting; and b. The remainder for marketing and promoting the Kentucky thoroughbred industry; and four percent (4%) to be allocated to the commission to be used for purses at county fairs in Kentucky licensed and approved by the commission, and for the standardbred sires stakes program established under KRS 230.770.*

*An excise tax of three percent (3%) of all money wagered was imposed on all licensed tracks conducting telephone deposit wagering, all tracks participating as receiving tracks wagering*

*under the jurisdiction of the Kentucky Racing Commission and all tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.*

I pointed out that this paragraph is extremely difficult to read, and a significant part of the confusion comes from how much of the text is taken directly from the KRS without context or explanation.

Here is KRS 230.380 (8) and (9):

*(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:*

*(a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.*

*(b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.*

*(9) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed under KRS 230.3615 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:*

- 1. Thirty percent (30%) shall be allocated to the host track;*
- 2. Forty-six and one-half percent (46.5%) to the purse program at the host track;*
- 3. Thirteen and one-half percent (13.5%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith;*
- 4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc., to be expended as follows:
  - a. Up to three percent (3%) for capital improvements and promotion of off-track betting; and*
  - b. The remainder for marketing and promoting the Kentucky Thoroughbred industry; and**
- 5. Four percent (4%) to be allocated to the racing commission to be used for purses at county fairs in Kentucky licensed and approved by the racing commission, and for the standardbred sires stakes program established under KRS 230.770.*

Clearly, this is nearly a word for word copy of the KRS, and I have highlighted the identical sections in yellow. However, the larger issue is the lack of context or formatting. This is especially true with the sections of subsection (9) that were not included. The way you have put the sections together, the reader would come to the conclusion that there are total dedications of 200% of the 1%, due to the lack of punctuation and context.

The next section of your paragraph is almost word for word from legislation from the 2000 legislative session, possibly the House Committee Substitute for SB152:

*Section 2. KRS 138.510 is amended to read as follows:*

*(1) [Redacted text]*

...shall be in the amount of three percent (3%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) of this section shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30.

Clearly, this is also a near word for word copy of the legislation, and I have highlighted the identical sections in red. However, the problem is the same, as the lack of context makes the paragraph hard to decipher. This section is not related to the previous sentences concerning simulcast facilities, discusses the two tier pari-mutuel tax, and references the language for the Breeder's Cup exemption. Additionally, since the material copied is dated, the level of the purses and the duration of the event required for the Breeder's Cup exemption is incorrect.

The remaining section of the paragraph is also a near word for word copy from an older version of KRS 138.510, with the relevant portions highlighted in green

- (2) An excise tax is imposed on:
(a) All licensed tracks conducting telephone account wagering;
(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and
(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering on the track.
(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

Here, again, the larger issue is context. This is referring back to the tax on simulcast and telephone wagering. After switching to the pari-mutuel tax on live racing in the middle of the paragraph, switching back without any context continues the confusion in the paragraph.

Even the first sentence of paragraph causes confusion:

KRS 238.505 (2) states:
"Charitable gaming" shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races.

By using the phrase "In 2000," and then using the definition of what charitable gaming is NOT, the reader is left to assume that at some point prior or after the year 2000, charitable gaming did include those items. But, that would be incorrect, as none of those activities are covered by charitable gaming, and the sentence does not explain any of the discussion which occurs in the paragraph that follows.

Finally, in our discussion on October 17th, I also highlighted the clear cases where you have copied the text wholesale from other authors.

For example, here is a paragraph from your first submission:

*In recent years, there has been a dramatic shift in betting and wagering in Kentucky. Previously, the primary ways of wagering was betting on live races at the track or at simulcast facilities however now instant wagering machines, which are more like slot machines is the largest growth in betting. All growth in betting on live racing in Kentucky is through advanced deposit wagering (ADW), where bets are made on races anywhere in the world.*

Here is a paragraph from "Taxing Betting Uniformly Would Generate Much-Needed General Fund Revenue" by Pam Thomas with the Kentucky Center for Economic Policy:

*In recent years, there has been a dramatic shift in betting and wagering in Kentucky. Where betting on live races at the track or at simulcast facilities were previously the primary ways of wagering, now by far the largest growth in betting is from instant wagering machines, which are more like slot machines. All growth in betting on live racing in Kentucky is through advanced deposit wagering (ADW), where bets are made on races anywhere in the world.*

Even after I asked you to address these problems, you continue to deny the issue.

(I will continue to use highlighting to make the comparisons)

The updated version of the above paragraph now reads:

In recent years, there has been a dramatic shift in betting and wagering in Kentucky. Previously, the primary ways of wagering was betting on live races at the track or at simulcast facilities. All growth in betting on live racing in Kentucky is through advanced deposit wagering (ADW), where bets are made on races anywhere in the world.

Every word, except for "was" comes directly from Pam Thomas' article.

Here is your next paragraph:

For ten years, instant racing also referred to as "historical racing", has been offered in Kentucky after the Kentucky Horse Race Commission (KHRC) signed off on regulations allowing the gambling machines. Instant racing machines can only be located at horse tracks or at facilities owned by horse tracks. The system that determines when bettors win is loosely based on previously run horse races, but otherwise has nothing to do with live betting or horseracing.

Every word comes directly from another author's work:

From Erik Gibbs article, "Instant racing machine debate in Kentucky makes its way to Supreme Court":

For ten years, instant racing also referred to as historical racing, has been offered in Kentucky after the Kentucky Horse Race Commission (KHRC) signed off on regulations allowing the gambling machines.

Back to Pam Thomas' article:

*Instant racing machines can only be located at horse tracks or at facilities owned by horse tracks. The system that determines when bettors win is loosely based on previously run horse races, but otherwise has nothing to do with live betting or horse racing.*

Here is your next paragraph:

**Kentucky never has legalized gambling, but instant racing machines have been legal under the state's pari-mutuel gambling laws. Kentucky has four instant racing parlors. Instant racing were first installed at Kentucky Downs in 2011, at Ellis Park in 2012 and at the Red Mile at facility jointly operated by The Red Mile and Keeneland in 2015. Then in fall of 2018, Derby City, owned by Churchill Downs, opened in Louisville. As more machines have been added, the amount bet using them has increased substantially; with continued expansion, these revenues will only increase more in the future.**

The first part of the first sentence is not grammatically correct, but it is clearly from Erik Gibbs article:

**Kentucky doesn't have legalized gambling, but instant racing machines have been legal under the state's pari-mutuel gambling laws...**

And

**Kentucky has four instant racing parlors.**

Then, back to Pam Thomas's article:

*...they were first installed at Kentucky Downs in 2011, at Ellis Park in 2012 and at the Red Mile at facility jointly operated by The Red Mile and Keeneland in 2015. Then in fall of 2018, Derby City, owned by Churchill Downs, opened in Louisville with 900 instant racing machines...*

*As more machines have been added, the amount bet using them has increased substantially; with continued expansion, these revenues will only increase more in the future.*

Clearly, I am not exaggerating when I say that nearly every word in this section is being taken directly from another source.

Michael

From: El-Dabbagh, Ghada (OSBD) <Ghada.ElDabbagh@ky.gov>  
Sent: Thursday, October 24, 2019 9:22 AM  
To: Jones, Michael (OSBD) <Michael.Jones@ky.gov>



Cc: Harkenrider, Greg (OSBD) <Greg.Harkenrider@ky.gov>  
Subject: RE: Pari-Mutuel wagering taxes- Tax Expenditure Report

Michael,

The continues accusation, harassment, retaliation and picking on me and my work to build a false scenarios of the "copy and paste" and that I cannot do my work that I have been doing for over 9 years before you became my manager and I got outstanding score in that job duty is very obvious and need to be stopped.

"There is still a significant portion of the written material concerning ADW and historical racing that is a near word for word copy of Pam Thomas' article "Taxing Betting Uniformly Would Generate Much Needed General Fund Revenue".

Prove what you are claiming. And I will continue following your instructions and guidance.

Ghada

From: Jones, Michael (OSBD) <Michael.Jones@ky.gov>  
Sent: Wednesday, October 23, 2019 4:59 PM  
To: El-Dabbagh, Ghada (OSBD) <Ghada.ElDabbagh@ky.gov>  
Subject: RE: Pari-Mutuel wagering taxes- Tax Expenditure Report

Ghada,

This looks much better, but it will take me a while to go through and edit.

A couple of notes:

- There is still a significant portion of the written material concerning ADW and historical racing that is a near word for word copy of Pam Thomas' article "Taxing Betting Uniformly Would Generate Much Needed General Fund Revenue". While the ideas are directly on point, you need to put these ideas into your own words.
- In item number 3, the Kentucky Quarter Horse, Appaloosa and Arabian Development Fund, the description is listed as "An amount equal to 1% and an amount equal to 2% of all money wagered on live and historical horse races..." However, the KRS cited only includes 138.510 (1) (c) (3). Please, check the citation, and clarify which activities are subject to the 1% tax and the 2% tax, respectively.
- In many of the new additions, the text of the KRS is included, but there is no description of what creates the tax expenditure. For example, both of the items that are numbered "13", 13. Racing track admissions- Pari-Mutuel Tax and 13. Average daily mutual handle license tax on race meetings - Pari-Mutuel Tax, have the text of the KRS but nothing to explain why there is a tax expenditure due to implementation of the KRS.

Michael

**From:** El-Dabbagh, Ghada (OSBD) <[Ghada.Eldabbagh@ky.gov](mailto:Ghada.Eldabbagh@ky.gov)>  
**Sent:** Wednesday, October 23, 2019 11:57 AM  
**To:** Jones, Michael (OSBD) <[Michael.Jones@ky.gov](mailto:Michael.Jones@ky.gov)>  
**Subject:** Pari-Mutuel wagering taxes- Tax Expenditure Report

Michael,

I have edited the Pari-Mutuel wagering taxes section and implemented your comments/ suggestions. Please let me know before I contacted DOR for the detail financial information regarding the Tax expenditure amounts.

The green color is what I added in the Tax Expenditure section.  
The yellow color is what was included in the Earmarked but edited of the updates were implemented.  
Background was edited with no color.

Thanks,

Ghada El-Dabbagh  
Office of State Budget Director  
702 Capitol Ave / Suite 297  
Frankfort, KY 40601  
(502)564-7300  
[Ghada.Eldabbagh@Ky.gov](mailto:Ghada.Eldabbagh@Ky.gov)

NAME: El-Dabbagh, Ghada

PERSONNEL /

MID-YEAR INTERIM REVIEW MEETING DOCUMENTATION

Review Period: From 1/1/2017 To 6/30/2017

EVALUATOR INSTRUCTIONS: Interim reviews must document performance to justify the annual performance rating.

Discuss both positive and negative aspects in all categories of performance. Relevant comments by the evaluator should be documented in the area below. A plan for improving performance may be developed for categories which are below expectations.

Overall, Ms. El-Dabbagh continues to work towards meeting expectations in her subject matter job duties. She has increased her role in the Tax Expenditure Report, drafting sections of the report and making necessary changes due to legislative actions. In the areas of the MSA, Unemployment Insurance, and other subject areas, Ms. El-Dabbagh has failed to attend, participate, observe, and document legislative hearings or conference calls. Additionally, Ms. El-Dabbagh violated the confidentiality requirements for data associated with the MSA, and a letter of reprimand is included with this evaluation.

JOB TASKS:

ADAPTABILITY/INITIATIVE:

Shows courtesy to other team members. Communication and analysis continues to rely heavily on "copy and paste", especially in the preparation of the Quarterly Report.

COMMUNICATION/TEAMWORK:

SELF MANAGEMENT:

Attendance:

Notice of workday absences provided in a timely manner.

Punctuality:

Improvement in compliance with flex schedule and daily arrival times is needed. Always punctual for meetings and scheduled appointments.

Dependability/Responsibility:

Completes timesheets and meets work related deadlines

Career Development:

Employee has undertaken numerous courses made available through the MyPurpose system

This is to certify that I have met with my evaluator to discuss my job performance during the first review period, as outlined in my performance plan. I understand that by signing below does not indicate my agreement with the above.

I certify that I have completed the training requirements as stated in 101 KAR 2:180 and that I have met with the employee to discuss his/her job performance during the first review period.

I have attached additional pertinent comments. (To be considered in the annual evaluation, comments must be attached within five (5) workdays of interim meeting.)

[Signature] 8-1-2019  
DATE

EMPLOYEE SIGNATURE

[Signature] 8-1-19  
DATE

EVALUATOR SIGNATURE

[Signature] 8/1/19  
DATE

WITNESS SIGNATURE