

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2020-103**

JOSEPH HOWARD

APPELLANT

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

**JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF CORRECTIONS**

APPELLEE

***** ****

The Board, at its regular June 2021 meeting, having considered the record, including the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated May 6, 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 **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 16th day of June, 2021.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Kristin Wehking
Joseph Howard
Rodney Moore

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2020-103

JOSEPH HOWARD

APPELLANT

V.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER

JUSTICE & PUBLIC SAFETY CABINET
DEPARTMENT OF CORRECTIONS

APPELLEE

** ** * * * * *

This matter came on for evidentiary hearing on January 28, 2021, at 9:30 a.m., ET, at the offices of the Personnel Board, 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Brenda Allen, Hearing Officer, via Amazon Chime video teleconferencing software by agreement of the parties. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Joseph Howard, was present and was not represented by counsel. The Appellee, Justice and Public Safety Cabinet, Department of Corrections, was present and was represented by the Honorable Kristin Wehking. Also present was Agency representative Rodney Moore. At issue in the evidentiary hearing was whether there was just cause for the demotion of the Appellant and whether that penalty was excessive or erroneous. The Appellee had the burden of proof and proceeded first in the presentation of evidence.

The Appellee made a prehearing motion to exclude the additional documents submitted by the Appellant with his exhibits that contain his written explanation and arguments regarding the exhibits. The Motion was **SUSTAINED**, and the Appellant was advised that he would have the opportunity to provide explanation regarding any exhibits he proffered after being placed under oath.

Each party waived opening statements.

BACKGROUND

1. The Appellant, Joseph Howard, was employed as a Correctional Lieutenant with the Justice and Public Safety Cabinet, Department of Corrections. By letter of January 30, 2020, the Appellant was demoted from Correctional Lieutenant to Correctional Officer for lack of good behavior, specifically, misconduct. The demotion letter compiled several sexual harassment-type allegations made against the Appellant - in all, six (6) separate allegations spanning from August 2014 through August 2019 - that the Agency alleges were part of "a disturbing pattern

of inappropriate behavior that cannot be ignored.” A copy of the January 30, 2020 demotion letter is attached hereto as **Recommended Order Attachment A**.

2. The Appellant timely appealed the demotion and, among other grounds for his appeal, argued that, regarding the August 2014 allegation involving Kelsey Havens, the Department of Corrections had removed the reprimand for that incident from his personnel file, so it was not appropriate for it to now form a basis for his demotion.

3. The Appellant also took issue with the inclusion of the April 2016 allegation involving the same individual, Kelsey Havens (later Kelsey Havens-Bear). With regard to that allegation, a third-party Corrections Officer had alleged that the Appellant was “bothering” Ms. Havens-Bear, but Ms. Havens-Bear refuted that allegation in writing.

4. Just prior to the start of the hearing, the Appellee advised the Hearing Officer that the Appellee would not be putting forth any evidence regarding the two allegations involving Ms. Havens (Havens-Bear). Accordingly, for purposes of this proceeding, only four allegations remain in support of the Appellee’s demotion of the Appellant.

5. The Appellant, **Joseph Howard**, was the first witness called by the Appellee. After being sworn, he testified that he has been employed with the Department of Corrections since May 1, 2005, was promoted to Sergeant in 2009, to Lieutenant in 2016, and then reverted back to Sergeant five months later near the end of his probationary period. He stated that he was promoted again in 2017 to the position of Lieutenant and then demoted in February 2020, from which he filed this appeal.

6. The Appellant was questioned about his interactions with specific female employees that the Appellee used as a basis for his demotion.

7. The Appellant testified that he worked with Tatia Moore and that he had hugged her and kissed her on the side of the head.

8. The Appellant testified that, while working at the Little Sandy Correctional Complex (LSCC), he hugged Revitta Beller, whom he supervised, while they were in a parking lot. He denied ever kissing her as she alleged.

9. The Appellant testified that Leah Sweeney was a Correctional Officer that he supervised at LSCC, that he asked her for her phone number in July 2019, and that he had attempted to send her a video of himself lifting weights, which he alleged she had wanted to see. He denied that he ever touched her as she alleged, except maybe to get her attention.

10. Mr. Howard testified that he had been through Sexual Harassment Training yearly and that, if he had to summarize what he learned from it, it was that people can be offended by anything you do and you can be reported for it.

11. The next witness to testify was **Teresa Harris**. After being placed under oath, she stated that she is currently employed by the Personnel Cabinet but was previously employed by the Department of Corrections in Human Resources from November 2003 to August 2017. She stated that she served as a manager and her duties were conducting EEO investigations, recruitment, and drug testing. She testified that she conducted the investigation regarding Mr. Howard and Tatia Moore.

12. Ms. Harris stated that she had received a complaint from Officer Moore's supervisor that Lieutenant Howard had hugged and kissed Officer Moore on the cheek. She testified that Lieutenant Howard admitted to kissing her on the cheek and had stated that he did not mean anything sexual by it.

13. Ms. Harris stated that, during the course of her investigation, she had interviewed Officer Moore by phone and that Officer Moore did not want an investigation. The witness identified **Appellee's Exhibit 1**, the July 21, 2016 document she prepared regarding the event entitled "Investigation of Inappropriate Conduct," and it was entered into the record without objection.

14. The next witness to testify was **Rodney Moore**, the Agency representative. Upon being placed under oath, he stated that he had been previously employed with the Department of Corrections' Human Resources Department for eighteen years and is currently the Director of Employee Management for the Justice and Public Safety Cabinet. He stated that he is familiar with Mr. Howard through various investigations and personnel actions.

15. The witness identified **Appellee's Exhibit 2**, the January 30, 2020 letter demoting Mr. Howard and gave testimony regarding it. It was entered into the record without objection.

16. Mr. Moore outlined the remaining incidents in the letter that formed the basis for the Appellant's demotion. First, he stated that in the August 2019 incident, Officer Leah Sweeney alleged that Mr. Howard had, on numerous occasions, touched her arm or shoulder and, on one occasion, insisted on giving her a ride home. Mr. Howard also attempted to send her a video of him lifting weights, which made her feel uncomfortable. The witness stated the basis of the discomfort was the fact that the touching was unwanted, and that Mr. Howard was her superior. Mr. Moore stated that Mr. Howard admitted to the allegations.

17. The witness identified **Appellee's Exhibit 3**, an investigative report of the August 2019 incident involving the Appellant and Officer Sweeney and it was entered into the record without objection.

18. The witness then testified regarding a February 2018 incident where it was alleged that Mr. Howard failed to address an allegation of sexual harassment brought to him by a subordinate, Meggan Sloas. Mr. Moore testified that an Internal Affairs Investigation substantiated that Mr. Howard did not report or intervene on a complaint made by Officer Sloas regarding another male officer's inappropriate comments. The witness identified **Appellee's**

Exhibit 4, an Internal Investigations report regarding the allegation involving Officer Sloas and it was entered into the record without objection.

19. Mr. Moore then testified regarding a December 2017 allegation involving Sergeant Revitta Beller, and a claim that the Appellant hugged and kissed Sgt. Beller on Christmas Eve in the parking lot. He testified that Mr. Howard had admitted only to hugging Sgt. Beller. **Appellee's Exhibit 5**, the investigative report on the matter, was entered into the record without objection. Mr. Moore testified that the investigation substantiated the allegation against Mr. Howard, which was conduct unwanted by Sgt. Beller.

20. Mr. Moore testified that the next allegation involved Mr. Howard's interactions with Tatia Moore, and a claim that the Appellant had hugged and kissed her. The witness testified that this matter was investigated by Teresa Harris, and that the Appellant admitted to the conduct at issue, so it was substantiated. He testified that, as a result, the Appellant was reverted from Correctional Lieutenant to Correctional Officer. The reversion letter and investigation were identified and entered into the record collectively as **Appellee's Exhibit 6**.

21. Mr. Moore testified that the history of Officer Howard's conduct resulted in the decision to demote him in this instance. He testified that, because Officer Howard was a Correctional Lieutenant, it puts pressure on the subordinate female officers when Officer Howard makes advances toward them. He stated that a Lieutenant's recommendations are taken seriously regarding the employment of a lower ranking officer.

22. On cross examination, Mr. Moore admitted that, other than this demotion, there were no disciplinary actions in the Appellant's file as a result of any of these matters.

23. On re-direct, the witness reiterated that, even removing both incidents involving Kelsey Havens, the Appellant's remaining conduct was sufficient to support the demotion. Mr. Moore stated that there remained four (4) incidents within one year of each other involving the Appellant harassing employees. In addition, he stated that with Officer Sloas, the Appellant showed his inability to take the appropriate action of forwarding Officer Sloas' concerns on to the Warden.

24. The next witness to testify was **Revitta Beller**, who, after being sworn, testified that she had been working at LSCC for seven years. She stated she was a Sergeant from 2016 to 2017. She stated that, on Christmas Eve of 2017, Lieutenant Howard was walking her to the parking lot after their shift, he wished her a Merry Christmas, and tried to hug and kiss her on the cheek. She stated that she said "no" and pushed him away.

25. The final witness to be sworn and testify on behalf of the Appellee was **Kathleen Kenney**, who was previously the Commissioner of the Department of Corrections. She testified that, typically, the Commissioner would not issue disciplinary decisions; however, during the transition to the Beshear administration, authority was taken from Wardens in the Department of Corrections and vested with the Commissioner. Commissioner Kenney then explained why she imposed a demotion in Officer Howard's case instead of lesser disciplinary action.

26. She testified that she had not only looked at the most recent situation, but the totality of the circumstances. She also considered that the Appellant was a supervisor during many of those inappropriate interactions and, as a direct result, had a significant impact on the personnel decisions regarding subordinate officers. She testified that supervisors are expected to model good behavior and make sure staff are treated with dignity and respect.

27. The witness stated she felt the liability to the Department was too great to allow Lieutenant Howard to remain in a supervisory role. She stated that LSCC had a significant judgment rendered against it, a \$1.2 million case. She testified the Department has a Zero-Tolerance Policy for harassment and she did not feel that Mr. Howard understood the inappropriate nature of his behavior, based on number of prior actions and the fact that the conduct continued to occur.

28. Ms. Kenney acknowledged that, for purposes of the evidentiary hearing, the Appellee was no longer relying on the two incidents involving Kelsey Havens, but stated that, even without considering those incidents, she would stand by her decision to demote the Appellant. She stated that both the December 2017 incident involving Revitta Beller and the July 2016 incident involving Tatia Moore were independently sufficient to support the demotion. She stated the Department acted appropriately. She concluded her testimony by stating that this area of unprofessional behavior, sexual harassment, and the treatment of women by Mr. Howard continues to happen and is too big a risk to continue to take. She stated the supervisor is responsible for carrying out the mission of a Zero-Tolerance Policy of harassment.

29. The Appellee rested.

30. The **Appellant, Joseph Howard**, testified as the only witness in his case-in-chief. Regarding the July 2016 incident involving Tatia Moore, he testified that he had developed a friendship with her, and that he felt his behavior of hugging and kissing her on the forehead was not a problem because of their friendship.

31. As it related to the Christmas Eve incident involving his hug and attempt to kiss Revitta Beller, he stated that Sgt. Beller reported this incident because she was aware that he was about to change her days off and she did not like that. He testified that she waited a week to report him and stated that this delay supported his contention that her claim was retaliatory. He denied attempting to kiss her.

32. As it related to the incident with Meggan Sloas, he testified that Officer Sloas never reported any sexual harassment to him and that he was never around her and Mr. Leadford, the alleged perpetrator, to directly hear any inappropriate comments that Mr. Leadford made. He stated that Officer Sloas had only told him she did not like working with Mr. Leadford.

33. Mr. Howard testified that the final incident pertaining to him asking Officer Sweeney to allow him to give her a ride home, asking for her phone number, and attempting to show her a video of himself lifting weights was not as presented by the Appellee. He testified

that he never “insisted” that she allow him to take her home, he merely asked once. Also, he stated that she wanted to see the video of him lifting weights and had come to the gym with other staff to see him do so. Finally, he contended that the reason this was reported is that she is the daughter-in-law of Sgt. Revitta Beller, who hates him and this, too, is retaliatory.

34. Mr. Howard stated that throughout his career he was professional and received highly effective on his evaluations.

35. The Appellant rested.

36. The Appellee recalled the Agency representative, **Rodney Moore**, who gave additional testimony.

37. Each party made a closing argument.

38. The Hearing Officer considered the entire administrative record.

FINDINGS OF FACT

1. The Appellant, Joseph Howard, was a classified employee serving as a Correctional Lieutenant within the Justice and Public Safety Cabinet, Department of Corrections. (Appellant’s testimony, Appellee’s Exhibit 2.)

2. Every year since his hiring, the Appellant has been provided Sexual Harassment Training by the Appellee. The Appellant’s takeaway from the Sexual Harassment Training over the years was that you can be reported for anything you do that a female finds offensive. (Testimony of Appellant.)

3. By letter of January 30, 2020, the Appellee demoted the Appellant for lack of good behavior, specifically, misconduct in his involvement in sexual harassment-type cases that were part of a “disturbing pattern of in appropriate behavior that cannot be ignored.” (Appellee’s Exhibit 2, testimony of Kenney.)

4. While the letter of demotion outlined six (6) instances, the Appellee stipulated that two instances were not appropriate bases for the demotion and the Cabinet would put forth no evidence regarding them in this proceeding. The remaining four incidents supporting the demotion were outlined in the letter of demotion, investigative reports, and testimony, as follows:

5. **Incident 1: Hugging and kissing Tatia Moore, July 2016 Investigation**- In June 2016, Probation and Parole Officer Tatia Moore made the following allegations to her superior regarding three separate instances of unwanted conduct by Officer Howard. (Appellee’s Exhibit 1 and 6.)

- A. In early June 2016, then-Lieutenant Howard asked for her phone number. She did not think anything of it and provided it to him. After working a shift with Officer Howard, he approached her and hugged her. Officer Moore found this situation “very awkward.” (Appellee’s Exhibit 6.)
- B. On June 25, 2016, Officer Moore worked with Lieutenant Howard again and, after an interaction with an inmate that left her irritated, Lieutenant Howard approached her and began rubbing her neck. She asked what he was doing, and he said he was checking to see if her neck was hot. She told him not to touch her again, that he could simply ask if her neck was hot, and his touching her in this manner was “weird.” (Appellee’s Exhibit 6.)
- C. At the end of the shift, on June 25, Lieutenant Howard again attempted to hug and kiss her, but she turned her head and he kissed her on the cheek. After he walked away, she attempted to avoid him until he got in his car to leave. (Appellee’s Exhibit 6.)
- D. Appellant Howard admitted to hugging and kissing Officer Moore. (Testimony of Teresa Harris, Testimony of Appellant.)

6. **Incident 2: Hugging and kissing Revitta Beller, December 24, 2017.** On Christmas Eve 2017, Lieutenant Howard hugged Sgt. Revitta Beller, a subordinate, while in the parking lot after their shift. Appellant admitted to hugging Sgt. Beller, but contended they were friends, showing the investigator a text from Sgt. Beller on his cell phone. The allegation of kissing Sgt. Beller was denied by the Appellant and unsubstantiated by the investigation. (Appellee’s Exhibit 5, Testimony of Beller, Testimony of Appellant.)

7. **Incident 3: Failure to appropriately handle a sexual harassment claim by Meggan Sloas, February 2018.** In February 2018, Officer Meggan Sloas reported to superiors that Officer Alexander Leadford made comments of a sexual nature to her, including his ventures with women and that he was not circumcised. Upon investigation, it was determined that Officer Sloas never formally reported this sexually related conduct to Lieutenant Howard, but only indicated to him that she did not like working with Officer Leadford. (Appellee’s Exhibit 4, Testimony of Appellant.)

8. The Agency representative, Rodney Moore, testified that the allegations of the Appellant’s failure to appropriately handle a report of sexual harassment by a subordinate in Incident 3 was substantiated, and that this failure appropriately formed a basis for his demotion. (Testimony of Rodney Moore.)

9. However, both the testimony of Officer Howard and the Appellee’s own investigative report refute Mr. Moore’s testimony, and there is no substantiation of Mr. Howard’s wrongdoing relative to Incident 3 in the record. (Testimony of Appellant, Appellee’s Exhibit 4.)

10. The Hearing Officer finds that there was no misconduct by Mr. Howard relative to this allegation-Incident 3.

11. **Incident 4: Allegation of Inappropriate conduct, Leah Sweeney, August 2019.** In August 2019, Leah Sweeney reported three instances of inappropriate conduct from her superior, Lieutenant Howard:

- A. Asking to drive her home after work.
- B. Rubbing the lower part of her back and the back of her arm on several occasions while visiting the dorms to sign the visitation log.
- C. Asking for her phone number and then attempting to send her a video of himself lifting weights on several occasions, even showing her his attempts.

12. In responding to Lieutenant Howard's conduct, Officer Sweeney declined his offer for a ride home, moved away when he touched her, provided him with a non-working phone number (belonging to her fiancé), so he could not communicate with her by phone or send her the video he was attempting to send. (Appellee's Exhibit 3)

13. During the course of the investigation, Officer Sweeney explained why she did not tell Lieutenant Howard that his behaviors were unwelcomed, stating "I just kind of move away." "I am an officer and he's a lieutenant, so he can hold a lot of crap over my head." She indicated that she would have handled the incidents differently if the same conduct occurred with an officer of the same rank, telling investigators, "Lieutenants—they basically just hold your job in their hand, in a way." (Appellee's Exhibit 3).

14. Of the four incidents the Appellees entered into the record in this proceeding in support of its decision to demote the Appellant, only three were substantiated - Incidents 1, 2, and 4). (Appellee's Exhibit 1, 2, 3, 4, 5, and 6 and Testimony of Appellant)

15. In reviewing each of these three incidents, the Hearing Officer finds striking similarities among the incidents spanning a period of three years:

- A. In each incident, the officers were subordinate to Lieutenant Howard;
- B. In each incident, the officers were female;
- C. In each incident, Appellant Howard would obtain or attempt to obtain the subordinate female officer's phone number;

- D. In each incident, Appellant Howard would begin physically touching the subordinate female officer to include rubbing and/or hugging and/or attempting to kiss the officer;
- E. The female officers reported feeling weird, awkward, or expressed a reluctance to report Appellant Howard, and/or a fear for their jobs after the incident; and
- F. With each investigation, the Appellant contended he was just being “friendly” and did not mean anything sexual by his behavior.

(Appellee’s Exhibits 1, 3, 5, and 6 and testimony of Appellant.) The Hearing Officer finds this to be a pattern of inappropriate behavior by the Appellant, specifically regarding female subordinate employees.

16. As a Lieutenant, Howard does/did have power over the positions of subordinate officers, including making recommendations regarding their continued employment and changing their schedules or days off. (Testimony of Rodney Moore, Testimony of Appellant.)

17. In demoting the Appellant, Commissioner Kenney looked at the totality of the circumstances and found Incidents 1 and 2 alone were sufficient to support her decision to demote, testifying that Lieutenant Howard was unfit to work in a supervisory capacity because he did not understand the nature of his behavior, and he continued to behave in the same manner. The liability for the Department was too great, particularly in light of a recent \$1.2 million verdict against the Little Sandy Correctional Complex. Moreover, the Appellant’s conduct is contrary to the Zero-Tolerance Harassment Policy. (Testimony of Kenney.) The Hearing Officer finds this testimony persuasive.

18. Despite having been reverted to the position of Sergeant in August 2016 shortly after the investigation of Incident 1 (hugging and kissing of Tatia Moore), and being promoted back to Lieutenant in 2017, Lieutenant Howard still engaged in Incidents 3 and 4 involving hugging, rubbing, or touching two other subordinate female officers thereafter. (Appellee’s Exhibits 1,3, 5, and 6.)

19. 101 KAR 1:345 provides:

Appointing Authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.

20. The Hearing Officer finds that Incidents 1, 2, and 4 constitute a lack of good behavior perpetrated by the Appellant as outlined in 101 KAR 1:345, Section 1.

21. While Officer Howard contended that Leah Sweeney and Revitta Beller were relatives who were retaliating against him by making their claims because of a personal dislike or because he was changing the schedule of one of them, the Hearing Officer does not find the

Appellant credible on this issue, because the Appellant admitted to at least a part of each of their claims of unwelcomed physical contact. (Testimony of Appellant, Appellee's Exhibits 3, and 5.)

22. The Hearing Officer finds that with regard to Incidents 1, 2, and 4, Lieutenant Howard engaged in a pattern whereby he failed to model good behavior or treat his subordinate female employees with dignity and respect, both of which are important for Lieutenants and which creates a risk of liability for their employer. (Testimony of Kenney.)

23. The Hearing Officer finds that, despite repeated opportunities to promote to the position of Lieutenant, yearly training on sexual harassment, and his own understanding of that training that his conduct can be deemed offensive and reportable, Lieutenant Howard has proven to be incapable or unwilling to conduct himself as a supervising officer should in the presence of female subordinate employees.

CONCLUSION OF LAW

The Hearing Officer concludes that the Appellee, Justice and Public Safety Cabinet, Department of Corrections, has met its burden of proof to show that there was just cause for the Appellant's demotion and that it was neither excessive nor erroneous.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the case of **JOSEPH HOWARD VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF CORRECTIONS (APPEAL NO. 2020-103)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen 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 exception 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 the 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).

(Hearing Officer's Note: 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 Brenda D. Allen this 6th day of May, 2021.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy this day mailed to:

Hon. Kristen Wehking
Joseph Howard
Hon. Rosemary Holbrook (Personnel Cabinet)

2

54527-30042274
Howard, Joseph M

02/16/2020



JUSTICE AND PUBLIC SAFETY CABINET

Andy Beshear
Governor

Justice Mary C. Noble, Ret.
Secretary

Department of Corrections
P.O. Box 2400
Frankfort, Kentucky 40602
Phone (502) 564-4726
Fax (502) 564-5037
www.kentucky.gov

Kathleen M. Kenney
Commissioner

Ronnie Eastin
Deputy Secretary

Witnessing Juan Kraw
2-3-20
Witness Sherell Waddell
2-3-20
Witness Cap & Junita
2/3/20
Issued Re-fused

January 30, 2020

Joseph M. Howard

Personnel Number

Dear Mr. Howard:

Pursuant to KRS 18A.095, you are advised that you will be demoted for cause from your position as Correctional Lieutenant to the position of Correctional Officer effective beginning of business February 16, 2020. As a result, pursuant to 101 KAR 2:034, your monthly salary will be reduced from \$3,407.04 to \$3,097.32.

You are demoted for violation of 101 KAR 1:345, Section 1 (lack of good behavior), specified as follows:

Misconduct, i.e., A review of case history involving you in sexual harassment cases since August 2014 shows that there is a disturbing pattern of inappropriate behavior that cannot be ignored. The cases are as follows:

August 2014 – Correctional Officer Kelsey Havens reported that you called her multiple times during shift to tell her you loved her and that you had a dream about her. You also wrote a note to her saying you still loved her, even though she didn't want to talk to you, then you asked for her new phone number.



April 2016 – A report was filed by Correctional Officer Colleen Payton stating that you were “bothering” Correctional Officer Kelsey Havens-Bear (same individual as in previous entry), only with a name change). Officer Havens-Bear then made a written statement saying you were not bothering her.

July 2016 – You admitted to Investigator Teresa Harris, Department of Corrections Human Resource Manager, that you hugged Probation and Parole Officer Tatia Moore on two occasions, and kissed her on her cheek while working at the Kentucky State Reformatory.

Reverted August 16, 2016, from Correctional Lieutenant to Correctional Sergeant (failed to satisfactorily complete promotional probationary period)

December 2017 – (2018-KDOC-PERS-001) - You admitted to hugging Sergeant Revitta Beller in the institutional parking lot, which was found to be unwanted.

February 2018 - (2018-KDOC-PERS-004) - You were named as a supervisor who took no action on a sexual harassment situation that was reported to you by Correctional Officer Meggan Sloas. The case was investigated by the Internal Investigation Branch.

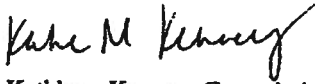
August 2019 – (2019-KDOC-PERS-099) - You admitted to offering Correctional Officer Leah Sweeney a ride home and attempted to send her a video of you lifting weights, which made her feel uneasy.

As a Corrections employee, and as a Corrections supervisor, you have attended many trainings regarding Sexual Harassment and Anti-Harassment and should have understood unwanted behavior. You also attended ODET Anti-Harassment Training offered by the Office of Diversity, Equality and Training on June 13, 2018. Especially as a supervisor, your actions are scrutinized, and the cases listed above show that there has been a pattern of behavior that has been reported to be unwanted and inappropriate. Although you have had the training to make you more aware of your actions, the inappropriate behaviors seem to continue. It is not fitting or acceptable to have an individual in a supervisory position that continues this type of behavior, and this pattern of behavior cannot be tolerated. Failure to improve in your performance may lead to further disciplinary action taken against you, up to and including dismissal.

For your information, the Kentucky Employee Assistance Program (KEAP) is a voluntary and confidential assessment and referral service for state employees. This service may help you with any personal problems that may be affecting your job performance. KEAP can be reached at (800) 445-5327 or (502) 564-5788.

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

Sincerely,



Kathleen Kenney, Commissioner
Department of Corrections

Attachment: Appeal Form

Cc: Gerina D. Whethers, Secretary – Personnel Cabinet
Rodney Moore – Director – Personnel Services
Personnel File