



**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2011-239**

**LISA HULETTE**

**APPELLANT**

**VS.**

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

**PUBLIC PROTECTION CABINET  
ROBERT VANCE, APPOINTING AUTHORITY**

**APPELLEE**

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This matter came on for evidentiary hearing on September 21, 2012, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before Geoffrey B. Greenawalt, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Lisa Hulette, was present at the evidentiary hearing and was represented by the Hon. Paul Fauri. The Appellee, Public Protection Cabinet, was present and represented by the Hon. Gordon Slone.

The issue at the evidentiary hearing was whether or not the Appellant was entitled to reclassification to the position of Administrative Specialist III (grade 12) or Program Coordinator (grade 13). The burden of proof was upon the Appellant and was to be by a preponderance of the evidence.

**BACKGROUND**

1. The Appellant, Lisa Hulette, timely filed her appeal with the Personnel Board on November 1, 2011, appealing from her failure to be reclassified from an Administrative Specialist II to an Administrative Specialist III or to a Program Coordinator.

2. The first to testify was **Mr. James Lambert**, who is a Classification and Compensation Branch Manager with the Personnel Cabinet and has been so since September 2003. Appellant's Exhibit 1 was introduced through the witness and is a copy of the Position Audit Form prepared by Mr. Lambert regarding the Appellant's request to be reclassified. The Position Audit Form is dated April 18, 2012.

3. According to Mr. Lambert, he first interviewed Dennis Rodgers, Plumbing Inspection Field Operations Manager, who supervised the Appellant between October and December 2011. He also interviewed Mr. Dave Moore, Director, Division of Plumbing, who supervised the Appellant from January 2012 to present. The initial interview took place on January 24, 2012. Mr. Lambert explained that he re-interviewed Mr. Rodgers and Mr. Moore on April 16, 2012, because he needed a little more detail on the Appellant's specific job tasks and duties.

4. Mr. Lambert testified that he was never told about the Appellant having alleged sexual harassment against Mr. Rodgers. Mr. Lambert further testified that he was told that as late as October 2011, the Appellant's supervisor and the person who evaluated her job performance was Ms. Evelyn Mills.

5. When asked why he did not interview Ms. Mills, Mr. Lambert stated that he only interviews the employee's current supervisors unless there is not enough information provided to him regarding the pertinent job duties.

6. Mr. Lambert testified that he interviewed Mr. Moore and Mr. Rodgers individually in January 2012 and together in April 2012. He also interviewed the Appellant. He completed his first desk audit draft in early February, 2012. Mr. Lambert testified that it does not typically take three months to prepare or perform a desk audit, but this particular one took longer than normal because his office had both a reduction in staff and several audits going on during that time period. Mr. Lambert stated that his conclusion contained in his draft audit was the same as that contained in his final audit.

7. Mr. Lambert explained that Exhibit 1 attached to the desk audit was an updated Position Description provided to him by the Agency in January, 2012. Exhibit 2 attached to his desk audit was a Position Description prepared by Evelyn Mills and provided to him by the Appellant. Mr. Lambert utilized both exhibits in preparing his final report. According to Mr. Lambert, he went through each aspect of the job description provided to him by the Appellant with the Appellant until he felt comfortable he understood her job duties. Mr. Lambert concluded (found in No. 16 of the desk audit) that a reclassification was not warranted in essence, because he did not believe the Appellant's current job duties included providing professional support to a division head in developing, implementing and monitoring various complex programs, projects or activities. Further, he believed that a re-classification to a Program Coordinator was unwarranted because the Appellant did not work with any statewide programs and, although the Appellant was found to work with various database processes, program coordination was not observed. Although Mr. Lambert found that there were material and permanent changes in the Appellant's duties by the time of the desk audit, these changes in duties did not rise to the level of those required of an Administrative Specialist III. According to Mr. Lambert, although there were some inconsistencies regarding the Appellant's percentage of time spent on certain tasks, the bulk of her time was spent maintaining and updating the

continued education calendar, which according to her supervisor, was a data entry function.

8. The Appellant's Exhibit 2 and 3 were introduced to the record. Appellant's Exhibit 2 is the Class Specification for Administrative Specialist II and Appellant's Exhibit 3 is the Class Specification for Administrative Specialist III. Mr. Lambert testified that he relied on both of these forms when preparing his desk audit report.

9. Mr. Lambert testified that the Appellant worked with vehicle programs and continuing education scheduling. He stated that he considered these processes and not programs. With regard to the continuing education, the manager approved the classes and the Appellant took care of scheduling the same by securing locations and taking care of the logistics. Mr. Lambert was aware that the Appellant's continuing education duties involved a great deal of communication with education providers. He acknowledged that he went through the documents and emails provided to him by the Appellant. According to Mr. Lambert, his decision was based mainly on the level of complexity of the job duties performed by the Appellant did not rise to those of an Administrative Specialist III.

10. Regarding the Appellant's vehicle program duties, Mr. Lambert testified that he understood the Appellant was responsible for keeping track of the staff vehicles traveling the state to make plumbing and HVAC inspections and reporting the same. The Appellant monitored and reported on mileage and maintenance of both state owned and leased vehicles. She also scheduled the vehicle maintenance and repairs and was responsible for accurately reporting the same. She also had to deal with any accidents or maintenance problems that cropped up.

11. According to Mr. Lambert he did not compare the Appellant's duties with any other employees within the Agency.

12. Appellant's Exhibit 4 was introduced through the record and is a copy the Appellant's Position Description (PD) dating back to May of 2007. The handwriting found on this exhibit was that of Appellant's. Mr. Lambert understood that this was an old PD and knew that it was not uncommon for such position descriptions to change over the years. As such, he requested an updated PD from the Agency and received the same on January 18, 2012.

13. Mr. Lambert did not review the Appellant's performance evaluations as part of his desk audit. He stated that this is not part of the process. Finally, Mr. Lambert stated that he was aware that this particular audit was to relate back to the Appellant's duties being performed by her in October, 2011 (which was during the time the Appellant was supervised by Evelyn Mills). Even so, Mr. Lambert stated he chose not to interview Ms. Mills regarding the Appellant's job duties.

14. The next to testify was **Ms. Evelyn Mills**, Internal Policy Analyst in the Division of Plumbing. Ms. Mills supervised the Appellant for a couple of years; specifically, back in 2009 and for a portion of 2011. Appellant's Exhibit 5 was introduced through the witness and is a copy of the Appellant's 2009 Performance Evaluation. According to Ms. Mills the job duties stated therein were correct. According to Ms. Mills, she took a brief detail to the Commissioner's office between November 2009 and September 2010. Upon her return to the Division of Plumbing she again supervised the Appellant, but was not responsible for evaluating her. While Ms. Mills was away on her detail, the Appellant took on additional duties. She began performing all vehicle tracking which included collecting mileage reports; checking them for accuracy; and entering them into the computer. She also kept files and helped with the provision of vehicle maintenance when needed. In addition, the Appellant assigned vehicles to new drivers and handled the problems associated with vehicle accidents. The Appellant did this for both the Division of Plumbing and Division of HVAC. The Appellant also took over preparing representation letters and cold check collections. According to Ms. Mills, vehicle tracking involved keeping up with and reporting on approximately 85 Division vehicles and 32 fleet-leased vehicles. The record keeping for fleet vehicles was simple reporting. However, with the Agency owned vehicles, tracking and reporting was more complex.

15. Appellant's Exhibit 6 was introduced through the witness and is a copy of the Appellant's 2011 Performance Evaluation. Ms. Mills performed the Appellant's April and August Interim evaluations. During late 2011, the Appellant relinquished her cold check collection duties, but continued with her continuing education duties, supplies ordering, and vehicle tracking. The Jurisdiction Online (JO) program went online in 2010 or 2011 and was a new program utilized for licensing and permitting. In April 2011 the Appellant volunteered to train to be a backup to the people who ran this program.

16. Ms. Mills was aware that the Appellant wanted a desk audit because she had taken on so many extra duties. Ms. Mills supported the decision to request a desk audit. She also attempted to get the Appellant a raise in salary, but there was no money in the budget.

17. After reviewing Exhibit 1 attached to Mr. Lambert's desk audit [marked as Appellant's Exhibit 1], she stated that she did not prepare this PD. She did, however, prepare Exhibit 2 attached to Appellant's Exhibit 1. Ms. Mills stated that she did not participate whatsoever in the desk audit even though she was still located in the Department and available to be interviewed.

18. When asked about the Appellant's continuing education duties, Ms. Mills testified that she thought Mr. Rodgers might have come to the Appellant and asked her to approve one program, but typically he would approve the class and the Appellant would take over from there handling the logistics and updating the calendar.

19. According to Ms. Mills, the Appellant's duties were more complex, involved and difficult than that of Sydnie Goins, an Administrative Specialist III within the Division.

20. Ms. Mills was aware that the Appellant lodged a complaint against Mr. Rodgers for sexual harassment in May, 2011. In fact, after the Appellant told her that Mr. Rodgers allegedly put his hand down the back of her pants, Ms. Mills reported the incident to Mr. Tim House. Mr. House questioned Mr. Rodgers about the incident, and Mr. Rodgers denied the same. Mr. House apparently believed Mr. Rodgers.

21. According to Ms. Mills, the Appellant provided professional services to the division head when she was working on the continuing education portion of the duties. Ms. Mills stated that she has performed this job and knows it is very complex. She also thought the Appellant approved classes at various times. She also knew that the Appellant continually helped education providers schedule their classes. She also stated that the Appellant's vehicle reporting duties did not involve mere data entry. According to Ms. Mills, Sydnie Goins simply takes the money received by the division and deposits the same, while the Appellant's job involved the use of several different tracking programs, spreadsheets and logs.

22. Ms. Mills admitted that there were complaints about the continuing education calendar not being updated properly. She also admitted that the Appellant did miss a few. However, the providers mostly complained about Dennis Rodgers who was the person responsible for changing the website. According to Ms. Mills, it was difficult to identify who actually made the mistakes complained of, but as a precaution, she had the Appellant retrained on the use of the spreadsheet program. Tim House asked Ms. Mills to note these alleged mistakes on the Appellant's August 11 interim evaluation, so she did.

23. On cross-examination, Ms. Mills was asked to compare the job tasks set forth on Exhibit 1 and Exhibit 2 attached to Appellant's Exhibit 1. According to Ms. Mills, Task 1 on both PDs were very similar. As for Task 2, they too were very similar, except Exhibit 2 mentions HVAC and Exhibit 1 does not. Tasks 3 and 4 were also very similar. Tasks 5 and 6 were also very familiar, although Task 6 on Exhibit 1 did not mention use of scanning or e-mailing. Ms. Mills stated that Tasks 1 through 6 comprised the Appellant's primary job duties.

24. When asked what all went into approving a continuing education course, Ms. Mills stated that Mr. Rodgers only called in and instructed the Appellant to approve a course on one occasion. The Appellant really did not approve the course on her own.

25. The next to testify was the Appellant, **Lisa Hulette**, who is an Administrative Specialist II with the Department of Housing, Building and Construction, Division of Plumbing. She has been such since February 2009. Prior to that, she worked for Vital Statistics as an Administrative Specialist I.

26. Ms. Hulette stated that when she first came into her job there was not much to do except answering phones, filing, and doing some routine ordering. Then other duties came along, such as taking care of cold checks, preparing representation letters, and performing the vehicle tracking and logging. In November 2010, the vehicle reporting duties changed. In addition to the regular mileage reports, she now had to prepare maintenance reports, which were broken down into separate jobs, such as oil changes, tire rotations, etc. She was also required to update driver's licenses, and report on accidents, which included obtaining police reports within 5 days of any accident, getting three estimates to perform any necessary repair work, and giving notice of any loss to GAPS. The Appellant noted that this additional reporting was only required for Agency-owned vehicles and that fleet leased vehicles still only involved preparing mileage reports.

27. Regarding the collection of cold check duties, the Appellant stopped performing these in August or September of 2011. However, she then took on responsibility for the mail log, which meant opening the mail, separating the mail, logging specific information onto a spreadsheet, such as check numbers, check amounts and who it was routed to, and then eventually delivering the mail. The Appellant no longer audited permit books as well. Appellant's Exhibit 7 was introduced through the record and is a copy of the Appellant's 2010 performance evaluation. She stated that the duties contained thereon are all the same duties she now performs with the exception of her duties involving continuing education, which began in October 2010.

28. When Mr. Lambert came to perform his desk audit he told the Appellant who he intended to interview as her supervisors. According to Ms. Hulette, she told Mr. Lambert to talk to Ms. Mills as well.

29. Ms. Hulette testified that in May 2011 she informed Ms. Mills about the alleged sexual harassment against her by Mr. Rodgers. She went on to speak with Tim House about her claim and, according to her, Mr. House was very rude to her and took Mr. Rodgers' side. Mr. Rodgers was the Appellant's supervisor from October through December of 2011 and only supervised her for three months.

30. Ms. Hulette first asked for a desk audit in September 2011. When Mr. Lambert finally came around and asked her his questions, the Appellant worried that she did not explain things as well as she could have, but otherwise was comfortable with the process. She also thought that Mr. Lambert would eventually talk to Ms. Mills.

31. Ms. Hulette testified that she approved a continuing education course on one occasion when Mr. Rodgers was on vacation. Mr. Rodgers sent the Appellant an e-mail telling her to approve that particular course. Other than that, the Appellant does not know how to go about approving a continuing education course. Also, Mr. Rodgers was responsible for updating the web calendar and approving the classes for plumbing and HVAC. Appellant's Exhibits 8 through 22 were introduced through the record and are copies of various e-mail communications between the Appellant and continuing education class providers. These documents were entered into the record for purposes of demonstrating the ongoing and continual communication that was involved in her class scheduling duties. Ms. Hulette stated that she did not go over all these e-mails with Mr. Lambert because she thought she had given him all the e-mails he would need to further understand her job duties. She stated that e-mails like these went on all day long at the rate of approximately four or five per hour. Ms. Hulette also gave Mr. Lambert a copy of everything she did regarding vehicle tracking and reporting and explained the details of what she did in performing these duties. In essence, she told Mr. Lambert everything she testified to at the subject personnel board hearing. Ms. Hulette stated that her job involved a lot of data entry but it was very detailed date entry and more complex than mere mileage reporting.

32. Regarding Task 3 set forth on the PDs attached to Appellant's Exhibit 1, Ms. Hulette stated that on Mondays she received approximately 100 checks; Tuesday through Thursday she received approximately 80 checks; and on Friday just a few checks. Regarding Task 4, Ms. Hulette explained that she has trained to be a backup to the primary employee responsible for operating this JO program.

33. Ms. Hulette was asked if after reviewing the last page of Mr. Lambert's desk audit whether she had experienced any material and permanent changes to her job duties. According to Ms. Hulette she entered a lot of data, but constantly corresponded with continuing education providers. She did not believe that her job entails only data entry.

34. The next to testify was **Ms. Susan Smith** who has thirty-five years of state government experience in human resources. She retired in 2003 as Commissioner from Human Resources of the Transportation Cabinet. She came back to state government in 2009 as the Director of Human Resources for the GAPS office overseeing approximately 300 employees in several Cabinets.

35. Ms. Smith was the Agency Representative at the hearing and was able to hear the testimony of Mr. Lambert, Ms. Mills and Ms. Hulette before testifying herself.

36. In her opinion, the term "material" as contained in KRS 18A.005(30), meant that any new job duties required additional training and a higher skill level. "Permanent" meant that the additional "material" duties were to be performed from then on and not just on a temporary basis.



37. Ms. Smith agreed with Mr. Lambert's desk audit conclusion even before Mr. Lambert prepared his desk audit and she communicated that fact to the Housing and Construction Department before the audit was even undertaken. However, because the Appellant persisted in wanting a desk audit performed, the same was prepared.

38. Ms. Smith noted that Evelyn Mills testified that the Appellant's duties were more complex than that of Sydnie Goins, who is an Administrative Specialist III. However, Ms. Smith is familiar with Ms. Goins' job duties and stated that she has a fiduciary duty, which is a higher level of responsibility, and actually deposits funds rather than merely opening mail and forwarding any checks received onto the proper party, as is consistent with the Appellant's duties. Nothing Ms. Smith heard during testimony at the hearing changed her mind at all and according to her, the various e-mail exhibits entered by the Appellant were further indicative of an Administrative Specialist II skill set.

39. Ms. Smith noted that the Appellant does no development activities and that all decision-making capacity remains with her supervisor. Ms. Hulette merely receives and records information related to plumbing programs.

40. On cross-examination, according to Ms. Smith she first looked into the issue of the Appellant's reclassification in late summer or early fall of 2011. She began by looking at the PD prepared by Ms. Mills. She then had Ms. Kathryn McCrystal look into the whole Division of Plumbing to see exactly who did what. This resulted in the updated PD attached to Appellant's Exhibit 1 as Exhibit 1. That particular PD is now official and was signed off by Ms. Smith. Ms. McCrystal drafted new PDs for all Division of Plumbing employees.

41. On rebuttal, **Ms. Hulette** stated she still felt uncomfortable working with Dennis Rodgers although she admitted that he had changed and was now very polite to her. Also as rebuttal, **Ms. Smith** testified that she was not able to move Mr. Rodgers from the Department, but could see that he and the Appellant were separated. It is her goal in sexual harassment situations to make the complainant feel more comfortable. In this particular instance, it was a "he said, she said" situation and she thought it had been fairly resolved.

42. Whereupon the evidentiary record was closed.

43. In her post-hearing statements, counsel for the Appellant stated that the case all came back to the fact it was only Mr. Rodgers and Mr. Moore who were interviewed regarding the Appellant's PD and duties rather than Ms. Evelyn Mills, who was the Appellant's supervisor at the time the desk audit was requested. Plaintiff's counsel argued that at minimum Mr. Lambert should be required to interview Ms. Mills and have him reexamine the Appellant's e-mails which clearly demonstrate that she did more than mere data entry and actually got all the continuing information ready for Mr. Rodgers to rubber-stamp. In addition, Plaintiff's counsel

argued that the testimony demonstrated there was much more to her vehicle reporting duties than mere data entry. He also added that the record demonstrated the job duties performed by Ms. Goins, who is an Administrative Specialist III, were no more complex than those performed by the Appellant. Finally, Plaintiff's counsel argued that the Appellant's duties with continuing education were both material and permanent.

44. The Appellee responded by reminding the Board that Mr. Lambert spent months on this desk audit and was very thorough. As such, it would ultimately be of no use for Mr. Lambert to re-review the Appellant's e-mails and interview Ms. Mills. Further, the record demonstrated that any changes to the Appellant's job duties were non-material and many were even non-permanent. According to the Appellee, Ms. Hulette is already properly classified because even though she performs a somewhat complicated data entry functions, the bottom line is she has no decision-making responsibilities, which are necessary to being reclassified to an Administrative Specialist III.

45. In response, Plaintiff's counsel reminded the Board that Mr. Lambert was unaware of the sexual harassment claim made by the Appellant against Mr. Rodgers and that he did not look at what Ms. Goins' job duties were in comparison to the Appellant's. Again, he reiterated that Mr. Lambert's draft was prepared in February, but that he went back in April and talked only to Mr. Moore and Mr. Rodgers before finalizing the same. According to Plaintiff's counsel, the snapshot of the Appellant's job duties should have been taken back in October 2011 when the desk audit was first requested. Finally, Plaintiff's counsel conceded that it was improper to reclassify the Appellant as a Program Coordinator.

46. This matter is governed by KRS 18A.005(30) which states:

"Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee has been assigned in writing by the appointing authority;

47. The Hearing Officer has considered the entire administrative record, including the testimony and statements therein.

### **FINDINGS OF FACT**

1. The Appellant, Lisa Hulette, a classified employee, was denied a reclassification from an Administrative Specialist II to an Administrative Specialist III in the Division of Plumbing, Department of Housing, Building and Construction.

2. The Appellant was denied her request for a reclassification based upon the conclusions contained in the Position Audit Form prepared by James Lambert dated April 18, 2012, and marked as Appellant's Exhibit 1. A review of the same indicates that Mr. Lambert interviewed Dennis Rodgers, who supervised the Appellant from October to December 2011, and Dave Moore, who supervised the Appellant from January 2012 to present. A review of the desk audit indicates that Mr. Lambert utilized the official Agency Position Description (PD) attached to the audit as Exhibit 1 and asked the Appellant and Mr. Moore and on occasion, Mr. Rodgers, to compare and contrast each description and comment as to its accuracy. Ms. Hulette also provided Mr. Lambert her own PD, which was prepared by Evelyn Mills, and attached to the desk audit as Exhibit 2. The testimony indicates that Mr. Lambert utilized both PDs in preparing his desk audit. In essence, Mr. Moore and Ms. Hulette agreed that the official PD marked as Exhibit 1 to the desk audit was accurate. The desk audit speaks for itself. Further, Ms. Hulette testified that she was comfortable that she was able to tell Mr. Lambert everything she wanted to regarding her job duties.

3. The record demonstrates that Evelyn Mills was the Appellant's supervisor up to approximately the same time the Appellant requested the desk audit. Ms. Hulette testified that she requested the audit in September of 2011 and the evidence indicates that Mr. Rodgers became the Appellant's supervisor in October 2011. In essence, Ms. Mills' testified that the PD she prepared, marked as Exhibit 2 to the desk audit, is very similar and comparable to the PD provided to Mr. Lambert by the Appellee and attached to the desk audit as Exhibit 1. Ms. Mills was of the opinion that the Appellant had taken on a lot of work and was not given proper credit for the complexity of the same. She testified that since she had performed the job herself in the past, she knew there was much more to maintaining the continuing education calendar than mere data entry. She also testified that preparing the vehicle reports were considerably more detailed than they had been in the past.

4. The evidence demonstrates that when Ms. Hulette began as an Administrative Specialist II with the Division of Plumbing, her job duties consisted mainly of filing, answering the phone and other menial tasks. Throughout her tenure she has sought out and taken on more and more responsibilities. Along the way, she has also relinquished some duties in order to balance out her workload. By the time her desk audit was requested, the same being September 2011, with minimal exception, her duties were the same as when Mr. Moore and Mr. Rodgers were interviewed in January and April of 2012. During the time period in question, her main duty was tracking requests for provider and course approval for the continuing education. The evidence clearly establishes that Ms. Hulette did not approve course work or providers and that job function remained in the hands of Dennis Rodgers.

5. The vehicle reporting was also a major job duty for the Appellant. Testimony demonstrates that vehicle reporting for the lease fleet was fairly straight forward and simple, while reporting for Agency vehicles was considerably more complex. Other major duties included maintaining a log for all monies received by the Division, and ordering supplies. Although a portion of the vehicle reporting was complex, the record clearly reflects that these duties were administrative in nature and did not involve any fiduciary duty or decision-making responsibilities.

6. There is found to be no material conflict between the information Ms. Hulette, Mr. Moore and Mr. Rodgers provided to Mr. Lambert for purposes of performing his desk audit and the Appellant-friendly testimony of Ms. Mills. Based on the same, it is found that the Appellant's job duties are comprised of both simple and complex data entry, organizational and administrative support functions but do not include the supervision of subordinate employees or the development, implementation and monitoring of various complex programs, projects or activities.

7. The Appellant also does not coordinate a specific program on a statewide basis. Further, counsel for the Appellant conceded in his closing argument that the classification of Program Coordinator was not a proper one for the Appellant.

8. The fact the Appellant filed a sexual harassment complaint against Mr. Rodgers does not appear to have affected the outcome of the desk audit, nor does it appear that had Mr. Lambert been aware of the same, his desk audit conclusion would have been altered.

9. Although Ms. Hulette's job duties have grown more complex and involved over time, these changes, though permanent, are not material per KRS 18A.005(30).

### **CONCLUSIONS OF LAW**

1. The Appellant has not demonstrated by a preponderance of the evidence that she is entitled to reclassification to the position of Administrative Specialist III (grade 12) or Program Coordinator (grade 13).

2. The desk audit marked as Appellant's Exhibit 1 was properly undertaken and performed by Mr. Lambert and the conclusion thereof is consistent not only with the information provided to him for purposes of said desk audit, but also with the evidence presented at the hearing.

**RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **LISA HULETTE VS. PUBLIC PROTECTION CABINET (APPEAL NO. 2011-239)** 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 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 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.

**ISSUED** at the direction of **Hearing Officer Geoffrey B. Greenawalt** this \_\_\_\_ day of January, 2013.

**KENTUCKY PERSONNEL BOARD**

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**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof this day mailed to:

Hon. Gordon Slone  
Hon. Paul Fauri