

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-317**

TIMIKA JACKSON

APPELLANT

VS.

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

CABINET FOR HEALTH AND FAMILY SERVICES

APPELLEE

** ** *

This matter came on for evidentiary hearing on May 27, 2016, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before the Hon. John C. Ryan, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

Appellant, Timika Jackson, was present and was not represented by legal counsel. Appellee, Cabinet for Health and Family Services, was present and was represented by the Hon. Kathleen Hines.

The appeal was the subject of at least one pre-hearing conference, at which the issues were defined and a more clear determination made of the relief sought by Appellant. Following conclusion of the evidentiary hearing, it appearing at that time that what Appellant initially seeks hereby is only restoration to her previous grade and salary level, but not return to her prior job or restoration to her previous supervisory position. The parties were directed to file memoranda of law, addressing the question of whether such narrow relief is within the authority of the Kentucky Personnel Board to grant should Appellant prevail. The parties substantially complied therewith, whereupon the matter stood submitted for dispositive order effective June 30, 2016.

BACKGROUND

1. Until October 31, 2015, Tomika Jackson held the position of Field Services Supervisor, Pay Grade 15, with the Agency's Department for Community Based Services, Division of Family Support, South Central Service Region, job station Frankfort, Kentucky. By six-page letter dated October 21, 2015, over the signature of Howard Jay Klein, then-Appointing Authority, two actions impacting her circumstance were implemented: (a) effective November 1, 2015, she was demoted to Family Support Specialist III with a reduction from Grade 15 to Grade

12; and (b) she was involuntary transferred from Franklin County, Kentucky to Fayette County, Kentucky, effective December 15, 2015. Commensurate with regulatory requirement, she was directed to temporarily report to the new job station effective October 26, 2016. A true copy of the letter is attached as **"Recommended Order Attachment A"**.

2. Appellant challenged these actions by appeal filed on December 18, 2015, under the appropriate category of "demotion" and stated in support of her position:

I would like to file my appeal based on disparate treatment, false & exaggerated statements, and failure to included all details which were revelant to the situation. I would like to have my pay reinstated. (sic)

3. Upon convening the evidentiary hearing, under standard operating procedure, the Agency was assigned the burden of proof and presented the testimony of **Andrea Boyd**, who is a Family Office Supervisor for Protection and Permanency for the Agency, assigned to the Franklin County, Kentucky office. She has held this position for approximately four years and oversees six workers who are charged with investigating child abuse and neglect complaints.

4. Ms. Boyd was present for and observed the events leading to Appellant's demotion and transfer. She recalled that on September 17, 2015 at approximately 4:30 p.m. she was in her work space and heard a female, an Agency client, speaking in a loud tone in the facility lobby concerning a need for food for herself and Ms. Boyd's family. Coworkers and the witness undertook to calm her. Shortly, a worker came to her office and informed her that Appellant, the supervisor, was on the telephone, and wanted to speak with her. The witness commenced the phone conversation, whereupon Appellant requested that she utilize the speakerphone. The witness recalled that Appellant then attempted to explain the aid protocol to the client. The client remained upset, proclaiming that she had no food. Very quickly, she recalled, the client and Appellant commenced "talking over" each other, and neither was listening, so the witness turned off the speaker feature. She gave the client her own business card at that juncture, advising her to return the following day, patiently wait in the facility lobby, and request this witness personally.

5. Ms. Boyd continued that the following morning she informed Appellant of the foregoing instructions and, in due course, the client did return later in the day. Appellant was on hand. The witness undertook to deliver the promised food to the client, advising "Here's your food, now go." However, she again became irate, speaking loudly, and essentially refused to leave just then. At this juncture, she recalled, Appellant became upset with the client, undertook to follow her to the door, and the two exchanged words. Appellant removed her shoes and appeared ready to attack the individual, whereupon a male coworker restrained her in a bear hug. Appellant repeatedly yelled "get off of me" and resisted the restraint. The client did depart from the facility lobby without further incident. Police were called and interviewed her in the facility

parking lot. The following day, Appellant came to this witness and apologized for her behavior, advising that she did not recall certain portions of the sequence and asserting that she "blacked out" at some point. The witness prepared a written statement at the time of the incident, which she introduced as part of her testimony.

6. Under relatively brief cross-examination, Appellant quizzed Ms. Boyd concerning her own actions, those of the witness, and those of the client on the second day when the individual returned for the food box. She ratified that she and Appellant discussed the client's demeanor from the prior day on the morning of September 18, 2015, and reiterated that she arrived, obtained her food, and then became irate and quite vocal. Initially there was some concern on the part of the witness that the client might attack or hit her and she maintained her distance. Appellant discussed with her some specific details of actions by various personnel present as developed in her direct testimony, including Appellant's removal of her shoes as if to chase after the woman.

7. **Alex Norton** is a Social Services Worker I who has been employed by the Commonwealth of Kentucky for approximately three years. She was present throughout the sequence depicted by the prior witness upon both days and gave a written statement of events and her involvement, which she filed as part of her testimony. Her recollections essentially mirror those of Ms. Boyd; this witness aided in obtaining a food box for the client as was promised her and participated in escorting her from the lobby of the facility on the second day. She ratified that the client was upset upon both days and was seemingly directing her ire at Appellant. She recalled that the client referred to Appellant as a "gorilla" and that Appellant did not respond calmly to the attitude displayed by the client.

8. Under brief cross-examination, Appellant quizzed the witness further concerning certain details surrounding the events on the second day, whereupon she expanded her recitation thereof. The witness did not recall that any punches were thrown by any party, other than Appellant's flailing efforts when restrained by a coworker and yelling "get off of me".

9. **Craig Gonzalez** has served as a Social Worker with the Commonwealth of Kentucky for approximately one year. He was in training and not on duty on September 17, 2015, but was present on September 18 throughout the confrontation between Appellant and a client. He was informed on the morning of September 18, of the prior day's events and recalled that Appellant indicated that she intended to be on-hand when the client returned for her food later that day to discuss with the individual her unacceptable behavior toward staff.

10. The witness continued that as he was signing out at 4:30 p.m., he became aware that the client was in the facility lobby and that Boyd and Norton were undertaking to present her with the promised food and escort her from the building. However, the client and Appellant were having a heated conversation, with the client cursing at her and possibly the others, and in

due course the individual called Appellant a "gorilla." At that point Appellant removed her shoes and appeared prepared to charge at the individual. This witness restrained her in a bear hug while the others escorted the client from the building and locked the door. He depicted Appellant as upset and crying at that point. He ratified a written statement which he prepared on September 21, 2015, and presented a copy thereof as part of his testimony.

11. Under relatively brief cross-examination, Ms. Gonzalez expanded that his office is near the facility lobby. Standard operating procedure is that staff communicate among each other so that all personnel are informed of current activities within the office. Appellant discussed with him specified portions of his impressions and recollections of her behavior and actions; he did not recall the client calling her any other names except as previously referenced. Directed to his restraining of her, the witness surmised that had he not done so she possibly could have physically attacked the client, and he perceived such was her intention, noting that her struggle to be released from his bear hug seemed to be for that purpose.

12. **Howard Jay Klein** is the Division Director in the Division of Employee Management within the Office of Human Resources Management for the Agency. It was he who ultimately received the action request and issued the discipline of Appellant in October, 2015. He recited the protocol involved; specifically, the particular department sent in the request for discipline which, at that time, he reviewed and assigned to the appropriate branch for a recommendation. The branch thereupon submitted an initial draft for discipline which was screened by management and thereupon acted upon.

13. The witness continued that among the documentation received was a memorandum describing Appellant's actions, a copy of which he reviewed and presented as part of his testimony. He noted that the facts in this instance are unique, in that Appellant effectively assaulted the client within the definition thereof (i.e. placing one in fear of being struck) and would have supported terminating her due to the "extremely serious" nature of her behavior. However, management elected to retain her services and reassigned her to a position which would not involve direct contact with clients or the social work aspects ordinarily required thereby. He identified and verified the six-page letter of October 21, 2015, demoting and involuntary transferring her, and a one-page letter with a similar date temporarily reassigning her, to conform with the controlling regulation. He explained that in assessing the discipline a variety of factors are considered, including the severity of the behavior, any prior performance, previous evaluations, and longevity of employment.

14. Under questioning by Appellant, Mr. Klein further discussed the technical definition of "assault" and reiterated that her behavior, as depicted in the memorandum, wherein she was charging toward the client until restrained by a coworker, meets the definition. Appellant pressed him concerning one or more particulars of his analysis of her described actions, such as the source of the information claiming removal of her earrings as cited in the

demotion letter. Addressing her involuntary transfer, he recalled that one or another of her supervisors was consulted as to the specific need for someone possessing her abilities and ultimately Fayette County, rather than Scott County where she resides, was selected. In response to further questioning, the witness explained that the client's behavior was considered but not necessarily dispositive of the action taken.

15. Appellant pressed the witness as to whether the option of demoting her but retaining her salary was considered as a possibility. He reacted that approach is extremely rare. He explained that it is ordinarily only engaged when a specific set of skills is needed and unique circumstances dictate that an employee be either reclassified, reallocated or reassigned to resolve the particular need. He pointed out that same has never occurred, within his knowledge, where a demotion arose from a disciplinary action. He agreed that no prior disciplines were noted in Appellant's personnel file.

16. The Agency having concluded its proof-in-chief, Appellant offered the testimony of **Heather Watson** who, at the time of the episode in September, held the position of Family Support Worker and was present for the events that occurred on September 18. She recalled that she conferred with Appellant that morning concerning the client's behavior the day before and that she advised her that she, Appellant, would remain on-hand until the client arrived. She ratified that the client appeared to arrive in a combative mood, her anger escalated, and she called Appellant at least one name, recalled to be "monkey". She estimated that at the peak of the dispute the client and Appellant were approximately 10 feet from each other, recalling that Appellant "kicked off" her shoes and, although restrained, gave the appearance that she might "fight" the client. She did not recall that the client ever threatened to or attempted to strike Appellant. The Agency conducted no cross-examination of this witness.

17. Appellant undertook to offer testimony from **Daniel McCoy**, who is the Safety Administrator assigned to the Frankfort office of the Agency. He was not present at the facility when the events which are the subject of the appeal occurred, noting that ordinarily in his absence the supervisor would substitute in the safety duties. Appellant sought to quiz him about a previous event asserted to have occurred on September 1, 2015, which she depicted as an "assault" in the Franklin County office. The witness declined to discuss the details thereof, Appellant did not press the issue, the Agency had no questions, and he was released.

18. Appellant, **Timika Jackson**, offered her own testimony. She ratified that she currently is employed as a Family Support Specialist III based in the Agency in Fayette County, Kentucky. She has been with the Agency a total of 16 years, and held the position of supervisor for approximately 5.5 years before her demotion.

19. Appellant deferred to the testimony already presented concerning the details of events occurring on September 17, 2015. She discussed her recollection of the sequence which

occurred on the following day, confirming that she had a conversation with Ms. Boyd, who felt threatened by the client from the previous day. She also viewed that employee Watson was still "visibly shaken" when she spoke with her on the morning of September 18, whereupon Appellant committed to remain on-hand to deal with the client when she returned later that day. Appellant insisted that she did not express any hostility or threats to any member of staff that signaled that she intended to harm or accost the client.

20. Appellant continued that the client arrived near the end of the work day and was belligerent from the outset, demanding her box of food and essentially castigating whoever was present. Appellant undertook to explain the status of the client's case to her, but the individual became further agitated and commenced directing verbal abuse generally, and specifically toward her, including racial comments. Included therein was a reference to Appellant as a "gorilla," whereupon Appellant did step toward her, without undertaking to demonstrate a threatening manner or any intent to attack her. Rather, Appellant urged, she was intending to ease the individual out of the facility so that the door could be closed and locked behind her to prevent further escalation.

21. Appellant continued that in the course of the forgoing, employee Gonzalez, who was rather new and not familiar with her, misinterpreted her intentions and grasped her in a bear hug. She insisted that her struggle at the time was not to go after the client but to be freed from his grasp, and that she never intended to physically attack anyone.

22. Appellant urged that in her opinion unwarranted assumptions have been made as to her intentions, as well as whether the client actually felt threatened. She denied ever removing her earrings. She pointed out that throughout the events, notwithstanding the eventual presence of police at the time, the client has never expressed any fear of harm nor has there been any written report. Consequently, Appellant viewed, no proof exists of any "assault" within the definition cited by witness Klein. While conceding that her behavior was inappropriate, she opined that virtually everyone involved has overreacted and misinterpreted the circumstances. She noted that the current discipline is the sole punishment assessed her throughout her career with the Commonwealth.

23. In concluding her testimony, Appellant summarized that she does not seek return to the prior supervisory position but only reinstatement of the salary attendant thereto. In support thereof, variously through her testimony and under brief cross-examination, Appellant insisted that the discipline imposed was excessively harsh in light of the overall circumstances and, she reiterated, as a supervisor she felt some obligation to protect the members of her staff who appeared intimidated. Appellant alluded to a prior event involving an assault wherein, she urged, no penalization was assessed. Accordingly, the treatment of her in this instance was excessive. The sworn testimony was thereupon concluded.

24. **Hearing Officer Note:** Following conclusion of the testimony, in light of the limited remedy sought by Appellant, the Hearing Officer requested of the parties memoranda addressing the subject of whether the Personnel Board is authorized to grant reinstatement of salary without returning the employee to the prior position where the employee has been penalized with demotion. As referenced at the outset herein, the parties responded as directed.

25. KRS 18A.095(1) requires that:

“A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.”

26. 101 KAR 1:345 is the regulation providing for the imposition of disciplinary actions. Section 1 thereof allows that “Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties.” Section 3 addresses certain requirements surrounding implementation of a demotion. Appellant does not challenge the protocol utilized in the imposition of the discipline assessed her.

27. 101 KAR 2:034, Section 3, relates to salary adjustments. Subsection (2) deals with demotion and essentially provides that in a demotion circumstance the Appointing Authority shall determine the salary. Further portions of the subsection detail the method whereby such determination is made.

28. 101 KAR 1:335 address certain employee actions. Section 4 thereof specifically blueprints the handling of transfers both voluntary and involuntary. Appellant does not challenge the implementation of the steps or the content of the regulatory-prescribed notices which were sent to her; rather, she challenges their imposition, together with her demotion, as excessively harsh.

29. KRS 18A.095(22)(b) provides that “If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.” Further, subsection (c) of the provision provides that “If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action.” Finally, under subsection (d) the statute requires that “In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.”

FINDINGS OF FACT

The Hearing Officer makes the following findings by a preponderance of the evidence:

1. Appellant, Timika Jackson, is a 16 year employee of the Agency, of which 5.5 years were served as supervisor. Until October, 2015 her service record was unblemished with any disciplinary actions. The office which she supervised, until on or about October 21, 2015, included among its services the providing of food and other benefits to eligible clientele. On September 17, 2015, an eligible female individual appeared at the office near the close of business and behaved in a demanding and belligerent manner. Appellant was not present at the time, but some members of staff felt threatened and intimidated by the client's behavior and demeanor. Nonetheless, she was instructed to return the following to obtain a box of food for herself and her family.

2. Appellant was fully apprised of the events and attitude of the client by staff the following morning. As supervisor, she agreed to be present and confer with the client upon her return for the food should the need arise. The individual returned late in the day to obtain the promised food box, and the general consensus among staff was that she arrived upset and belligerent, engaging in name calling, particularly toward Appellant. By all accounts, Appellant also became agitated with the behavior and essentially responded in kind toward the client, particularly after the client engaged in the name calling and racial taunts. It was the impression of staff that, had Appellant not been physically restrained, she might have physically attacked the individual. Such did not occur, one or more personnel escorted the client from the facility, and Appellant soon recovered her composure. Although police were contacted and conferred with the client out of the presence of Appellant and staff, no reports were filed with authorities and the proof indicates that the client has not pursued further remedy toward Appellant or the Agency.

3. The accounts of those present indicated that to management Appellant placed the client in fear of bodily harm and the Appointing Authority considered dismissing her. However, in light of her longstanding service with the Agency and her apparent desire to retain her employment, management elected to reposition and relocate her into duties which would avoid direct contact with clientele. This resulted in a salary reduction from \$3,494.86 to \$3,039.02 monthly, from Pay Grade 15 to a Pay Grade 12. Appellant did not originally seek return to the position, but restoration of her prior salary only. Following request by the Hearing Officer that the parties address the question of whether an employee could be granted restoration of salary without reinstatement to the position where involuntarily demoted, if successful upon appeal to the Kentucky Personnel Board, Appellant acknowledges the quandary and requests that she be promoted to another supervisory position that would support return to her prior salary.

4. The Hearing Officer finds that the testimony of all witnesses, including that of Appellant, to be credible.

CONCLUSIONS OF LAW

1. Appellant does not dispute the core events which gave rise to her discipline. Rather, she urges that her intent at the time has been either misinterpreted or misunderstood. However, regardless of her intent, her actions clearly demonstrated "lack of good behavior," and especially so in her capacity as a supervisor, thereby bringing 101 KAR 1:345 to bear. To her credit, she apparently now recognizes that certain behaviors by Agency clientele might provoke her, and she does not seek return to the position which could risk further such contact. In that regard, restoration of her prior salary, standing alone, or effectively re-promoting her to another supervisory position to support the salary to comply with KRS 18A.095(22) as she subsequently suggests, would tend to condone her behavior. Further, the Agency correctly argues that the statute prohibits the one without the other.

2. In light of the fact that management was and is sufficiently comfortable with her work record and apparent lack of prior disciplines to retain her services in another capacity rather than terminate her, its disposition of her circumstance was reasonable and its judgment in the matter appears sound and within its discretion. Further, her involuntary transfer, from Franklin County to Fayette County, whereas she resides in Scott County, was not unduly harsh. The demotion, with its reduction in pay grade, while more severe, is relatively milder than the other option considered by management.

3. The penalization(s) assessed Appellant were neither excessive nor erroneous in light of the overall circumstances.

RECOMMENDED ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Kentucky Personnel Board that the appeal of **TIMIKA JACKSON VS. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2015-317)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13.B.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).

[Hearing Officer Note: Any document filed with the Personnel Board shall also be served on the opposing party.]

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 John C. Ryan this 18th day of August, 2016.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Kathleen Hines
Ms. Timika Jackson



CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF HUMAN RESOURCE MANAGEMENT

Steven L. Beshear
Governor

275 East Main Street, 5C-D
Frankfort, KY 40621
502-564-7770
FAX 502-564-3129
www.chfs.ky.gov

Audrey Tayse Haynes
Secretary

October 21, 2015

Timika Jackson

PERNR:

Re: Demotion and Involuntary Transfer

Dear Ms. Jackson:

Based on the authority of 101 KAR 1:345, Section 1, and in accordance with KRS 18A.095 and 101 KAR 2:034, Section 3(2), you are hereby notified that you will be demoted from your position as a Field Services Supervisor, Position Number 174402, Class Code 62270V000101, Pay Grade 15, with the Department for Community Based Services, Division of Family Support, South Central Service Region, to a Family Support Specialist III position, Position Number to be determined by the Kentucky Human Resource Information System (KHRIS), Class Code 65120V000101, Pay Grade 12, with the Department for Community Based Services, Division of Family Support, South Central Service Region, effective November 1, 2015. Accordingly, your monthly salary will be reduced from \$3,494.86 monthly to \$3,039.02 monthly. You are to report to Field Services Supervisor Stacey White at 2050 Creative Drive, Lexington, Kentucky on November 1, 2015.

Further, in accordance with 101 KAR 1:335, Section 4 (1), (2)(a)(b)(c), and (4) (a)(b)(c) and (5), this is also to advise you that you are being involuntary transferred from your workstation in Franklin County, Kentucky, to a new workstation located in Fayette County, Kentucky, effective December 1, 2015. You will be reporting to Field Services Supervisor Stacey White in Fayette County at 2050 Creative Drive, Lexington, Kentucky, at 8:00 a.m. In accordance with 101 KAR 1:335, Section 4 (4) (a) (c), you will receive reimbursement of travel expenses incurred within thirty (30) days of the effective date of this transfer. Of note, as indicated by the enclosed temporary assignment letter, you are being temporarily assigned to the Fayette County office effective October 26, 2015.

You are being demoted and transferred for the following specific reason:

Lack of Good Behavior. As reported by Service Region Administrator (SRA) Nelson Knight and SRA Jeff North, you demonstrated conduct unbecoming of a supervisor when you entered into a verbal argument with a client, yelling insults to one another, until the client called you inappropriate names, at which time you became

irate and displayed inappropriate, aggressive behaviors that led your coworkers to physically restrain you in order to keep you from physically assaulting the client.

On September 17, 2015, at approximately 4:30 p.m., according to Family Services Office Supervisor (FSOS) Andrea Boyd's September 21, 2015 written statement, she heard yelling coming from the Franklin County DCBS offices front lobby area, so she went to see what was going on. When she arrived at the front desk area, FSOS Boyd saw a female client, Client *1, standing at front desk counter, yelling to the staff sitting at the front desk about her Food Stamp case not being processed. One of FSOS Boyd's workers, Social Service Worker I Alex Norton, was trying to explain to Client *1 that she could get her food for her family, as Client *1 was yelling that she did not have anything for her eight-year old daughter to eat.

FSOS Boyd entered the conversation, advising Client *1 that she could assist her in obtaining food for her and her family, but Client *1 would need to calm down, as she was disrupting the office. Client *1 continued to yell that, "none of them", motioning toward Family Support Specialist III Heather Watson and Family Support Specialist I Laura Johnson, were helping her get food. FSOS Boyd advised Client *1 that she could make a food box referral, but she needed to obtain some information from Client *1. So, FSOS Boyd asked Client *1 to follow her to her office so that could be completed.

As they walked down the hallway to FSOS Boyd's office, Client *1 continued to loudly voice her frustrations, saying that no one was helping her and that she had been treated very poorly. Once in FSOS Boyd's office, Client *1 continued to speak loudly, but after a few moments, she calmed down and was able to lower her voice and speak calmly. However, she continued to voice her frustrations with Family Support personnel who had previously told her that her case was approved, but failed to produce any food for her and her child.

Of note, Client *1 had been into the DCBS office several times before. She had not only applied for Food Stamps for her own family, but on September 15, 2015, she had seen Family Support Specialist III Tina Giles when she had applied for Long Term Care for her father. According to Ms. Giles' September 22, 2015 written statement, even on that date, Client *1 had asked about her own Food Stamp case. Ms. Giles stated that Client *1 had her young daughter with her at that appointment and she was cussing in front of the child, which Ms. Giles asked her to refrain from doing. Ms. Giles also had advised Client *1 that she needed to provide further documentation before her Food Stamp case could be approved, and Client *1 was blaming Ms. Watson for her case not already being approved, because Ms. Watson did not tell her more documentation was needed when she provided her documentation before. She further stated that this type of documentation was not needed in Florida, when she had applied there. Therefore, Client *1 was not understanding what was needed and was not happy that her case remained unapproved.

Back in FSOS Boyd's office, Ms. Norton and Social Service Clinician I Karen Echols were also in FSOS Boyd's office with FSOS Boyd and Client *1, where Ms. Norton completed the referral form on Client *1 and Ms. Echols served as a witness. While doing so, Ms. Watson came to FSOS Boyd's office and stated that you were on the phone. FSOS Boyd spoke with you on the phone and you then asked her to put you on speaker, so that you could speak with Client *1. FSOS Boyd stated that you began to explain policies and procedures to Client *1 regarding her Food Stamp case, which caused Client *1 to again become visibly upset. Client *1 stated that she had been told so many different things, which kept changing, and still her family did not have food. You and Client *1 then began talking over one another, with Client *1 again raising her voice. Therefore, FSOS Boyd took the call off speaker and advised you that she would discuss the case with her further tomorrow, but right now, the call was not accomplishing anything.

FSOS Boyd provided Client *1 with her business card and told her to come back to the DCBS office the following day, after she got off of work, and she could pick up her food box. FSOS Boyd advised Client *1 to specifically ask for her the next afternoon, and she would come out to the lobby and get her. FSOS Boyd also explained to Client *1 that it was very important that when she returned to the DCBS office the next afternoon, that she remain calm and wait patiently in the lobby until she (FSOS Boyd) came out to meet with her. FSOS Boyd also provided Client *1, at her request, contact information for the Ombudsman's office.

On the morning of September 18, 2015, you asked FSOS Boyd to come to your office to discuss what had occurred with Client *1 the previous afternoon. FSOS Boyd explained to you what had caused her to become involved and that Ms. Norton had ordered a food box for Client *1, and that Client *1 would be returning to the DCBS office later that afternoon to pick it up. You advised FSOS Boyd that you had received complaints from your staff that Client *1 had cussed and yelled at them whenever she came into the DCBS office.

In Social Service Worker I Craig Gonzalez's September 21, 2015 written statement, he stated that after lunch on September 18, 2015, at approximately 1:00 p.m., he went outside the DCBS office with Office Support Assistant II Mariah Peterman. Mr. Gonzalez noted that you were also outside at this time. He also stated, "Without being asked or prompted Mrs. Jackson stated that she was angry about how this particular client (Client *1) treated her workers on 9/17. Mrs. Jackson then stated this particular client was coming back up to the office on 9/18 around 4:00 PM and that she was going to hang around today to ensure she (you) could confront this woman (Client *1) about her inappropriate behavior on 9/17." Of note, your normal working hours are from 8:00 a.m. to 4:00 p.m.

According to Family Support Specialist I Shawn Richardson's September 21, 2015 written statement, when Client *1 came into the DCBS office on September 18, 2015, at approximately 4:28 p.m., Client *1 provided Ms. Johnson with FSOS Boyd's business card and stated she was there to see FSOS Boyd. However, Ms. Watson also went to your office "to grab" you, as Ms. Watson explained in her September 21, 2015 written statement.

Although Client *1 had clearly indicated to the front desk personnel that she was there to see FSOS Boyd, as she had been instructed by FSOS Boyd the previous evening, you walked to the lobby door, opened the door and stated to Client *1, "I will go look, but I believe she (FSOS Boyd) has already left", and you closed the door. However, you were fully aware that FSOS Boyd was there and expecting Client *1 that afternoon to pick up her food box, as she had told you about it that morning.

Your actions caused Client *1 to become upset and comment to Ms. Watson that she did not believe you were even going to look for FSOS Boyd for her. Client *1 then got on her cell phone, and according to her speaker phone conversation, she was speaking with her father. Client *1 began to loudly curse, telling her father that DCBS was starving her child.

FSOS Boyd stated that at around 4:25 p.m. on September 18, 2015, you came to her office and told her that Client *1 was in the lobby for her food box. FSOS Boyd explained she would bring her food box to the lobby in just a moment. You returned to the lobby area and again opened the door to the lobby and stood there, listening to Client *1 talk on her cell phone. You then told Client *1 that if she continued to use that sort of language, she would have to step outside the office and continue her call. At that time, Ms. Norton, Mr. Gonzalez and FSOS Boyd were walking toward the lobby area with Client *1's food box. You approached FSOS Boyd and said, "You better hurry because she's (Client *1) already in the lobby running her mouth on the phone with her daddy."

When Ms. Norton, Mr. Gonzalez, FSOS Boyd and you entered into the lobby area, FSOS Boyd stated you said to Client *1, "Here's your food now go." Client *1 looked at FSOS Boyd and started yelling, "Do you see how she treats me?" FSOS Boyd explained to Client *1 that she could voice any complaints to the Ombudsman's office, but at this time, she just needed to leave the office with her food box.

As Client *1 was attempting to leave, she continued to yell and voice about how she was being treated by you. Ms. Norton stated in her September 22, 2015 written statement, "We were all walking toward the door and telling (Client *1) she needed to leave." Although FSOS Boyd was attempting to defuse the situation and Ms. Norton and Mr. Gonzalez were trying to ensure that Client *1 left, and assisted with carrying her food box, FSOS Boyd stated that you continued to follow them, and Client *1 continued to get upset to the point that she began calling you names. At some point, Client *1 referred to you as a "gorilla", and FSOS Boyd stated that you became irate. You removed your shoes and earrings and started to run toward Client *1, yelling and cursing at Client *1. FSOS Boyd stated that she stepped in between you and Client *1 and asked you to stop. However, you were able to push past FSOS Boyd. While this was occurring, Ms. Norton stated that she was frantically attempting to unlock the front office door, as it had been locked at 4:30 p.m., the normal time the office closes.

When you pushed past FSOS Boyd, and before you were able to make physical contact with Client *1, Mr. Gonzalez stated that he was able to wrap his arms around you in a "bear-hug", long enough for Ms. Norton to get the door opened, and assist Client *1 in exiting the building, along with her food box items. However, you were swinging your arms wildly and yelling, almost hysterically, for Mr. Gonzalez to "get off" of you. Once Client *1 was outside the building, Mr. Gonzalez released you and you ran into FSOS Boyd, hitting her in the back, before you hit the wall. You were crying and screaming loudly, telling everyone to "get the fuck off of me". You then left the lobby area, after having trouble keying in the code to the security door that led back to the offices, and went to your office.

Client *1 went to her vehicle and was seen by FSOS Boyd; Family Support Specialist I Ashley Kennedy; Ms. Johnson; and Family Support Specialist I Natoshia Dunn, standing at her vehicle holding a "hammer-like" object. Upon witnessing this, FSOS Boyd instructed the staff behind the front desk to contact local police, which they did.

Mr. Richardson stated that shortly thereafter, Ms. Johnson called him to advise him that Client *1 was standing by her car in the parking lot with a "hammer-like" object. Mr. Richardson knew that you were gathering your personal items to leave the office for the day, so he went to your office to tell you about Client *1 standing next to her car in the parking lot with a "hammer-like" object, so that you would not leave yet. However, upon hearing this, you pushed past Mr. Richardson and went back into the front lobby area, throwing all of your personal belongings to the floor, as you passed the door from the offices into the lobby. However, staff in the area advised you to calm down and not to do anything, as police had been called. Instead, Ms. Johnson went out into the parking lot, on your behalf, and took photos of the license plate on Client *1's vehicle.

FSOS Boyd stated that prior to leaving the office that afternoon; you came to her office and apologized to her and Ms. Norton, who was in her office. You especially apologized to FSOS Boyd for hitting her in the back, but claimed that you did not remember a lot of the incident as you "blacked out". However, you advised FSOS Boyd that you could not just stand by and let people call you names.

On September 21, 2015, during a phone call with former Service Region Administrator Associate (SRAA) Karin Nunn, she indicated you said, "It's all my fault I lost it; I'll take whatever punishment I have coming to me and do what I need to do." Further, in your undated written response to being notified on September 28,

2015, that major disciplinary action was being requested against you, you stated, "I completely understand and take responsibility for stepping in the client's direction and that it was perceived that I was going to attack this client." Although you go on to allege you had no intention of touching Client *1 in any manner, the act of discarding your shoes and earrings and charging at Client *1 suggests otherwise. Further, although you claim to never have made any physical contact with Client *1, that was only because of FSOS Boyd and Mr. Gonzalez's actions, which prevented you from being able to reach Client *1 to make physical contact.

On September 18, 2015, at approximately 4:25 p.m., had you not interfered with Client *1's request to see FSOS Boyd and instead, allowed Client *1 to see FSOS Boyd alone, as she had requested, the incident would not have occurred. Further, had you not preplanned to stay late on the afternoon of September 18, 2015, as you told Mr. Gonzalez as early as 1:00 p.m. that day and instead, left at your normal time of 4:00 p.m., you would not have been in the office at 4:25 p.m., when Client *1 arrived for her food box and therefore, you would not have been involved in the incident.

As a Field Services Supervisor (FSSV), you are experienced in dealing with the public, and in many cases with those who are in desperate need and are often unable to contain or control themselves, their emotions and/or behaviors. Therefore, you knew or should have known how to deescalate a situation, ask for other staffs assistance, or if you became the target, remove yourself or walk away from the situation and contact appropriate authorities, if necessary. You even admitted in your written statement that you have been "called many racial names since becoming a supervisor, and have dealt with numerous clients that were very irate". You also stated that you have "always been the one to diffuse issues with clients and workers".

Despite your knowledge, FSOS Boyd stated that on September 18, 2015, at approximately 4:28 p.m., once her staff became involved and brought out Client *1's food box to her in the lobby, instead of merely walking away and allowing FSOS Boyd and her staff to assist Client *1 out of the office calmly and quietly with her food, you maintained your presence and continued arguing with Client *1, knowing that it escalated Client *1's behaviors. Then, when you became upset at Client *1, a client of the Cabinet, you unprofessionally and inappropriately attempted to physically attack Client *1 in the lobby of the Franklin County, DCBS, Family Support office.

According to the Family Support Operations Manual, Volume I, Manual Section (MS) 0015, Ethics Policy for Family Support Employees, "The Department for Community Based Services (DCBS) and its employees must recognize the vulnerability of their clients and the serious responsibilities associated with the provision of public assistance. The behavior of human service professional shall reflect an emphasis on integrity, professional trustworthiness, and on the values of respect for persons, competence, loyalty, diligence, honesty and confidentiality" and, "Act in the best interest, promote the welfare, and avoid harming those they serve."

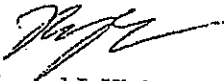
Your actions violate Family Support Operations Manual, Volume I, MS 0015, Ethics Policy for Family Support Employees, and the Cabinet for Health and Family Services' Personnel Procedure 2.1, Employee Conduct. Your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

To keep confidential the identity of Client *1, as required by law, the name of the client referred to is transmitted by the attached list marked "CONFIDENTIAL" which is not to be disclosed without proper authorization. Further, you are not authorized to disclose the following client name to anyone, including any attorney who may be representing you as counsel.

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 1-800-445-5327 or (502) 564-5788.

As you are an employee with status, you may appeal this action to the Personnel Board within sixty (60) days after receipt of this notice, excluding the day of receipt. To appeal, you must complete the attached form and direct it to the address indicated on the form. Copies of KRS 18A.095 and 101 KAR 1:365 concerning appeal and hearing procedures are also attached.

Sincerely,



Howard J. Klein
Appointing Authority

HJK:jty

c: Secretary Tim Longmeyer, Personnel Cabinet
Executive Director Mark Sipek, Personnel Board
Commissioner Teresa James, Department for Community Based Services
Service Region Administrator (SRA) Jeff North, Division of Family Support, South Central Service Region
SRA Nelson Knight, Division of Protection & Permanency, Salt River Trail Service Region
Cabinet Personnel File