

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-023**

RICHARD CHAD LANHAM

APPELLANT

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

**CABINET FOR HEALTH AND FAMILY SERVICES
J.P. HAMM, APPOINTING AUTHORITY**

APPELLEE

** ** ** ** **

The Board at its regular September 2015 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated July 17, 2015, Appellee's exceptions, oral arguments and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be altered as follows:

A. **Delete** Background number 3 and substitute the following:

3. Appellant had previously raised the issues of age and gender discrimination against him; however, in his opening statement, Appellant made clear he was not pursuing the action taken against him on these legal bases, but rather felt that his character and reputation had been impugned. The Hearing Officer informed all parties that the Personnel Board did not have jurisdiction of what amounted to an apparent defamation claim.

B. **Delete** Finding of Fact number 4 and substitute the following:

4. The Board finds the comments alleged by the Appellee in its letter of suspension, and not disputed by the Appellant, were offensive and should not have been made. Although Appellant argued correctly his supervisor never corrected these comments when he made them, that did not excuse Appellant's conduct; the comments were wrong in and of themselves.

C. **Add Conclusion of Law number 3:**

3. The Board concludes that the Appellee carried its burden of proof in showing that the Appellant's comments as alleged in the letter of suspension were offensive.

D. **Delete the Recommended Order, and substitute the following:**

IT IS HEREBY ORDERED that the appeal of **RICHARD CHAD LANHAM V. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2015-023)** be **SUSTAINED to the extent** that the ten-day suspension without pay be reduced to a five-day suspension without pay. Appellant shall be restored all pay, benefits, and otherwise be made whole with respect to the restoration of five working days. The Board orders Appellee shall reimburse the Appellant for any leave time he used attending the evidentiary hearing and any pre-hearing conferences at the Personnel Board. [KRS 18A.105, KRS 18A.095(25) and 200 KAR 12.030.]

IT IS FURTHER ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer as Altered be, and they hereby are, approved, adopted and incorporated herein by reference as a part of this Order and the Appellant's appeal is **SUSTAINED to the extent herein.**

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 September, 2015.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK, SECRETARY

A copy hereof this day mailed to:

Hon. Mona Womack
Richard Chad Lanham
J.P. Hamm

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-023**

RICHARD CHAD LANHAM

APPELLANT

VS.

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

**CABINET FOR HEALTH AND FAMILY SERVICES
J.P. HAMM, APPOINTING AUTHORITY**

APPELLEE

** ** ** ** **

This matter came on for an evidentiary hearing on June 11, 2015, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before R. Hanson Williams, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

Appellant, Richard Chad Lanham, was present at the hearing and was not represented by legal counsel. Appellee, Cabinet for Health and Family Services, was present and was represented by the Hon. Amber Arnett. Also present as Agency representative was Heather Goodman.

BACKGROUND

1. This matter involves a ten-day suspension given to the Appellant by letter dated December 12, 2014. A copy is attached hereto as **Recommended Order Attachment A**. In summary, the Appellant was suspended for lack of good behavior for violating various policies relating to failing to receive prior approval for working overtime and other absences, making derogatory remarks concerning his clients, and failing to submit accurate travel vouchers.

2. The burden of proof was placed on the Appellee by a preponderance of the evidence to show that the suspension herein was appropriate under all the surrounding circumstances and was neither excessive nor erroneous.

3. Appellant had previously raised the issues of sex and gender discrimination against him; however, in his opening statement, Appellant made clear he was not pursuing the action taken against him on these legal bases, but rather felt that his character and reputation had been impugned. The Hearing Officer informed all parties that the Personnel Board did not have jurisdiction of what amounted to an apparent defamation claim.

4. Appellee's first witness was **Kimberly Tucker**. She was employed with the Agency until April 30, 2015, and from 2011 through departure date, served as the Human Resources Administrator for the Southern Bluegrass Region within the Department for Community Based Services (DCBS). Her job duties involved dealing with complaints and grievances from employees, as well as reviewing reports for major disciplinary action. In this case, she testified that she drafted the disciplinary documents and made her recommendation through the chain of command up to Appointing Authority Jay Klein.

5. In reviewing this matter, she testified that she had reviewed the Appellant's timesheets, travel vouchers, various e-mails, and the sign-in/sign-out sheets used by the Fayette County office.

6. She defined the issues with the Appellant as him not having gotten prior approval to work overtime, receiving no approval for any absences during work; making derogatory remarks concerning clients, and submission of inaccurate travel vouchers.

7. In support of her testimony, she introduced Appellee's Exhibits 2 through 6, which dealt with the various policies concerning the issues cited above.

8. These policies generally and specifically cover the four issues cited by the witness. The witness next introduced Appellee's Exhibit 7, a DCBS Standards of Practice Manual, Chapter 1, Section 1.1, Ethical Practice, and pointed out various portions of this exhibit which she felt had not been complied with by the Appellant:

Legal Authority:

...

The behavior of social service professionals should reflect the emphasis placed by the social service field on professional trustworthiness and on the values of respect for persons, ...

Procedure
DCBS employees:

...

6. Are continually aware of the public trust they hold and their obligation to maintain a high standard of competence and dignity in the performance of their duties;

...

8. Refrain from entering into any activity which may prejudice (or give the appearance of such) their ability to objectively perform their duties and responsibilities.

Protection and permanency professionals:

1. Treat all parties to the case with respect . . .
...
3. Carry out their professional responsibilities with integrity,
...
12. Avoid any conduct that would lead a reasonable person to conclude that the social service professional might be biased or motivated by personal or private interest in the performance of duties;
...
15. . . . Any conduct that would lead a reasonable person to conclude that the social service professional might be biased or motivated by personal gain or private interest in the performance of duties should be avoided.
...
29. Act with integrity in their relationships with their colleagues, treating them with respect.

9. The witness related that she felt these policies and the actions of the Appellant in making derogatory comments about his clients to fellow colleagues or supervisors related to the third charge against him contained on p. 4 of 6 of the suspension letter.

10. Specifically, the comments about clients as follows:

- During a July 30, 2014 telephone call with Ms. Goodman while you were at the courthouse, you stated that you were going to leave the courthouse because you were afraid you were going to “punch an attorney in the face.” You went on to state during the conversation that the attorney had made you so angry that you felt like “beating the hell out of him.”

- In an August 5, 2014 text message to Ms. Goodman regarding a client, you stated, “. . . But it was a waste of time transporting to and from, having to break that kids heart because her mom is a deadbeat sack of fucking dogshit . . . I’m not prioritizing her ass anymore until she straightens up. It’s too hard on the kid.” (sic)
- In late August or early September 2014, Disability Adjudicator I Kayla White overheard you talking about an infant client. You stated the infant was the “ugliest baby” you had ever seen and described the infant as looking like a “melted or squished milk dud.”
- In late August or early September 2014, Ms. Goodman heard you refer to a client as a “tard.”
- On September 4, 2014, Ms. Goodman asked you to contact a client to reschedule an appointment for a supervised visit she had missed. In a raised voice, you stated that you were not calling the client again and that if the client wanted to have her “damn visit” that she could call you. When Ms. Goodman told you that the client had attempted to contact you to reschedule the appointment, you stated that the client was a “liar.” Social Service Clinician I Rachelle Henson was a witness to this outburst.

11. The witness then explained that the Appellant was an “on-going” Social Service Worker I, whose primary job was helping families to stay together. This included helping the adults in these families.

12. The witness then testified the problem with the travel vouchers submitted by Appellant were those contained on p. 5 of 6 of the suspension letter. In her opinion these vouchers claimed excessive mileage based upon the Appellant’s caseload. It was her understanding that the Appellant’s July 2014 Travel Voucher [Appellee’s Exhibit 8] was submitted to supervisor Linda Sanders, who in turn asked him a second or third time to amend these to more accurately reflect his travels and the cases upon which he was working. The initial mileage of 1283 miles and \$613.18 in reimbursement submitted by the Appellant, after two amendments and a final review and compilation by supervisor Sanders for the month of July, resulted in a final total of 811 miles and \$403.28 approved for his July 2014 Travel Voucher.

13. On cross-examination, the witness confirmed her understanding, as related to her by others, that Appellant had exhibited an example of threatening behavior by pushing a copier into a wall. Further, she was told of remarks concerning “punching an attorney” in the face and calling one of his clients a “liar.”

14. She also opined that Appellant made a degrading remark by calling his client “f...ing pile of dog shit” and by calling another client’s baby, “ugly – like a squashed milk dud.” She believes these comments were made only to Appellant’s colleagues or supervisors and none were made to any clients.

15. Appellee's next witness was **Linda Sanders**. She has been employed with the state in excess of eighteen years with the Agency and at the pertinent times herein, was the Service Region Administrator (SRA) for the Southern Bluegrass Region covering the Lexington area. In addition, she has previously worked as a Social Service Worker, a Social Service Clinician, and a supervisor.

16. She testified that there are three types of social workers, those being investigations, on-going, and foster care. The Appellant was first hired as an investigator and in approximately April 2014 requested to become an on-going social worker under Heather Goodman.

17. The witness then introduced Appellee's Exhibits 8, 9, 11, 12, 16 and 18, which were placed **under seal** as these might potentially contain client information protected by confidentiality provisions.

18. The witness then stated she had become initially involved with Appellant's situation because of the July 2014 Travel Voucher which appeared to be claiming excessive mileage and had insufficient clarity as to the purpose of the visits and the actual cases worked.

19. She cited as an example Appellee's Exhibit 8 for the dates July 7, July 8, and July 9, 2014. These dates supposedly covered trips from Lexington to Lexington, with no individual case visits named or the places within Lexington where the visits took place.

20. She also took issue with the July 22, 2014 date wherein the Appellant claimed 191 miles for a round trip from Lexington to Louisville and back. The witness added that she herself had commuted from Louisville to Lexington for several years and knew that this mileage was excessive. The witness explained that she then asked the Appellant to amend his July Travel Voucher and he submitted two other corrected versions, with the final version showing a slight reduction to 1175 miles and \$594 in claimed reimbursement.

21. The witness introduced Appellee's Exhibit 9, a Travel Voucher which she created following his final voucher request and information he submitted. The witness testified that she used MapQuest and began each day's travel with looking at the sign-in/sign-out sheet, followed by the visits of service which he made. She testified that this was a progression of calculating the actual mileage. She added that she recognized there was a problem with the Appellant not using the sign-in/sign-out sheet on a regular basis. The figures which this witness calculated for July showed 811 miles and \$403.28 which she finally approved. **[Hearing Officer Note: In his subsequent testimony, the Appellant testified that he had calculated his mileage by simply noting the starting mileage on his odometer each day and the ending mileage on his odometer each day.]**

22. The witness introduced Appellee's Exhibit 10, a chart showing the comparison of the Appellant's claimed mileage versus her compilation using MapQuest, the actual mileage driven, and the difference in her compilation and his travel voucher. [See also Appellee's Exhibits 11 and 12.]

23. The witness also testified that sometime between August and September 1, 2014, after his July Travel Voucher had been questioned, the Appellant came to her and asked why he was being questioned on this, as he never had been previously. It was at that time it was made clear that all mileage for which reimbursement was sought had to be computed using the MapQuest system.

24. Sanders then addressed the issue of the sign-in/sign-out sheets. She testified that Appellant had been aware, both in her initial orientation and subsequent, that it was important to use the sign-in/sign-out sheets each day. She stated that this required an employee to sign-in upon arrival and to sign-out upon leaving either to go out for lunch or on a case visit. The purpose of the sign-in/sign-out sheets was so the Agency would know where the employee was at all times, in case there was an emergency. Also, the witness stated that the use of the sign-in/sign-out sheets was a part of the preparation of travel vouchers. At some point, she found out that the Appellant was not regularly using these sign-in/sign-out sheets.

25. The witness then addressed the overtime and leave without approval issues. She introduced Appellee's Exhibit 14, the Southern Bluegrass Service Region Policy on Overtime and Leave Expectations. This policy basically requires that supervisors approve all leave in advance, with the exception of emergency leave. Also, all overtime leave should be approved in advance and documented in writing. The witness then related that she had been told by Goodman about perceived inappropriate behavior and comments, including the pushing of a copier against a wall and the comment about "wanting to punch an attorney." She also is aware of the comments made about his clients, and stated that she knew that the job itself can be frustrating to a Social Worker, but that they have to be able to work with these clients and be respectful toward them.

26. Her experience with other Social Workers is that they often make comments out of frustration, but she felt none of those comments made were as degrading as those of Appellant.

27. The Appellee's next witness was **Heather Goodman**. She has been employed by the Agency for the previous five years as an "on-going" supervisor of a team of six to eight social workers. She was the Appellant's direct supervisor. She testified that when he requested to be assigned to her team in April 2014, she was glad to have him join them.

28. The witness stated that when the Appellant submitted his July 2014 Travel Voucher for her review, she noticed that he had claimed quite a bit more for mileage reimbursement than her other team members, and she felt this stood out since he had a smaller caseload than the others. Specifically, she noted that certain trips to Louisville and to Mt. Sterling stood out as having excessive mileage claimed. As a result, she spoke to her supervisor, Linda Sanders, and asked her to review his July Travel Voucher.

29. The witness then went on to explain that in the past, the Appellant had asked for prior approval to work overtime and take leave. However, he did not ask for any prior approval for the period of July 16 through July 31, 2014, totaling 42.50 hours, nor did he ask for prior approval for overtime on September 17 between 4:30 and 6:30 p.m.

30. As a result of her concerns about the mileage claimed, the witness explained that she issued a September 10, 2014 memorandum to the Appellant directing him to use a state car whenever possible for travel and to use the sign-in/sign-out sheets. [Appellee's Exhibit 15.] She also introduced Appellee's Exhibit 16, a July 31, 2014 e-mail to all team members, including Appellant, directing them to use a sign-in/sign-out sheet and to ask for prior approval. It should be noted that this e-mail was sent by the witness, partially as a result of the questions arising from the July Travel Voucher submitted by Appellant.

31. The witness then introduced Appellee's Exhibit 17 (under seal) for an Overtime/Leave Reporting Form of Appellant's covering three paid periods from August 1 through September 11, 2014. This form showed that for these periods, the Appellant claimed overtime for a total of 61.50 hours, none of which had been requested for prior approval.

32. The witness then introduced Appellee's Exhibit 18, covering the pay period from September 15 through September 30, 2014. This document showed that the previously discussed two hours of overtime on September 17 was denied as not having prior approval. Likewise, it showed that the compensatory time attempted to be taken by the Appellant on September 17, 18 and 19, in the amount of 3.5 hours was denied as not having received prior approval.

33. Goodman next introduced Appellee's Exhibit 19, a copy of the sign-in/sign out sheets from August 4 through September 19, 2014 (under seal). She stated that these sheets were located on a shelf outside of her office and close to his door. The Hearing Officer's review of these sheets shows that approximately half of the days listed for the Appellant did contain a sign-out and return time, while approximately half did not. The witness also noted that these sheets were filled out by the Appellant after he had been directed by the July 31 e-mail to employees who regularly used these.

34. The witness next introduced Appellee's Exhibit 20, a copy of various text messages authored by the Appellant to this witness containing the derogatory client comments which have been previously listed. The witness stated that she also got confirmation from other workers regarding these comments and felt the comments were disrespectful and demeaning to her and other colleagues. Upon collecting these messages, she forwarded them to the office of Human Resource Management for disciplinary action.

35. Finally, Goodman testified that she did witness the incident wherein the Appellant angrily pushed a copier into the wall; likewise she also personally received the phone call from the Appellant after leaving the courthouse in which he stated, "He wanted to punch an attorney in the face." She also overheard the "tard" remark.

36. The Appellee's next witness was **Jay Klein**. He has served as the Appointing Authority at the Agency for approximately fourteen years. He has final authority as to the discipline meted out to employees.

37. In this case, he testified that he looked at the different types of elements in the four main charges, and decided that cumulatively, the four different types of lack of good behavior justified the ten-day suspension.

38. The witness testified that it was important to use the sign-in/sign-out sheets, so the Agency would know where their people were, if necessary. He stated that the inaccurate travel vouchers were also a factor. He then stated that because of the egregiousness of all the charges, he felt no less than a ten-day suspension was warranted.

39. The Agency rested its case in chief.

40. Appellant, **Richard Chad Lanham**, called himself as his only witness. He is forty-three years old. For the past fifteen months, prior to this action, he had been employed by the Agency as a Social Worker I. Previously, he was self-employed. He transferred to Goodman's team as an on-going Social Worker in April 2014.

41. The witness testified that Heather Goodman, upon his initial employment, told him that she had never managed a man or anyone older than her in her work experience. He also stated that no one, including supervisors, had ever talked to him about any of these four allegations for which he is charged, prior to the issue of the July 2014 Travel Voucher.

42. Appellant did not deny making the comments attributed to him, which others deemed derogatory, but stated that he would never make these comments to the clients themselves. Rather, he only voiced his frustration within the office by making these comments.

43. As to the sign-in/sign-out sheets, the witness stated that in his previous job as an "Investigator" he did use these sheets for the first ten months. When he first arrived on Heather Goodman's team, he related that she informed him at first that they did not really use these sheets. However, in late July 2014, he and other team members began to receive e-mails from her stating the sheets must be used. His defense to this failure to use the sheets was that he was not used to the routine of using them.

44. Regarding mileage on his travel vouchers, Appellant testified that he had never been questioned before while working on the Investigations Team about his travel vouchers. He explained that he simply used his truck odometer when beginning and ending a workday to calculate the actual mileage he had driven. He denied telling Linda Sanders that he "didn't have time to worry with it."

45. Relating to what some claimed was excessive travel, the Appellant also explained that he had a lot of kids located in various counties in central Kentucky that he had to visit. This by itself required a lot of travel. He also explained that he completed the travel vouchers as he had been trained to do so in his previous Social Worker job. For example, he explained that he had never before been asked to put the “purpose” of each visit on the travel voucher. He also explained that the mileage he claimed was accurate by his odometer, although not by the MapQuest method used by Sanders to review his vouchers.

46. Appellant then addressed the “no prior approval for leave” issue. He explained that in his prior job with the Investigation Team, he was told by that supervisor that it was “not a big deal.” He also was never told by “on-going” supervisor Goodman until late July that this was important. However, he did admit that he sometimes did fail to get prior approval before working overtime or taking leave.

47. On cross-examination, the witness confirmed that he resides in Boyle County and his workstation is now Lincoln County. His previous workstation was in Fayette County. He testified he now has access to state cars for his travel, but that he was not aware that state cars were available to him while he was in Fayette County and this is why he did not use them.

48. On rebuttal, the Agency called **Heather Goodman** who offered no useful testimony.

49. Appellee’s Exhibits 2 through 6, 8, 9, 11, 12, 16, 17, and 18 are placed under seal.

Applicable Laws and Policies:

50. The Hearing Officer takes judicial notice of 200 KAR 2:006; 101 KAR 2:100, 101 KAR 2:095 and 101 KAR 1:345.

51. 200 KAR 2:006, reads in pertinent part:

Section 2(2)(c)(1):

Disallow or reduce the amount of a claim that violates the provisions of this administrative regulation.

...

Section 7(4)(3)(b):

Mileage for in-state travel shall be based on the ‘Kentucky Official Highway Map’, mileage software or MapQuest website. Out-of-state mileage shall be based on the most recent edition of the ‘Rand McNally Road Atlas’, mileage software or MapQuest Web site.

...

52. 101 KAR 2:102, Section 1(2)(b) states:

... an employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time earned that year, if the operating requirements of the agency permit.

53. 101 KAR 2:095, Section 2(5) states, "An employee shall give reasonable notice in advance of absence from a work station."

54. 101 KAR 1:345, Section 1 states, "Appointing authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties."

FINDINGS OF FACT

1. Prior to July 2014, both the Agency and the Appellant practiced a laissez-faire approach to use of sign-in/sign-out sheets, requesting prior approval for overtime and leave, and the inspections of travel vouchers.

2. However, after receiving a July 31, 2014 email from supervisor Goodman regarding prior approval and use of the sign-in sheet, the Appellant failed to use the sign-in/sign-out log on thirteen days in August and two days in September 2014. This is a violation of 101 KAR 2:095, Section 2(5) and constitutes lack of good behavior under 101 KAR 1:345.

3. The Hearing Officer finds credible the Appellant's explanation that prior to the examination of his July 2014 travel voucher there had been no clear emphasis or explanation provided to him regarding completion of travel vouchers or the importance of sign-in/sign-out sheets.

4. The derogatory comments expressed in-house toward clients were harsh. However, it is apparent that many frustrating remarks are made by today's modern Social Workers and it is naïve to think the Appellant's coworkers were so deeply offended, when most of them also suffer from ever-growing caseloads and uncooperative clients.

5. The Hearing Officer finds the Appellant worked from July 16-31, 2014, totaling 42.50 hours, and September 17, 2014, from 4:30 to 6:30 p.m. without seeking prior approval. This is a violation of 101 KAR 2:095, Section 2(5), and constitutes lack of good behavior under 101 KAR 1:345.

6. The travel voucher for July 2014, although allegedly inaccurate, was ultimately awarded and approved by the Agency. This resulted in no loss to the Agency, and given the Appellant's lack of prior direction as to the use of MapQuest, is excusable.

CONCLUSIONS OF LAW

1. The Agency carried its burden of proof in showing the Appellant violated 101 KAR 2:095, Section 2(5) by failing to utilize the sign-in/sign-out sheet after being directed to do so.

2. The Agency carried its burden of proof in showing the Appellant violated 101 KAR 2:095, Section 2(5), by working overtime hours between July 16-31 and September 17, 2014, without seeking prior approval.

RECOMMENDED ORDER

Given the fact that only two of the four charges were proven, and considering all the surrounding circumstances, the Hearing Officer recommends to the Personnel Board that the appeal of **RICHARD CHAD LANHAM VS. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2015-023)** be **SUSTAINED to the extent** that the ten-day suspension without pay be reduced to a five-day suspension without pay. The Appellant shall be restored all pay, benefits and made whole with respect to the restoration of the five working days. Appellee shall also reimburse Appellant for any leave time he used attending the hearing and any pre-hearing conferences. **[KRS 18A.105, 18A.095(25), and 200 KAR 12:030.]**

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal a circuit court will consider only the issues a party raised in 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).

Any document filed with the Personnel Board shall 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 R. Hanson Williams** this 17th day of July, 2015.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof mailed this date to:

Hon. Amber Arnett
Richard Chad Lanham

You submitted your timesheet for the July 16-31, 2014 pay period on or about August 1, 2014. On this timesheet, you claimed a total of 42.50 hours of overtime. The amount of overtime you claimed to have worked concerned your supervisor, Family Services Office Supervisor Heather Goodman, especially due to you not having a caseload that would warrant such overtime.

When Ms. Goodman looked into the overtime you claimed, she discovered that on July 18, 2014, you claimed you worked 7.50 regular hours. Ms. Goodman knew this was not correct because you were absent on that date and she had attended a visit with a client on that date on your behalf due to your absence. Ms. Goodman talked with you about the error and then talked with you about the amount of overtime you had claimed for that pay period. In response to Ms. Goodman's inquiry about the overtime you claimed, you claimed that the overtime you worked probably amounted to more than you had actually claimed. At that time, Ms. Goodman reminded you that you are to claim all of the time you work, but you are to request and receive approval for overtime in advance. Ms. Goodman then instructed you to correct your timesheet to reflect that time you actually worked. You were made aware that you were required to request and receive prior approval for overtime prior to the above conversation with Ms. Goodman, when you were provided the "Southern Bluegrass Service Region Overtime and Leave Expectations for Supervisors" which you signed as having received, read and understood on June 25, 2013 and March 2, 2014. Of note, you were provided with the "Southern Bluegrass Service Region Overtime and Leave Expectations for Supervisors" again on September 10, 2014.

Ms. Goodman also reminded you of the requirement that you request and receive prior approval for overtime in an email to you on July 31, 2014. Of note, in the July 31, 2014 email message, Ms. Goodman also instructed you to use the office sign-in/sign-out book to document your whereabouts. Ms. Goodman's email message read as follows:

"...Effective immediately you will need to start utilizing the sign in and out book if you have not been doing so. Please provide specific information (where you are going, time, date, etc.). Also, all overtime needs to be preapproved. This includes paperwork, home visits, court, supervised visits, etc. I understand emergencies come up that require overtime but this is an agency policy. If you request overtime for paperwork please provide me with a copy of what you worked on (this can be emailed, paper, or something that was submitted into TWIST for approval). Also, please be specific on your time sheets and travel. (the TWIST number, what you were doing, street you traveled to, etc)...."

Even after Ms. Goodman specifically instructed you to use the sign-in/sign-out book, you failed to do so appropriately on August 4, 2014; August 5, 2014; August 6, 2014; August 7, 2014; August 8, 2014; August 18, 2014; August 19, 2014; August 20, 2014; August 21, 2014; August 22, 2014; August 25, 2014; August 26, 2014; August 29, 2014; September 2, 2014; and September 4, 2014.

On September 10, 2014, you were issued a verbal warning for continuing to fail to use the office sign-in/sign-out book despite being instructed to do so. On that same date, Service Region Administrator Linda Sanders issued a memorandum to you to address this and other matters. Ms. Sanders' memorandum read as follows:

"Until further notice, and effective immediately, you will need to obtain a state car for all travel that is work related. We have the van that you can use for 9/11/14, and on 9/12/14 you can use a car for Erin Mayhorn's team until we can get a vehicle reserved in your name in Frankfort on or about 9/18/14."

Additionally, effective immediately, you will need to utilize the signed form for all home visits with clients, foster parents, and professionals. These forms need to be signed in blue, green or red ink.

Furthermore, this is to remind you that the expectation is that you sign in every morning at the start of the day, and sign out at the end of the day. If you are not going to arrive at your start time, you

need to notify your supervisor and request leave. Additionally, you must sign out in the log book for all work related trips and out for lunch. All overtime must be requested in advance."

Despite ongoing efforts by Ms. Goodman and Ms. Sanders, you have shown blatant disregard for their instruction. In addition to continuing to fail to use the office sign-in/sign-out book, you also worked overtime on September 17, 2014 from 4:30 p.m. to 6:30 p.m. but failed to request or receive prior approval to work overtime, as required.

Of note, from August 1, 2014 through September 11, 2014, you worked 61.50 hours of overtime without authorization.

Your actions violate 101 KAR 2:102, Section 5; the Department for Community Based Services' Southern Bluegrass Service Region Overtime and Leave Expectations for Supervisors; and the Cabinet for Health and Family Services' Procedures 2.1, Employee Conduct; 5.20, Timesheet Reporting; and 5.5, Compensatory Leave. Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

Lack of Good Behavior. As reported by Service Region Administrator Linda Sanders, you were absent from the workplace without appropriately requesting and receiving approval for leave.

You are scheduled to work from 8:00 a.m. to 4:30 p.m. You are required to request and receive approval for leave in advance. You are aware of this requirement as evidenced by "Southern Bluegrass Service Region Overtime and Leave Expectations for Supervisors" which you signed as having received, read and understood on June 25, 2013; March 2, 2014; and September 10, 2014.

Despite knowing that you are required to request and receive approval for leave advance, on September 17, 2014, you did not report to work until 9:00 a.m. You did not request leave or receive approval for leave for this absence and as a result, you were issued 1.00 hour of unauthorized leave without pay on that date. Then, on September 18, 2014, at 3:02 p.m. you sent a text message to Family Services Office Supervisor Heather Goodman stating, "apparently my grandpas surgery didn't go to well my mom said I needed to get to Danville hospital so I'm gone." You did not request leave or receive approval for leave for this absence and as a result you were issued 1.50 hours of unauthorized leave without pay on that date. On the following day, September 19, 2014, you did not report to work until 9:00 a.m. You did not request leave or receive approval for leave for this absence and as a result, you were issued 1.00 hour of unauthorized leave without pay on that date.

Your actions violate 101 KAR 2:102, Section 10; 101 KAR 2:095, Section 2(5); the Cabinet for Health and Family Services' Personnel Procedures 2.1, Employee Conduct; 5.2, Annual Leave; 5.5, Compensatory Leave; and 5.13, Sick Leave. Further, your actions constitute grounds for disciplinary action as outlined in 101 KAR 2:102, Section 10 (2) (c), and constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

Lack of Good Behavior. As reported by Service Region Administrator Linda Sanders, you have repeatedly behaved in an inappropriate, threatening and unprofessional manner toward and in the presence of your supervisor and coworkers. You have also repeatedly made inappropriate, unprofessional, disrespectful and derogatory comments about clients to your supervisor and in the presence of your coworkers.

As outlined in the DCBS' Division of Protection and Permanency's Standard of Practice 1.1, Ethical Practice, "The department and its employees should recognize the vulnerability of their clients and the serious responsibilities associated with intervention. The behavior of social service professionals should reflect the emphasis placed by the social service field on professional trustworthiness and on the values of respect for persons, client self-determination, individualized intervention, competence, loyalty, diligence, honesty and confidentiality." This standard of practice also specifically states, in part, that social service professionals shall

treat all parties to the case with respect, honesty, fairness and cooperation; carry out their professional responsibilities with integrity, treating those with whom they have professional relationships in a dignified, respectful, honest and fair manner; act in the best interest of those toward whom they have professional responsibilities; and promote the welfare of those toward whom they have professional responsibilities.

The Cabinet for Health and Family Services' Personnel Procedure 2.1, Employee Conduct states that the Cabinet expects its employees to maintain a high standard of conduct and professional behavior, including outside of work, to maintain the public's confidence in the integrity of its government and public servants and expects its employees to conduct themselves in a manner that is conducive to respectful and professional work environment, free from any form of harassment and violence. This procedure also prohibits you from engaging in inappropriate, disrespectful, demeaning, and/or abusive behavior

Despite the above standard of practice and procedure, you have repeatedly demonstrated behaviors contrary to the expectations of a social service professional and as an employee of the Cabinet for Health and Family Services. Examples of the times you have demonstrated such behaviors follow:

- In July 2014, Family Services Office Supervisor Heather Goodman witnessed you hit the office copier with enough force to push the copier into the wall.
- During a July 30, 2014 telephone call with Ms. Goodman while you were at the courthouse, you stated that you were going to leave the courthouse because you were afraid you were going to "punch an attorney in the face." You went on to state during the conversation that the attorney had made you so angry that you felt like "beating the hell out of him."
- In an August 5, 2014 text message to Ms. Goodman regarding a client, you stated, "...But it was a waste of time transporting to and from, having to break that kids heart because her mom is a deadbeat sack of fucking dogshit...I'm not prioritizing her ass anymore until she straightens up. It's too hard on the kid."
- In late August or early September 2014, Disability Adjudicator I Kayla White overheard you talking about an infant client. You stated the infant was the "ugliest baby" you had ever seen and described the infant as looking like a "melted or squished milk dud."
- In late August or early September 2014, Ms. Goodman heard you refer to a client as a "tard."
- On September 4, 2014, Ms. Goodman asked you to contact a client to reschedule an appointment for a supervised visit she had missed. In a raised voice, you stated that you were not calling the client again and that if the client wanted to have her "damn visit" that she could call you. When Ms. Goodman told you that the client had attempted to contact you to reschedule the appointment, you stated that the client was a "liar." Social Service Clinician I Rachelle Henson was a witness to this outburst.
- On September 5, 2014, you approached Ms. Goodman and stated that you were not "cut out for ongoing work." You stated that you "do not nurture your own children" and that you "sure as hell" were not going to "babysit grown adults." You stated that your adult clients "got themselves in this and they need to figure it out." You also stated that you were not going to work with "these types of people." Ms. Goodman attempted to explain to you that your job is to assist the clients in order to reunite families while refraining from personal opinions. Ms. Goodman also told you that referring to clients as "pieces of shit" is not appropriate. In response, you stated, "This is not for me." You also stated that you are not providing good services to your clients because you "can't change."

- On September 17, 2014, Ms. Goodman was meeting with Social Service Clinician I Mailikka Davis and Family Services Office Supervisor Erin Mayhorn in Ms. Mayhorn's office. During the meeting, Ms. Mayhorn's door was closed. Ms. Goodman, Ms. Davis and Ms. Mayhorn heard someone struggling with the door knob during the meeting. You then opened Ms. Mayhorn's door, pointed your finger at Ms. Goodman and stated in what was described as an aggressive and demanding tone, "I need to speak with her."

Your actions violate the Department for Community Based Services' Division of Protection and Permanency's Standard of Practice 1.1, Ethical Practice. Your actions also violate the Cabinet for Health and Family Services' Personnel Procedure 2.1, Employee Conduct and constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

Lack of Good Behavior. As reported by Service Region Administrator Linda Sanders, you repeatedly recorded inaccurate information on your travel voucher and failed to follow the instruction that you were to complete the travel voucher appropriately and accurately.

On or about August 1, 2014, you submitted your travel voucher for July 2014 for the purpose of being reimbursed for expenses you incurred for traveling in your job. The total amount for your July 2014 voucher was \$613.18 and 1,283 miles. Your supervisor, Family Services Office Supervisor Heather Goodman, believed that amount was excessive based on the number of cases in your caseload, none of which required an extensive amount of travel.

Ms. Goodman reviewed your travel voucher in detail and determined that the voucher was not accurate. One example was an entry you made on July 22, 2014. On this date, you recorded that you traveled from "Lexington" to "Lexington" when you actually traveled from "Lexington" to "Louisville" and returned to "Lexington." You recorded that you traveled 191 miles on this trip when the number of miles from Lexington to Louisville and back to Lexington is actually a total of approximately 160 miles. Another example was an entry you made on July 30, 2014. On this date, you recorded that that you traveled from "Lexington" to "Lexington" when you actually traveled from "Lexington" to "Mt. Sterling" and returned to "Lexington." You recorded that you traveled 154 miles on this trip when the number of miles from Lexington to Mt. Sterling and back to Lexington is actually a total of approximately 90 miles.

Ms. Goodman met with you to discuss your travel voucher, the discrepancies she had discovered and the appropriate way to complete a travel voucher that included addresses of his destinations. Ms. Goodman then provided you an opportunity to submit a travel voucher that truthfully reflected your travel for July 2014. Ms. Goodman even provided you with a handwritten voucher example for you to reference to help you complete your voucher appropriately.

You then submitted a second version of the July 2014 travel voucher. The total amount you claimed on the second version was \$620.18 and 1,283 miles. Upon submitting the second version, you failed to correct the entries that Ms. Goodman pointed out to you and you failed to appropriately complete the voucher with accurate destination information, as instructed. You simply added a parking expense of \$7.00 for July 7, 2014.

On September 2, 2014, Ms. Sanders sent an email message to you in which she instructed you to submit a travel voucher that was an accurate reflection of your travel expenses. You then went to Ms. Sanders' office and closed the door. You pulled a chair over to Ms. Sanders' desk and told her that you needed to talk about the travel voucher. You then stated to Ms. Sanders, "No one has ever questioned my travel before and I don't know why you are questioning it now." You also stated, "I just get in my truck and drive and I can't remember all of the information." Ms. Sanders advised you that it was important that you provide specific information regarding your travel and that you utilize MapQuest to account for the distance you travel.

You then submitted a third version of the July 2014 travel voucher (totaling \$615.12 and 1,272 miles) and then a fourth version (totaling \$594.00 and 1,175 miles).

Ms. Sanders finally instructed you to provide the addresses you traveled to and from for each entry on your July 2014 travel voucher. Upon gathering these addresses, Ms. Sanders utilized MapQuest, corrected each entry you made on the travel voucher and arrived at the correct amount totaling \$403.28 and 811 miles, which was \$209.90 and 472 miles less than the voucher you originally submitted for reimbursement.

Your actions violate the Cabinet for Health and Family Services' Procedure 2.1, Employee Conduct. Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

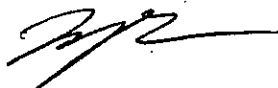
<u>DATE</u>	<u>ACTION</u>	<u>REASON</u>
September 10, 2014	Verbal Warning	Lack of Good Behavior

Further incidents in violation of policy may lead to further and more severe disciplinary action, 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 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 enclosed.

Sincerely,



Howard J. Klein
Appointing Authority

HJK:kmt

Attachments

cc: Secretary Tim Longmeyer, Personnel Cabinet
Executive Director Mark Sipek, Personnel Board
Commissioner Teresa James, DCBS
Service Region Administrator Linda Sanders, Southern Bluegrass Service Region
Cabinet Personnel File