



**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2016-260**

**ARDENA ROGERS**

**APPELLANT**

**VS.**

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

**PUBLIC PROTECTION CABINET**

**APPELLEE**

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This matter came on for an evidentiary hearing on April 28, 2017, at 9:30 a.m., EST, at 28 Fountain Place, Frankfort, Kentucky, before the Hon. Kim Hunt Price, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

Appellant, Ardena Rogers, was present and was represented by the Hon. Willie E. Peale, Jr. Appellee, Public Protection Cabinet, was present and represented by the Hon. Katherine Bennett.

The parties were ordered to submit closing arguments by brief by May 30, 2017, and same were submitted, with responsive arguments being presented on June 9, 2017.

**BACKGROUND**

1. The Appellant was suspended for seven working days by letter dated August 2, 2016, for lack of good behavior as set forth in detail in Appellee's Exhibit 1, which is attached hereto as **Recommended Order Attachment A**.

2. Appellant was employed as the Program Coordinator for the Division of Financial Standards and Examination within the Department of Insurance.

3. The suspension came after Appellant had been instructed by her immediate supervisor, Rodney Hugle, the Assistant Director of the Division of Financial Standards and

Examination, on February 15, 2016, to complete and submit a weekly log of each task that was accomplished, beginning February 22, 2016. As of the date of the hearing, this directive was still effective. The directive was given to all merit employees.

4. Appellant filed a timely appeal on September 28, 2016, alleging suspension and other penalization, namely retaliation, reprisal and creating a hostile work environment. Her appeal specifically stated;

I was suspended from my position without good cause on August 2, 2016. I was accused of misconduct and insubordination because I was directed to submit records and to perform tasks that were not job-related, but were designed to harass me and to unofficially, improperly and illegally audit my job, desk and work to attempt to establish a paper trail to seek my termination. To my knowledge there is a process established and authorized by Personnel and in state government's policies for desk and job audits. When I challenged and questioned this effort – which is and was my right, I was subjected to the creation of a hostile work environment by the management team and my supervisors, as well as, I was subjected to retaliation and reprisal. To my knowledge, my co-workers and similar staff were not subjected to these requirements and/or the same treatment in the workplace. I was also the target of other improper and illegal acts as part of the hostile work environment, including and not excluding, the frustrating and blocking my ability to transfer which amounts to disparate treatment and/or impact towards me. All of these acts are arbitrary, improper, illegal and unconstitutional.

5. Appellant, **Ardena Rogers**, testified that she had been employed with the Department of Insurance in the Division of Financial Standards and Examination for 17 years as a Program Coordinator and was charged with statewide duties.

6. On direct testimony, she acknowledged the facts alleged in the suspension letter were correct. She only disputed the statement on page 2, second paragraph from the bottom, that she had “not completed the weekly log of her duties for weeks” and the statement on the last paragraph on page 6 that, despite continued guidance and communications from multiple levels of management, she had ignored the directive to complete the weekly report for multiple weeks. She specifically stated that she had only spoken with Rodney Huggle, her supervisor, and then with Matt Schentrup, the Human Resources liaison. She acknowledged she did not complete several of the reports, but disputed the time allegation of over several weeks.

7. Rogers testified that Rodney Hogle is her first-line supervisor and had been so for two years and that she got along well with him. Sandra Batts was her second-line supervisor and had worked with her as an Examiner before she became a supervisor. She and Batts had no problems before Batts became her supervisor.

8. Rogers acknowledged that Appellee's Exhibit 2 was a portion of the weekly reports that she had submitted beginning June 1, 2016. The entries for June 1 and June 2, 2016, were submitted in German. She acknowledged that she did not speak German, but had put this in her phone at work on break to translate it. She acknowledged all of the other entries that had been presented in said exhibit.

9. Rogers felt that she was asked to do a task that was not included in her performance evaluation and was not given an end date. Originally, she was told it was for the new administration to obtain a grasp over what work they did, but then it continued.

10. Rogers testified that there are 15 total employees in the Division, five merit employees, not including her supervisor.

11. Rogers also acknowledged Appellee's Exhibit 3, which were her weekly reports submitted after the appeal was filed. None of those had any comments added to them. Rogers testified that during the first six months Hogle was her supervisor, he did not indicate there were any problems with her performance and did not add any extra duties on a regular basis. She further contended that she had a good interim evaluation.

12. Rogers testified that they were not given any format to submit their weekly report or any training on how to do the report. No other duties in her job were changed. She estimated that it took about 30 minutes a day to complete the report. She felt that it prevented her from doing other duties set forth specifically in her job description. She acknowledged that she had been told her editorial comments were inappropriate and told to stop making them, but was never shown any policy prohibiting the comments. No one ever reviewed with her the work content that was in her weekly reports. She acknowledged that she did not do the weekly reports for the 12 weeks of the 14 months that they had been assigned. From April 4, forward she did the reports consistently.

13. She acknowledged that the email Batts had sent saying that work was sloppy had not been addressed to any individual, but to the entire unit. However, she felt everyone knew

she was the person who checked documents in and believed it was directed at her. Said email was on May 18, 2016, and stated, "We were supposed to be checking this. It is very sloppy work and we need to do better. This is unacceptable. I've been patient up till now but this is just not someone caring about what they are doing. Please correct this matter." She called the Human Resources liaison, Mr. Schentrup, who made Batts apologize. Rogers acknowledged that Batts had apologized to anyone that her email had offended.

14. She also alleged that around May 27, 2016, she heard a statement that Batts made in the General Counsel's office that Rogers did not know how to do her job. She also reported this to Human Resources and told the representative that she felt Batts would retaliate against her. She learned of this statement from the Open Records Clerk. This made her feel targeted and humiliated and she knew she had to get out of that Division.

15. Rogers acknowledged that her May 31, 2016, interim evaluation review contained in Appellee's Exhibit 4, reflects the new assignment of doing the daily log and that she was not completing same as directed. Specifically it stated, "Ms. Rogers has not completed the weekly log of her duties for weeks. She and I have discussed this issue verbally and via email." "Ms. Rogers is one of those people that can adapt to change, but again she did not adapt to the new assignment of completing the weekly log."

16. **Rodney Hugle**, Assistant Director for Financial Standards, testified that he had been with the Department of Insurance for about 19 years, and had been a supervisor for 15 years and also a Branch Manager. Their department's function was to ensure the solvency of insurance companies who do business in Kentucky. He and his team supervise the daily licensing and admissions of insurance companies. He is also the EEO Coordinator and investigates issues such as harassment.

17. Hugle testified that Rogers was a good worker and is very knowledgeable of Financial Standards. The directive to have the weekly reports of duties completed came from the Director. This was done to see what each person was doing and to be sure that all employees were held accountable and let this Director know what each employee did. The weekly report was submitted to him and, if employees were out, he could see what things they had been handling. Hugle verified that all five of the merit employees in the Department were directed to do these weekly reports. This directive began in February 2016. Initially, Appellant did the weekly reports, then the nature of her reports changed. There was a period of time in which she did not complete any of them. After her evaluation she began completing them again and adding

the editorial comments. He testified that he had more than one conversation with her that she had to complete these reports and if she did not, there would be consequences.

18. Appellee's Exhibit 6 reflected the number of contacts Hugle had with Appellant in this matter. Namely, on March 7, 2016, two weekly logs were not submitted and he sent her an email to her reminding her that they were due. At this point in time, she started adding the editorial comments. On March 18, 2016, she stated in an email that he was not there and so she did not submit the report when he sent her an email requesting the log. As a result, she submitted her weekly report late. On April 6, 2016, Appellant did not submit her weekly logs for 3/21/16 to 4/1/16, and he sent her an email requesting them and she stated that she did not do the report March 28 to April 1 and did not send the 3/21/16 to 3/25/16, but could send it. However, he never received such report.

19. During the time period of April 10 to April 24, he had a verbal conversation with Appellant regarding the weekly logs. He explained that it was a directive from management, that she needed to comply with the directive and that if she did not complete the weekly logs there would be consequences, such as the infraction being placed upon her evaluation. He further testified that from April 24 to May 31 he had a second discussion with the Appellant concerning the weekly reports, and she indicated that she was not going to complete them because it was not in her job duties and was a form of micromanaging. On June 6, 2016, she submitted a weekly report for 5/31/16 to 6/13/16 with the attachment line being "German stupid weekly report." He called Appellant and asked her if that was the report she wanted to submit and she stated that she had had the report translated in English, but that was the report she wanted to submit.

20. Hugle acknowledged that the weekly reports were still ongoing, as of the time of the hearing, and that the Agency did not compile any data from the reports as to what employees were doing. Further, the employee could not be conferenced as to whether they were completing the reports correctly. He verified that he does review the reports and that conferencing occurred during the evaluation. He acknowledged that the directive to do the reports was not in writing, that there was no written policy concerning doing the daily reports, and that there was no form on which to do them. He further acknowledge that from the end of May through August 2 when Appellant received the suspension, that she had completed the reports daily.

21. **Sandra Batts**, the Director of Financial Standards and Examination for the Department of Insurance, began her position with the Department of Insurance in April 2011 and described her position as having been "putting out fires" over the last six years. The previous

Director had very little oversight and she was trying to bring oversight to the employees. Part of the purpose of the Appellant's position was to report to the Commissioner if a company is failing.

22. Batts had been a supervisor for only a year and had not taken the supervisory training provided to state employees. She was familiar with Appellant's work for the past eight years.

23. Batts stated that their Division is the only Division within the Department of Insurance that has the National Association of Insurance Commissioners (NAIC) accreditation. Companies are examined every four to five years with contractors going into the field to conduct those examinations. The six analysts do the yearly analysis. The NAIC is out of Kansas City, Missouri, and is the organization of Insurance Commissioners, which tell them the laws and how reporting needs to be done by the insurance companies. This is looked at yearly, but every five years there is a more in-depth analysis. If accreditation is revoked, every insurance company in Kentucky would have to be examined by each state that they did business in, rather than just Kentucky where they originated. This would be very inefficient and many companies would have to leave the state.

24. Batts testified that she instituted the weekly list and when she met with the Secretary he wanted to be sure everyone was held accountable, due to the prior supervisor having been very lax. All of the contractors that work under her do a weekly work list. This work list allows her to justify all the job positions in the event of cutbacks. It is also important to accreditation that all work be done on time limits and so the weekly work list ensures that timeliness.

25. She explained that her email was sent in response to an email from Bill Clark, a contractor, concerning some deficiencies. Because he is a contractor, his complaints had to be voiced to her. After responding, she believed it was too harsh and then sent the apology email. She was never instructed to do this by anybody else, and she never singled Appellant out. She had received complaints for sloppy work from other employees as well.

26. Batts testified that she did not recommend the seven-day suspension, but it was all done through Human Resources. She had not complained to any other people about Appellant's work, but was in the General Counsel's office at one time and said that she was trying to get a handle on what was going on in the Department. She said that Appellant had done something

incorrectly. She also acknowledged that the information in the work reports was not compiled into any document and that there was no benchmark in performing the daily reports. She stated that they were kept by Hugle so that they can be used in evaluations. She feels that, as the Director, she has to know what employees are doing and this gives her a method of doing that. This would be standard practice in a regular business setting. Contractors have been doing these same reports for years.

27. **Sherry Butler**, the General Administrative and Program Support (GAPS) Human Resource representative, testified that GAPS is the administrative body that does Cabinet level disciplinary actions. She has been in her merit position of Staff Assistant since February 2014, and the Assistant Director of HR before that and an HR person with GAPS before that. She does all the disciplinary requests that come in to GAPS and has also been an EEO Investigator since January 2017. A request for discipline comes from the HR office at the Department of Insurance and can include a draft letter. There was initially a draft letter, introduced as Appellant's Exhibit 2, for a termination in this case. After a GAPS review, they did not believe it was sufficient for termination.

28. Butler had dealt with numerous disciplinary actions and felt that seven days was appropriate in this instance and consistent with that provided in similar cases. In a first suspension, there is between one and ten days for lack of gook behavior. In this case, the Appellant simply refused to do the work, and adding the comments was not productive other than for the purpose of saying I do not want to do this work. Butler testified that there was no room for this in the workplace. Butler herself completes a weekly report.

29. Butler acknowledged that there was no policy or regulation on what language was appropriate. She did not feel this was a freedom of speech issue because she was creating a work product and had received counseling that these side comments were not appropriate.

30. Every expectation of the job is within the job's tasks. Other expectations are collaboratively working with others, and it is expected that employees behave professionally. "Other duties as assigned" is sufficient to cover this situation.

31. She testified that the timing from the end of May until August 1 would have been usually for investigating and deciding what type of disciplinary action to take.



32. Butler verified that GAPS provides services for 52 or 53 different departments within three Cabinets and the daily work reports are not uncommon amongst all of those Departments.

### **PERTINENT LAW**

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

2. Employees may be disciplined for lack of good behavior pursuant to KRS 18A.095(1). In *Commonwealth vs. DLX, Inc.*, 45 SW 2d 624 (Ky. 2001), the court held administrative agencies cannot decide constitutional issues. In *Weaver vs. Transportation Cabinet*, Appeal No. 2013-277, 215 WL3808992, the Personnel Board specifically held that it lacks jurisdiction to hear an Appellant's claims regarding arbitrary actions under Section 2 of the Kentucky Constitution.

3. *Garcetti vs. Ceballos*, 547 US 410 (2006) specifically held that the First Amendment did not protect public employees that make statements during the course of their official duties as they are not speaking as citizens for First Amendment purposes and the Constitution does not insulate their communications from employer discipline. The court went on to hold that restricting speech that owes its existence to a public employee's professional responsibility does not infringe any liberties an employee might enjoy as a private citizen.

### **FINDINGS OF FACT**

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

1. Appellant was directed to provide a weekly report listing the daily work that she performed. All other merit employees in her Department were directed to do the same report at the same time. This duty was to begin February 22, 2016. As a result of Appellant's failure to send the first weekly report on February 22, 2016, her supervisor emailed her on March 7, 2016,

to remind her. She provided a general response and asked how much longer she would be required to do this "time consuming nonsense".

2. The report for the week of March 7, 2016, was not submitted, and Huggle emailed Appellant on March 18, 2016, wherein she replied that he was not there, so she did not know who to submit it, but also added that her not submitting it was her personal way of protesting doing the weekly report as being a waste of time.

3. Appellant also failed to submit reports for the week of March 21, 2016, and March 28, 2016. As a result, Mr. Huggle emailed her on April 6, 2016, requesting the reports and she stated she did not do the reports for 3/28/16 through 4/1/16 and did not send the March 21, 2016 weekly report, but stated she could send it. She never did so.

4. Huggle discussed these failures with Appellant during the early part of April 2016 and explained that they were required and consequences could result if she did not complete them. Following that conversation, reports for the weeks of April 4, April 11, April 18, April 25, May 2, May 9, May 16 and May 23, 2016, were not submitted and no explanation was provided. The interim review conducted on May 31, 2016, specifically addressed the Appellant's failure to complete the weekly log duties. Specifically, Appellant was told that this would be a directive of management and under "other duties as assigned" under the Position Description for purposes of the evaluation.

5. Beginning June 6, 2016, Appellant submitted the May 31, 2016 weekly report, however, this report was sent with an email entitled "German stupid weekly report" and the report was entitled "stupid weekly report for May 31 to June 3, 2016." This entire report was submitted in German. Huggle asked Appellant if this was the report she wished to submit and she stated that it was. Thereafter, reports were submitted which contained continual references including but not limited to:

"Started this mind numbing useless time consuming report;" "started another week of this senseless mind numbing time consuming useless report;" "Ran out the door like my hair was on fire," "another week of this useless report so you guys can feel happy that you are finally making us do the work that we need to be doing;" "Starting this ridiculously time consuming mind numbing never ending micro managing report for people to feel even more uppity in their stupid ivory tower and yes I have been listening to way too much Pink Floyd to get a title this long and I can make it even longer if you want;" "Started music to drown out the sound of this depressing place

and its depressing people;" "Opened this never ending mind numbing senseless time consuming micro managing tedious, boring wearisome ridiculous absurd preposterous report so you can you can feel like you are making us work when in truth we work hard each and every day;" "Opened this stupid report that makes people in their ivory tower feel right by treating us like babbling idiots that don't know how to do our jobs if we don't write everything in detail down for them;" "Started this report because they think I am a complete and total idiot that don't do my work so they want to keep tabs on me by micro managing me to death by wanting this very long, boring, stupid report that serves no purpose besides them a warm feeling inside to think they are so powerful that we have to do a report that does not help the human race nor the advancement of the world;" "Laughed at how petty and micromanaging this new timesheet is and how little of a life a person must have to create this thing;" "Used the restroom, think I used ten squares of toilet paper. Maybe more, I forgot to count so I could enter it on my daily/weekly report;" "Dragged myself in this Godforsaken place." "Continue to laugh at the 'genius' that took the time to create something so stupid as the new time sheets." "Return from the restroom. I noticed our toilet paper does not have squares but I guess I used about 2½ to 3 feet of toilet paper. We need a ruler put in there since YOU GUYS want to know all we do during a day;" and "Was advised to change the title of my email from never ending weekly report."

### **CONCLUSIONS OF LAW**

1. Although it appears that the Personnel Board does not have jurisdiction to decide constitutional issues, to the extent that violation of the Constitution could create an arbitrary and capricious action, pursuant to *Garcetti vs Ceballos*, the actions of Appellant in adding the commentary to her report is not protected by the First Amendment to prevent disciplinary action from being taken against the Appellant. *Garcetti* covers when employees are performing official duties determined by two factors; one the potential to effect an employer's operations, and two, the employer's restriction is necessary to operate efficiently and effectively. The directive to all employees to complete a weekly work list does contribute to operations and the restrictions of not adding unnecessary comments is necessary for efficient and effective operation, as it prevents wasting of time by employees both writing and reviewing the reports.

2. Appellant's failure to complete any reports during the period of April 4 through

May 23, 2106, constitutes direct insubordination and, thus, lack of good behavior.

3. Appellant's doing one report in German and then continued use of additional commentary, after being counseled that same could result in consequences, constitutes lack of good behavior and insubordination.

4. No evidence was presented that Appellant was submitted to a hostile working environment as she specifically stated there were no problems with the supervisor in any of the directives, and that the email directive was not specifically directed to her. A hostile work environment cannot exist based upon one or two sporadic actions. *Lumpkins vs. City of Louisville*, 157 SW 3d 601 (Ky. 2015).

5. The seven-day suspension is neither excessive nor erroneous as it is based upon an on-going pattern of conduct over a period of months. Further, it appears to be consistent with prior disciplinary action taken by other agencies who use GAPS for disciplinary action cases.

### **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 **ARDENA ROGERS VS. PUBLIC PROTECTION CABINET (APPEAL NO. 2016-260)** be **DISMISSED**.

### **NOTICE OF EXCEPTION AND APPEAL RIGHTS**

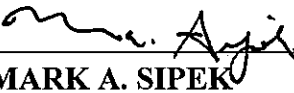
Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within five (5) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal, a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004).

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

Each Party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

**ISSUED** at the direction of **Hearing Officer Kim Hunt Price** this 5<sup>th</sup> day of September, 2017.

**KENTUCKY PERSONNEL BOARD**



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

A copy hereof this day mailed to:  
Hon. Kate Bennett  
Hon. Willie E. Peale, Jr.



## PUBLIC PROTECTION CABINET

### Office of the Secretary

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Governor

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David A. Dickerson  
Secretary

August 2, 2016

### Suspension

Ardena Rogers

Personnel Number:  
Effective: August 3, 2016

Dear Ms. Rogers:

Pursuant to KRS Chapter 18A.095 you are notified that you are suspended from duty and pay for a period of seven (7) working days beginning of business on **Wednesday, August 3, 2016**, through the close of business on **Thursday, August 11, 2016**. You are to return to work at your regularly scheduled time on **Friday, August 12, 2016**.

Pursuant to 101 KAR 1:345, Section 1, you are being suspended from your position as Program Coordinator within the Department of Insurance, due to your insubordination and misconduct, as described below.

### Lack of Good Behavior

In your position as a Program Coordinator for the Division of Financial Standards and Examination within the Department of Insurance ("Department"), you are responsible for maintaining the Department's primary database, "KIDD," and the Certification Program on a statewide basis.

During the week prior of February 15, 2016, you were directed by your immediate supervisor Rodney Hugle, Assistant Director, Division of Financial Standards and Examination, to complete and submit a weekly log of your job task accomplishments to begin the week of Monday, February 22, 2016.

You did not submit the required first weekly report for the week of February 22, 2016. Your failure to submit this report prompted Mr. Hugle to send you an e-mail on Tuesday March 7, 2016, reminding you that the report was due. In your response to the March 7, 2016 e-mail, you provided a general response about some work you performed. However, you asked, "How much longer will I be required to do this time consuming nonsense."

On Friday, March 18, 2016, Mr. Hugle e-mailed you to request your weekly report for March 7, 2016 through March 11, 2016. While it was determined that you had submitted that weekly report, you replied, "You was not here so I did not know who to submit it to. Plus, me waiting to submit it is my personal way of protesting doing a weekly report. I again state this, doing a weekly report is a waste of time. Spending time writing down what we are doing is taking time away from stuff we could be doing."

You again failed to submit reports for the week of March 21, 2016 through March 25, 2016 and March 28, 2016 through April 1, 2016. On April 6, 2016, Mr. Hugle e-mailed you to request that you submit your reports. You responded to his e-mail within minutes and informed him, "No, I did not do a report for 3/28/16- 4/1/2016 and did not send you the 3/21/16 -3/25/16. I can send you the 3/21/16- 3/25/16." You failed to submit either report.

During the period of April 10, 2016 through April 24, 2016, specific date unknown, Mr. Hugle discussed with you your failure to complete the weekly reports. Mr. Hugle expressed that the reports were required and that your failure to comply with this directive could result in consequences such as the issue being addressed in your interim evaluation. Without explanation, you failed to submit following weekly reports for the following periods:

- April 4 - April 8
- April 11- April 15
- April 18 - April 22
- April 25 - April 29
- May 2 - May 6
- May 9 - May 13
- May 16 - May 20
- May 23 - May 27

Mr. Hugle addressed these issues in your first interim review on May 31, 2016. Specifically, Mr. Hugle states in your interim review: "Mrs. Rogers has not completed the weekly log of her duties for weeks." The interim review also addresses the inconsistency in checking in the required forms into the Domicile.

During your interim review, you disagreed with Mr. Hugle that you should be required to complete the weekly log because it is not written in your position description. Upon being told that this directive by management would be considered as "Other duties as assigned" on your position description, you chose to seek guidance from your Human Resources contact, Matt Schentrup, Executive Assistant. During your conversation with Mr. Schentrup, he confirmed the response provided by Mr. Hugle was accurate and that the directive falls under "other duties as assigned" and confirmed the expectation that you are required to complete the weekly reports.

On Monday, June 6, 2016, you submitted the May 31, 2016 through June 3, 2016 weekly report to Mr. Hugle. However, the attachment in the e-mail submission was entitled, "German Stupid Weekly report." The enclosed report was also titled, "Stupid Weekly report for 5/31-6/3" and it was translated into German. Mr. Hugle asked you if this is the version of the report you wished to submit as your work product. You responded that you have the report in English. Mr. Hugle asked again if this is the report you wished to submit and you replied "yes."

On Monday, June 13, 2016, you submitted your weekly report for June 6, 2016 through June 10, 2016. In the body of your email, you made the following statement to your supervisor, "Sent in English since no one has a sense of humor." In the body of the report for each day of the week, you made the following inappropriate comments identified as work tasks:

- June 6, 2016, task 7, "Started this mind numbing useless time consuming report"
- June 7, 2016, task 5, "Open and started this stupid mind numbing time consuming micro managing report"
- June 8, 2016, task 5, "Started this mind numbing time consuming report"
- June 9, 2016, task 5, "Started this stupid mind numbing time consuming lengthy report"
- June 10, 2016, task 4, "Started this stupid mind numbing time consuming report"

On Monday, June 20, 2016, you submitted your weekly report for June 13, 2016 through June 17, 2016. In the body of the report for each day of the week, you made the following inappropriate comments identified as work tasks:

- June 13, 2016, task 5, "Started another week of this senseless mind numbing time consuming useless report"
- June 14, 2016, task 4, "Opened this stupid report"
- June 15, 2016, task 5, "Started this never ending useless mind numbing report"
- June 16, 2016, task 3, "Started this never ending useless mind numbing time consuming report"
- June 17, 2016, task 4, "started this time consuming mind numbing useless never ending micro managing inept futile report"
- June 17, 2016, task 23, "Ran out the door like my hair was on fire"

On Monday, June 27, 2016, you submitted your weekly report for June 20, 2016 through June 24, 2016. In the body of your email, you made the following statement to your supervisor: "Another week of this useless report so you guys can feel happy that you are finally make us do the work that we need to be doing." In the body of the report for each day of the week, you made the following inappropriate comments identified as work tasks:

- June 20, 2016, task 4, "Started this ridiculously time consuming mind numbing never ending micro managing report for people to feel even more uppity in their stupid ivory tower and yes I have been listening to way too much Pink Floyd to get a title this long and I can make it even longer if you want."



- June 20, 2016, task 5, "Started music to drown out the sound of this depressing place and its depressing people."
- June 20, 2016, task 30, "Went running out the back door like my hair was on fire."
- June 21, 2016, task 4, "Opened this never ending mind numbing senseless time consuming micro managing tedious, boring wearisome ridiculous absurd preposterous report so you can feel like you are making us work when in truth we work hard each and every day."
- June 21, 2016, task 31, "Ran out the back door a free woman until 8:30 tomorrow morning."
- June 23, 2016, task 4, "Opened this stupid report that makes people in their ivory tower feel right by treating us like we are babbling idiots that don't know how to do our jobs if we don't write everything in detail down for them."
- June 23, 2016, task 32, "Ran out the door like my hair was on fire."
- June 24, 2016, task 4, "Started this report because they think I am a complete and total idiot that don't do my work so they want to keep tabs on me by micro managing me to death by wanting this very long, boring, stupid report that serves no purpose besides giving them a warm feeling inside to think they are so powerful that we have to do a report that does not help the human race nor the advancement of the world."
- June 24, 2016, task 7, "Started music so I don't have to hear the stupid sounds of chickens."
- June 24, 2016, task 20, "Ran out the back door and was happy I did not have to come back until Monday and I was on my regular schedule."

On Monday, July 11, 2016, you submitted your weekly report for July 5, 2016 through July 8, 2016. In the subject line of your email, you made the following statement to your supervisor, "Never ending boring useless report of 7 5 2016 week." In the body of the report for each day of the week, you made the following inappropriate comments identified as work tasks:

- July 5, 2016, task, "Laughed at how petty and micromanaging the new time sheet is and how little of a life a person must have to create this thing."
- July 5, 2016, task 5, "Started this mind numbing micromanaging report and which made me wonder how much other useless stuff they will be making us do so we won't need to do any work for the actually consumer."
- July 5, 2016, task 15, "Used the restroom, think I used 10 squares of toilet paper. Maybe more I forgot to count so I can enter it on my daily/weekly report."
- July 5, 2016, task 30, "Ran out of here happily."
- July 6, 2016, task 1, "Dragged myself in this God forsaken place."
- July 6, 2016, task 3, "Continue to laugh at the 'genius' that took the time to create something so stupid as the new time sheets."
- July 6, 2016, task 5, "Started this never ending boring unnecessary report so people can feel that they 'finally' making us do some work."
- July 6, 2016, task 7, "Opened music to drown out my co-workers."

- July 6, 2016, task 22, "Return from the restroom. I noticed our toilet paper does not have squares but I guess I used about 2 ½ to 3 feet of toilet paper. We need a ruler put in there since YOU GUYS want to know all we do doing a day."
- July 6, 2016, task 26, "Tired of looking at June on my calendar so I flipped it."
- July 6, 2016, task 37, "Ran out of the back door while doing the happy dance."
- July 7, 2016, task 3, "Still laughed at the useless timesheet."
- July 7, 2016, task 5, started music so I WOULD NOT have to hear my co-workers."

On Monday, July 18, 2016, you submitted your weekly report for July 11, 2016 through July 15, 2016. In the subject line of your email, you made the following statement to your supervisor, "Your "Other duties as assigned" report." In the body of the report for each day of the week, you made the following inappropriate comments identified as work tasks:

- July 11, 2016, task 3, "laughed at the stupid sign in sheet. What "genius" thought that one up." task 4, "Sent the stupid weekly report to Rodney."
- July 11, 2016, task 5, "Started the never ending stupid weekly report that take more time to do so we have less time to do what we really need to do for the public."
- July 11, 2016, task 6, "Started music so I don't have to hear my co-workers."
- July 11, 2016, task 10, "Was advised to change the title of my email from never ending weekly report."
- July 11, 2016, task 38, "Ran out the back door like a mad women."
- July 12, 2016, task 3, "Continue to laugh at the timesheet. Someone had way too much time on their hands in order to create that thing."
- July 12, 2016, task 4, "Started music so I don't have to hear doors slamming and high pitch squealing."
- July 12, 2016, task 6, "Started this never ending boring time consuming taking time away from the work we need to be doing so the high ups can feel they are finally getting us to work report."
- July 12, 2016, task 34, "Ran out of here like a mad woman with her hair on fire."
- July 13, 2016, "Laughed at how petty the time sheet is."
- July 13, 2016, task 5, "Made entries to the useless mind numbing never ending no one ever looks at report so if I don't turn it in you can say I am not doing my job when in fact doing this report makes me not want to do my job since, according to "the man" (whoever is reading the "the man" it is a 1960's reference to people in charge), I have to logged in every little thing I do."
- July 13, 2016, task 7, "Started music so I don't have to hear the sounds of DOI."
- July 13, 2016, task 24, "Ran out the back door like the cops were after me."
- July 14, 2016, task 3, "Laughed at the timesheet, how much longer will it be before everyone else sees how crazy that thing is."
- July 14, 2016, task 4, "Started this useless mind numbing never ending report purple that no blue ever looks at because if they did they orange then they can yellow tell me the colors I pink put in here."
- July 14, 2016, task 5, "Started music so I won't have to hear my coworkers."

- July 14, 2016, task 24, "Ran out the back door like a fat kid running after the ice cream truck."
- July 15, 2016, task 3, "continue to laugh at the sign in sheet."
- July 15, 2016, task 4, "Started this Friday completely useless August never ending 4 report that through no one ever the 7<sup>th</sup> looks at is so people can feel like US they 127 the tax payers yard their money's worth sales by making the lazy merit employee work finally."
- July 15, 2016, task 5, "Started music do I don't have to hear this place."
- July 15, 2016, task 24, "Ran out the back door happy with the knowledge I will not have to come back for two days."

On July 25, 2016, you submitted your weekly report for July 18, 2016 through July 22, 2016. While you acknowledged on July 11, 2016, you were asked to change the heading of your weekly report emails to eliminate inappropriate headings, you still made the following statement in the body of the e-mail to your supervisor, "Another daily/weekly report that no one reads besides maybe you. No wonder the public think we don't do any work with 'report' like these having to be done daily." In the body of the report for each day of the week, you made the following comments identified as work tasks:

- July 18, 2016, task 3, "Laughed as how the timesheet is now."
- July 18, 2016, task 4, "Got two deli swirls."
- July 18, 2016, task 5, "Send last week never ending report."
- July 18, 2016, task 6, "Started this useless mind numbing rather be tortured WW2 style then having to put everything I do down on this report because I can be doing other stuff."
- July 18, 2016, task 7, "Started music to drowned out my co-workers."
- July 19, 2016, task 3, "Still find it funny that the timesheet is the way it is."
- July 19, 2016, task 4, "Started this stupid report."
- July 19, 2016, task 5, "Started music so I don't have to hear the noises of DOI."
- July 20, 2016, task 3, "Laughed at the time sheet, I don't think that will ever get old."
- July 20, 2016, task 4, "Opened this crazy, useless, never ending report so you can say you finally got a lazy entitled merit employee to do some work."
- July 20, 2016, task 23, "Signed out and ran away from your my personnel cell."
- July 22, 2016 (listed as June 22, 2016), task 3, "laughed at the stupid timesheet."
- July 22, 2016, task 4, "Started this never when ending will mind numbing this report end."
- July 22, 2016, task 6, "Started music so I have something better to listen to that this place."
- July 22, 2016, task 21, "Signed out and did the happy dance out the door."

Despite continued guidance and communication from multiple levels of management, you have ignored the work directive to complete the weekly report for multiple weeks. Upon your acknowledgement that you must comply with the work directive, you acted unprofessionally by making derogatory comments within the emails and body of your weekly reports.

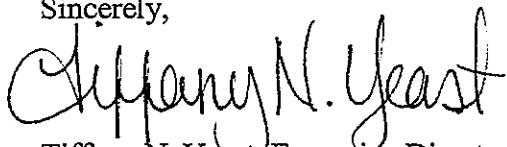
On Tuesday, April 5, 2016, Mr. Hugle requested you complete the department's License Plate Form to be maintained on file with Administrative Services. On Wednesday, April 6, 2016, you replied to an e-mail from Mr. Hugle informing him that you did not complete the form as requested and clarified your reasoning for not completing the form, stating: "... I feel this is another way for people/government to be up in my business. You also stated, "I see no reasonable reason they need it other than they want to be nosy and want to know what everyone is driving." You refused to complete the form and as of today's date, you have not completed the required form.

Your continued pattern of behavior, documented in this letter, demonstrates your unwillingness to adhere to the expectations of your supervisor and impedes the mission of the department. Your conduct constitutes insubordination and misconduct in violation of 101 KAR 1:345, Section 1. For this reason, I find this suspension is warranted. Additionally, upon receipt of this letter, you are required to complete the Vehicle License form.

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

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

Sincerely,



Tiffany N. Yeast, Executive Director  
General Administration and Program Support (GAPS)  
Designated Appointing Authority for  
Public Protection Cabinet

Enclosures: Appeal Form  
Vehicle License Form

cc: Secretary, Personnel Cabinet  
Personnel File