

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-085**

EMILY SCHOLFIELD

APPELLANT

VS.

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

**JUSTICE AND PUBLIC SAFETY CABINET
DEPARTMENT OF CORRECTIONS
J. MICHAEL BROWN, APPOINTING AUTHORITY**

APPELLEE

*** *** *** *** ***

This matter came on for an evidentiary hearing on September 15, 2015, at 9:30 a.m., at 28 Fountain Place, Frankfort, Kentucky, before the Hon. Roland P. Merkel, Hearing Officer. The proceedings were recorded by audio/video equipment and authorized by virtue of KRS Chapter 18A.

Appellant, Emily Scholfield, was present and represented by the Hon. Jessica Durden. Appellee, Justice and Public Safety Cabinet, Department of Corrections, was present and represented by the Hon. Edward A. Baylous, II. Also present as Agency representative was Janet Conover.

The issue in this case pertains to the dismissal of the Appellant from her position of Corrections Unit Administrator I with the Department of Corrections, Kentucky Correctional Institution for Women (KCIW), effective beginning of business April 29, 2015, based on allegations of misconduct. The burden was on the Appellee to prove by a preponderance of the evidence that the dismissal of Appellant was taken with just cause and was neither excessive nor erroneous.

The parties waived presentation of opening statements.

BACKGROUND

1. The first witness for the Appellee was the Appellant, **Emily A. Scholfield**. Ms. Scholfield identified Appellee's Exhibit 1 as a March 30, 2015 e-mail chain between her and Social Worker Vicki Case-Kemper. At that time Appellant was in the process of attempting to adopt a child and Ms. Case-Kemper was Appellant's caseworker. When the caseworker inquired where Appellant had gotten certain information pertaining to a Mr. G , Appellant asked that Ms. Case-Kemper not ". . . rat me out . . ." Appellant had accessed the Department of Corrections computer system at work to obtain information to pass on to the caseworker.

2. The next witness was **Victoria Case-Kemper**. For the past seven years Ms. Case-Kemper has been employed by the Cabinet for Health and Family Services, Department for Community Based Services, as a Social Service Clinician with the Certification and Recruitment Team. She first came to know Appellant when Ms. Scholfield applied with that agency to become a foster and adoptive parent. Ms. Case-Kemper had not worked previously with the Appellant.

3. She briefly described her duties. A background check is conducted on the applicant. If anything is found, further exploration is conducted to determine whether that matter affects one's ability to be a foster or adoptive parent. Ms. Case-Kemper has access to the AOC CourtNet system to run such checks. These checks are limited to a search about the applicant or any member of applicant's household. Appellant was the only person on whom she would have run a CourtNet search.

4. She identified Appellee's Exhibit 1 as the e-mail chain in which she had engaged with the Appellant on March 30, 2015. Appellant had provided some information on Mr. G. Ms. Case-Kemper had not asked Appellant to conduct a background check on G and did not want such information. When she received the e-mail from Appellant she was not sure how Appellant had obtained the information. Appellant told her she was not allowed to do that and "please don't rat me out." Appellant said she had access to these systems and could run the background check. Ms. Case-Kemper was concerned it was a violation of Mr. G confidential information. She reported it to her supervisor. The supervisor then reported the matter to another individual.

5. CourtNet is not an official court record. Criminal charges and those case files associated with same are normally not confidential. Case-Kemper told Appellant she had to assess the matter of the 2005 criminal charges that were filed against her as they appeared to relate to a minor. It was something her Agency would look into regarding a prospective adoptive or foster parent. She had requested Appellant obtain additional information from the law enforcement agency that brought these charges and provide a copy of the investigation.

6. **Jason Cloyd**, who for the past six years has been the Manager of Records in the State Board of Elections Division, Court of Justice, Administrative Office of the Courts (AOC), was the next witness. His job duties involve management of the CourtNet system, as well as having made the arrangements between AOC and the Department of Corrections (DOC) in utilizing CourtNet. CourtNet is a viewable access platform for law enforcement agencies which allows them to view court dispositions, case management, and files from the court system. One may track and monitor cases. Such information is not publicly available.

7. There is a specific agreement between AOC and DOC on the use of CourtNet. People who are authorized to use the system are given a unique user identification and a password for access. A DOC employee who accesses the system, obtains personal information, and disseminates that information to a third person, violates the agreement between AOC and DOC. Failure of DOC to properly monitor and regulate the use of the system could endanger DOC's ability to continue to have access. It is expected DOC will monitor employee access and properly discipline any employee misuse.

8. He identified Appellee's Exhibit 2 as a blank standard Criminal Justice Agency CourtNet Individual User Agreement.

9. Mr. Cloyd testified DCBS does not have access to CourtNet, although they run background checks.

10. **Janet Conover**, who for the past five and a half years has been the Warden at KCIW, offered her testimony. Warden Conover has been employed with the Department of Corrections almost twenty-six years.

11. At the time of her termination, Appellant held the position of Unit Administrator I in the Re-Entry Branch. Appellant taught classes to prepare inmates for re-entry into the civilian population. She also conducted placements for inmates going on parole. All Unit Administrators have access to CourtNet, are able to look at pending charges and work with the records staff. Access to CourtNet is a part of that job and the job cannot be done without such access.

12. The employment position immediately below that of a Unit Administrator I is a Classification and Treatment Officer (CTO). The CTO is also required to use CourtNet in the performance of duties. One cannot hold a CTO position without CourtNet access.

13. Warden Conover was first apprised of this matter through an e-mail she received from Deputy Commissioner Erwin. She identified Appellee's Exhibit 5 as the e-mail chain with Deputy Commissioner Erwin.

14. She telephoned and spoke with Erwin about the matter and thereafter assigned it for investigation to Captain Shawn Adkins of Internal Affairs. Captain Adkins interviewed the Appellant at least twice. During the interviews, Appellant admitted she had run background checks on Mr. G and his daughter. Information had also been received from the AOC that Appellant had run a background check on herself. Appellant failed to disclose running her personal background check during her first interview with Capt. Adkins.

15. She identified Appellee's Exhibit 3 as the April 20, 2015 letter she signed, notifying Appellant of an intent to dismiss her from her employment position. The intent was based on misconduct according to the report from Capt. Adkins. Appellant was immediately placed on administrative leave. Appellant requested a pre-termination hearing.

16. A pre-termination hearing was held on April 22, 2015. During that meeting, Appellant read to Warden Conover information from a letter and apologized. Appellant did not think her acts were wrong at the time she performed them.

17. Warden Conover reviewed all the information again and decided termination was the proper disciplinary measure based on the nature of the violations. She believed Appellant had used her CourtNet access and ability to run information on people who had nothing to do with DOC; that she copied, scanned, and sent that information to the Social Worker; that Appellant cannot be placed in another employment position "... because she would have to have access to these **confidential systems**." (Emphasis added.) Warden Conover believed she could not demote Appellant to any other position while limiting her access to CourtNet.

18. In viewing the matter, Warden Conover concluded Appellant had admitted violating the following policies:

- Kentucky Corrections Policies and Procedures, Policy No. 3.1, Code of Ethics, II. Policies and Procedures:

A. General Standards of Conduct:

...

3. Use of the time, facilities, equipment or supplies of the Commonwealth by an employee for his private purposes shall constitute a violation of the standards of ethical conduct set forth in this policy and may result in appropriate disciplinary action as prescribed by the appointing authority for an employee, or other appropriate action including reimbursement of costs or restriction from Department of Corrections institutions or offices;

and

...

C. Confidential Information

...

2. Any release of confidential information shall require the prior consent of the appropriate authority within Corrections. Failure to obtain prior approval may be grounds for disciplinary or other appropriate action;
3. If it is determined that an employee released confidential information to anyone not authorized to receive the information, he may be prosecuted in accordance with Corrections policy, state or federal law, including KRS 11A.990.

(Appellee's Exhibit 6.)

Appellant had used work time to run background checks on people who had nothing to do with the DOC; she used the CourtNet system "... to obtain that confidential information" that she was not allowed to disseminate via e-mail, violating the following policy:

- Kentucky Corrections Policies and Procedures, Policy No. 6.5, E-Mail and Internet Use, II. Policy and Procedure:

A. Permissible and Impermissible Uses

1. E-mail is the property of Corrections and shall be used for business purposes only.
2. Internet access shall be:
 - a. Used for business purposes only; and
 - b. Restricted to an individual designated an account by the Division Head, Warden or Probation and Parole Supervisor; and

...

5. E-mail and internet access shall not be used to:
 - a. Transmit a message of a personal nature;

(Appellee's Exhibit 7.)

Appellant had used Agency e-mail for her personal use and not for business purposes, violating the following policy:

- KCIW Policies and Procedures, Policy No. KCIW 03-02-01, General Guidelines for Staff, Policy and Procedure:

E. Code of Ethics

...

2. Each employee of the Department of Corrections shall receive a copy of the Code of Ethics policy and shall abide by it.

(Appellee's Exhibit 8.)

Appellant did not abide by the Code of Ethics.

19. Warden Conover had examined prior cases where employees had used state computers to access confidential information. A probationary Sergeant had accessed information on the "H:Drive," which is an internal computer system. He accessed confidential folders and had discussed that information with other employees. This resulted in his termination.

20. Another employee had accessed information on the H:Drive in order to obtain questions relating to an upcoming interview in a promotional process. That individual was promoted through the process. During the investigation the individual was immediately demoted. He thereafter resigned.

21. The supervisor who had knowledge of the above two individuals having had such access, failed to report this to superiors. She received a three-day suspension.

22. "They accessed confidential information on the H:Drive. They did not e-mail it, or send it, but, the termination of the probationary sergeant who accessed confidential internal affairs investigations and gave that information to employees and talked about it to employees about that, was a clear violation and he was immediately terminated because of that behavior."

Dissemination of confidential information is a very serious matter and was a determining factor for Appellant's dismissal.

23. Appellant had no prior disciplinary actions against her during the entirety of her employment in DOC. She had received two promotions in five years.

24. Appellant demonstrated a lack of judgment by having accessed information about people not connected to DOC, having accessed her own personal information, having done so on state time and equipment, and then sending that information to the caseworker. These were all violations of ethical standards and were an abuse of her power. That is the rationale for her termination.

25. Appellee rested its case.

26. The sole witness called by the Appellant was the Appellant, **Emily Scholfield**. Ms. Scholfield is currently employed at Crescent Assisted Living in Shelbyville, Kentucky, as a caregiver. She has worked there the past three years and held that job concurrently with her employment at DOC. In this appeal process, she would like to get her job back and either return to KCIW or any other position within DOC.

27. She began employment with DOC November 8, 2004, at the Roederer Correctional Complex. She received an award as Officer of the Year. On October 1, 2008, she was promoted to Sergeant and began a supervisory role. She was later promoted to Lieutenant and went to work at KCIW. On April 1, 2011, she was promoted to CTO, a position she held for three years.

28. She then became Unit Administrator I. She described her job duties in that position.

29. The parties stipulated that the following exhibits offered by the Appellant were the Annual Employee Performance Evaluations she received during her employment with DOC. Those exhibits were admitted as follows, showing the accompanying information:

- Appellant's Exhibit 1: 2006 Annual Evaluation with a score of 275 in the "Good" category.
- Appellant's Exhibit 2: 2007 Annual Evaluation with a score of 340 in the "Good" category.
- Appellant's Exhibit 3: 2008 Annual Evaluation with a score of 365 in the "Highly Effective" category.
- Appellant's Exhibit 4: 2009 Annual Evaluation with a score of 407 in the "Highly Effective" category.

- Appellant's Exhibit 5: 2010 Annual Evaluation with a score of 386 in the "Highly Effective" category.
- Appellant's Exhibit 6: 2011 Annual Evaluation with a score of 469 in the "Outstanding" category.
- Appellant's Exhibit 7: 2012 Annual Evaluation with a score of 415 in the "Highly Effective" category.
- Appellant's Exhibit 8: 2013 Annual Evaluation with a score of 448 in the "Highly Effective" category.
- Appellant's Exhibit 9: 2014 Annual Evaluation with a score of 360 in the "Highly Effective" category.
- Appellant's Exhibit 10: the Performance Plan for 2015.

She identified Appellant's Exhibit 11 as the January 11, 2012 letter of justification from CUA II Randy Hargis describing justification for Appellant having received an "Outstanding" rating on her 2011 Annual Evaluation.

30. In December 2014 Appellant started the process of adopting a child. Vicki Case-Kemper was assigned as her caseworker. Appellant submitted all required paperwork and completed four classes. She ran a background check on herself that December. At the end of March when she was interviewed by Captain Adkins, she forgot that she had run that background check and did not mention it to him. She identified Appellant's Exhibit 12 (redacted) showing that she had run a background check on herself on December 3, 2014.

31. She identified Appellant's Exhibit 13 as the information she had accessed through CourtNet on the criminal charges against her that had been dismissed. The exhibit states that such is "NOT AN OFFICIAL COURT RECORD." It does not contain confidential information. The caseworker told Appellant there was a concern about the 2005 charges against her even though they had been dismissed. It was a "red flag." The charges were dismissed because there was no evidence against Appellant.

32. The only report she sent to the caseworker was CourtNet information about Mr. G. The caseworker wanted all the information Appellant could provide about the dismissed charges. Case-Kemper wanted Appellant to obtain the actual case jacket. Appellant went to archives and got a copy of the case jacket which were public records of her own charges. She noted that there was no difference between the information contained in the case jacket and that shown on Appellant's Exhibit 13.

33. During the DOC investigation, Appellant was asked to write an Occurrence Report. She identified Appellant's Exhibit 14 as the Occurrence Report she wrote, signed and submitted on April 1, 2015. She testified that when she had asked the caseworker not to "rat her out," that she was just trying to be funny. She noted that the caseworker at first tried to get

Appellant to engage in foster care before going through an adoption, telling Appellant to “try it before I buy it.” From that Appellant felt she could joke with the caseworker, so she used the phrase “rat out” in her communication.

34. For the month preceding her termination, Appellant performed work without access to CourtNet. When she required access to CourtNet information, she asked a coworker to provide it. She hardly ever had to access or use CourtNet in her job in “reentry,” maybe three times a month at the most. She had also performed the job of another Unit Administrator who was out three weeks for paternity leave. During that time she did not need access to CourtNet.

35. She identified Appellee’s Exhibit 9 as the Criminal Justice Agency CourtNet Individual User Agreement she signed with AOC. Upon submission of that document she was provided a user name and password to gain access to CourtNet. The document, a contract between Appellant and the AOC, was clear in stating what CourtNet could and could not be used for. It does not allow access for anyone’s adoption process. Appellant read the paragraph “termination of services” into evidence. She was never notified by AOC or any of its agents that her acts had been a violation of the CourtNet agreement or that AOC had terminated her access to CourtNet.

36. She identified Appellee’s Exhibit 10 as the Computer Internet Usage Agreement she had signed on March 10, 2014. She admits that she had made unauthorized use of a state computer, that her acts violated the contract she had with AOC, and that she “screwed up” by such acts.

37. Appellant rested her case. Appellee presented no rebuttal evidence or testimony. Both parties presented their respective closing arguments and the matter was submitted to the Hearing Officer for his recommended order.

FINDINGS OF FACTS

1. Emily Scholfield, the Appellant, was a classified employee with status. She had been employed by the Justice and Public Safety Cabinet, Department of Corrections, as a Corrections Unit Administrator I at the Kentucky Correctional Institution for Women (KCIW). Her duties included teaching inmate classes to prepare them for re-entry into the civilian population and conducting placements for inmates about to go on parole.

2. Appellant had been employed by the Department of Corrections from November 8, 2004, to the date of her termination, April 29, 2015. During that time she had been promoted to Sergeant, took on supervisory duties, promoted to Lieutenant, to Classification and Treatment Officer (CTO), and to Corrections Unit Administrator I. She had no previous disciplinary

actions against her. Her Annual Performance Evaluations since 2006 were scored either "Good" (2), "Highly Effective" (6), or "Outstanding" (1). (Appellant's Exhibits 1 through 10.)

3. Ms. Scholfield began the process of adopting a child in December 2014. Vicki Case-Kemper was assigned as Appellant's Caseworker. During that process, Ms. Case-Kemper learned of criminal charges that had been brought against Appellant in 2005. Although the charges had been dismissed, Ms. Case-Kemper asked Appellant in March 2015 to obtain a copy of the court case jacket so she could review the circumstances.

4. In the course of her duties as a CUA I, Appellant had access to the internet platform known as CourtNet. Each user had an assigned and unique user ID and password in order to gain access. The Department of Corrections had executed a User Agreement with the Administrative Office of the Courts (AOC) to allow its employee's access to CourtNet (Appellee's Exhibit 2). Ms. Scholfield, as a Department of Corrections employee, had also signed a User Agreement with the AOC (Appellee's Exhibit 9). Specifically stated in the User Agreement is the following:

Use of CourtNet access under this agreement to conduct a criminal background search for potential employment or any other purpose is strictly prohibited.

Information obtained from CourtNet is for internal use by criminal justice agencies only. Information cannot be disseminated to the public or other agencies without specific authorization of the AOC.

Violation of this particular provision could result in termination of access to CourtNet.

Any agency employing an individual found to be or to have been in violation, for whom appropriate oversight has not been exercised, may also have its access revoked.

5. The Justice and Public Safety Cabinet, Department of Corrections, did exercise appropriate oversight of Emily Schofield in her use of CourtNet.

6. Ms. Case-Kemper had not requested Appellant conduct any background checks nor had she requested information about D. G. or V. G. Nevertheless, Appellant used her CourtNet access, while at work, on a state computer, to run a background check on herself and obtained certain information on the G. After she delivered a copy of the court case jacket as requested by Ms. Case-Kemper in March 2015, Appellant then sent her an e-mail with the CourtNet information she had obtained (Appellee's Exhibit 1; Appellant's

Exhibit 13). In her e-mail she asked Ms. Case-Kemper, "Please don't rat me out, but for my job I have access to CourtNet, Vine, KOMS (Kentucky Offender Management System)."

7. The CourtNet document provided by Appellant to Case-Kemper contains the same information available to the general public in a court case file record. The subject CourtNet document states that it is "not an official court record." (Appellant's Exhibit 13.)

8. At the time of the alleged acts of the Appellant, the following policies were in full force and effect:

- Kentucky Corrections Policies and Procedures, Policy No. 3.1, Code of Ethics (Appellee's Exhibit 6);
- Kentucky Corrections Policies and Procedures, Policy No. 6.5, E-Mail and Internet Use (Appellee's Exhibit 7); and
- KCIW Policies and Procedures, Policy No. KCIW 03-02-01, General Guidelines for Staff (Appellee's Exhibit 8).

9. Appellant had also signed a Computer Internet Usage Agreement (Appellee's Exhibit 10) and a CourtNet Individual User Agreement (Appellee's Exhibit 9).

10. On April 1, 2015, Deputy Commissioner James Erwin informed KCIW Warden Janet Conover of this matter and indicated an Internal Affairs investigation should begin (Appellee's Exhibit 5). Warden Conover assigned the investigation to Captain Shawn Adkins of Internal Affairs.

11. Captain Adkins interviewed Appellant on two occasions. She provided him an Occurrence Report dated March 30, 2015 (Appellant's Exhibit 14). In that report, she admitted she had sent the CourtNet information about Mr. G to her caseworker; that she had "jokingly" told Ms. Case-Kemper "don't rat me out;" that it was not done in the course of her work and the caseworker had not requested this information.

12. Captain Adkins completed his investigation. Warden Conover reviewed all the information and determined Appellant had violated certain policies. She authored and signed a letter dated April 20, 2015, advising Appellant of the intent to dismiss her from employment, based on misconduct (Appellee's Exhibit 3). Appellant was placed on administrative leave.

13. Appellant requested a pre-termination hearing. That hearing was held on April 22, 2015. Warden Conover again reviewed all the information and considered the statement made by Appellant at the pre-termination hearing. Warden Conover concluded Appellant had used her CourtNet access for personal reasons; sent that information to a third party and by so doing had violated Kentucky Corrections Policies 3.1 and 6.5, as well as KCIW Policy No.

KCIW 03-02-01. She reviewed prior similar cases involving employee use of state computers to access confidential information. She testified dissemination of confidential information is a serious matter and was a "determining factor" for Appellant's dismissal. She believed Appellant violated ethical standards and abused her power.

14. After such consideration, Warden Conover authored and signed the April 28, 2015 letter advising Appellant she would be dismissed from her position of Corrections Unit Administrator I, with the Department of Corrections, Kentucky Correctional Institution for Women, effective beginning of business April 29, 2015, based on misconduct (Appellee's Exhibit 4).

15. Appellant timely filed an appeal of her dismissal with the Kentucky Personnel Board.

CONCLUSIONS OF LAW

1. A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause. KRS 18A.095(1). Appointing Authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties. 101 KAR 1:345, Section 1. At the time of her termination from employment, Appellant, Emily Scholfield, was a classified employee with status.

2. As stated in KRS 13B.090(7):

... The agency has the burden to show the propriety of a penalty imposed or the removal of a benefit previously granted. ... The party with the burden of proof on any issue has the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion in all administrative hearings is met by a preponderance of evidence in the record. Failure to meet the burden of proof is grounds for a recommended order from the hearing officer.

3. When Appellant utilized access to CourtNet for personal purposes, she violated the CourtNet Individual User Agreement she executed with the Administrative Office of the Courts (Appellee's Exhibit 2). She also violated Kentucky Corrections Policies and Procedures, Policy No. 6.5, Email and Internet Use, II. Policy and Procedure, A. Permissible and Impermissible Uses, (1), (2), and (5). (Appellee's Exhibit 7.) She also utilized time, facilities and equipment of the Commonwealth for her own personal purposes, thereby violating Kentucky Corrections Policies and Procedures, Policy No. 3.1, Code of Ethics, II. Policies and Procedures, A. General Standards of Conduct, (3). (Appellee's Exhibit 6.)

4. The evidence indicated that AOC did not at any time terminate the Appellant's access to CourtNet, but that it was her employer that did so. While the Agency was subject to have its access revoked under its contract with AOC, it exercised appropriate oversight over the Appellant and the AOC has not revoked the Agency access as a result of Appellant's violation.

5. The evidence has shown that the CourtNet information Appellant accessed and disseminated to an outside third party (the caseworker) was not confidential information as it was the same information that is contained in public records available from the Court and its archives. Therefore, Appellant did not violate Kentucky Corrections Policies and Procedures, Policy No. 3.1, Code of Ethics, II. Policies and Procedures, C. Confidential Information.

6. Warden Conover testified that in making her decision to dismiss the Appellant, it was Appellant's alleged dissemination of confidential information, considered a serious matter, that was a determining factor for such dismissal.

7. While the Appellee has shown by a preponderance of the evidence that Appellant misused state equipment on state time for her own personal reasons, it has failed to show by a preponderance of the evidence that the information she disseminated was confidential in nature. The Agency has shown by a preponderance of the evidence that there was just cause for disciplinary action against the Appellant; however, dismissal of the Appellant under the circumstances is concluded to have been excessive and erroneous.

8. There is no excuse for Appellant having misused state time, property, facilities, and access to information for her personal purposes. The information provided through the CourtNet access was not requested by the caseworker. If it had been so requested, Appellant could easily have obtained the same information from records generally available to the public.

9. While the Hearing Officer believes Appellant should be disciplined for such violation, termination of the Appellant is deemed to be excessive and erroneous in this situation, particularly since no confidential information was disseminated and the Appellant has absolutely no prior discipline throughout the entirety of her employment.

RECOMMENDED ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Personnel Board that the appeal of **EMILY SCHOLFIELD VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF CORRECTIONS (APPEAL NO. 2015-085)** be **SUSTAINED** to the following extent:

1. The dismissal of the Appellant be vacated and held for naught and that Appellant be restored to her previous employment position, or a position of like status and pay, with full reinstatement of wages and benefits from and after the effective termination date, which reimbursements shall be subject to:

2. A recommended suspension of the Appellant from duty and pay, for a period of fifteen (15) days.

[KRS 18A.105 and 200 KAR 12:030.]

NOTICE OF EXCEPTION AND APPEAL RIGHTS

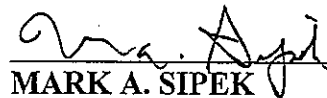
Pursuant to KRS 13.B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that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

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

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 Roland Merkel this 6th day of November, 2015.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Edward Baylous
Hon. Jessica Durden