

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2024-142

KYLE SOISTER

APPELLANT

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

JUSTICE AND PUBLIC SAFETY CABINET,
DEPARTMENT OF JUVENILE JUSTICE

APPELLEE

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

The Board, at its regular December 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated November 7, 2025, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer are approved, adopted, and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

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 19th day of December, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:

Kyle Soister, Appellant
Hon. William Codell, counsel for Appellee
Hon. Rosemary Holbrook (Personnel Cabinet)
Melanie Jenkins

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This matter came on for evidentiary hearing on August 5, 2025 at 9:30 a.m. ET at 1025 Capital Center Drive Suite 105, Frankfort Kentucky before the Hon. Brenda D. Perry, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The Appellant, Kyle Soister, was present at the evidentiary hearing and was not represented by counsel. The Appellee, Justice and Public Safety Cabinet, Department of Juvenile Justice, was present and was represented by the Hon. William Codell. Also present was the Hon. Sarah Jordan and Agency representative Dena Burton.

The issues before the Hearing Officer were a) whether the Appellee complied with KRS 18A.095 and 101 KAR 1:345 when suspending the Appellant for cause and b) whether the penalty imposed upon the Appellant was excessive or erroneous. The Appellee had the burden of proof, which was by a preponderance of the evidence.

BACKGROUND

1. The Appellant, Kyle Soister, timely filed the appeal of his five (5) day suspension without pay with the Personnel Board on October 11, 2024.

2. On the day of the evidentiary hearing, each party made an opening statement and the Appellee called its first witness, **Stephen Davis**, of the Internal Investigations Branch. After being sworn, Davis testified that he started working in law enforcement in 1983 in New Richmond, Ohio, then ultimately came to the Kentucky State Police, then to Family Services. He testified he came to the Department of Juvenile Justice, Internal Affairs, six (6) years ago and serves as a Program Investigator III. He stated that he received a referral to investigate Kyle Soister for an allegation of excessive force.

3. Davis explained that the investigative process includes review of incident reports, review of any video, an interview of the alleged resident victim, interview of any witnesses, and an interview of the employee being accused of a violation. Once the preceding concludes he prepares his report. Davis then identified **Appellee's Exhibit A** as the report he prepared and filed in this matter. It was entered into the record without objection and under seal. Davis testified that he substantiated that the Appellant used excessive force with a juvenile who had spat in the Appellant's face. He identified **Appellee's Exhibit B**, the video of the incident, which was on a compact disk (CD). The CD was marked and entered into the record, under seal.

4. Davis identified **Appellee's Exhibit C**, as snapshot photos taken from various portions of the video depicting the juvenile spitting in the Appellant's face, the Appellant coming across the juvenile's neck area, pulling the juvenile onto the concrete bed, placing his hand on the juvenile's throat, and the Appellant being on top of the juvenile.

5. Davis testified that he interviewed the juvenile, who admitted that he was mad and spat in the Appellant's face. Davis stated that he also interviewed the Appellant, who said he did not recall how he had taken the juvenile to the floor and, upon being shown the screenshot of his hand around the juvenile's neck, stated it was not his intent to grab the juvenile by the neck. Davis testified that there is a significant risk of injury when utilizing unauthorized techniques, such as the Appellant did, and the employees are trained to stay off of the head and neck area.

6. The next witness to testify was **Ronald Bowman**, who works in the DJJ Training Branch. He testified that he is the Corrections Coordinator Instructional II and his current job is to work with academy classes on physical skills and Aikido control techniques. He testified that the Training Academy is two weeks in-person on the job site, then five weeks at the Academy.

7. Bowman identified **Appellee's Exhibit D**, DJJ Policy and Procedure 104 and, specifically, page 3, Paragraph U. He read it into the record that portion that provides:

“Staff shall protect the individual safety of youth and themselves through the use of approved controlling techniques utilizing no more than the absolute amount of force necessary to diffuse a confrontational situation. Staff shall only use controlling techniques in which they have been certified by the Division of Professional Development.”

8. Bowman testified that Aikido Control Technique is the only approved restraint technique and the only one used to train staff. He stated that, in training the staff, they have five (5) days of learning and, on the sixth day, they “skill out.” This technique teaches both de-escalation training and the physical skills for restraint.

9. Bowman testified that he reviewed the video of the incident, **Appellee's Exhibit B**, and that the technique the Appellant utilized was not an approved technique. He affirmed that they are trained to stay away from the neck due to the risk of injury. He testified that there is no doubt that the force the Appellant used was excessive. He said that the Appellant should have utilized a rear double-arm hook, which would have been an approved and effective technique for the situation presented.

10. **Rodney Moore** was the next witness to testify on behalf of the Appellee. He stated that he is the Division Director of the Department of Human Resources for the Justice and Public Safety Cabinet. His job duties include human resources policy and compliance, but his key responsibility is to review disciplinary matters for consistency across the organization. He testified that the department does have a progressive discipline policy. He stated that many times the use of excessive force around the head or neck is met with more severe consequences for the employee but, in this case, a five (5) day suspension was consistent with progressive discipline and appropriate under these circumstances.

11. The next witness to testify was **Randy White**, Commissioner of the Department of Juvenile Justice at the Northern Kentucky Youth Development Center in Kenton County. He stated that they house male juvenile felony offenders. White is responsible for oversight of the department and serves as the appointing authority. He said he became aware of this use of excessive force issue by the Appellant when investigating another employee. In the course of reviewing the video footage, the Department found the Appellant's use of excessive force, which led to an investigation and the Appellant's suspension.

12. White testified that the problems he saw with the Appellant's conduct was his failure to de-escalate the situation and his use of excessive force. White discussed DJJ Policy and Procedure 104 and stated that the decision to discipline the Appellant with a five (5) day suspension was based on the circumstances. White identified **Appellee's Exhibit E**, the letter of suspension, which was entered into the record without objection. White then expounded upon why a five (5) day suspension was appropriate. He stated that when the Appellant placed his face near the juvenile's, he invited the contact. He testified that the Appellant should have first de-escalated the situation. When the Appellant engaged in this improper conduct, he left the other employee ineffective and the situation deteriorated. White testified that the Appellant moved to unsafe territory by placing his hand on the juvenile's neck, and the way he took the juvenile down to the concrete bench was not an approved technique.

13. The final witness to testify was **Dena Burton**, Executive Director. She testified that she is responsible for policy development and oversees treatment programs, and comprehensive Rehab Program for juvenile sex offenders. She stated that, after becoming aware

of the situation, she watched the video and was concerned with the Appellant's use of unapproved techniques. She said that she is certified in Aikido and the Appellant's use of force was improper.

14. The Appellee rested.

15. The Appellant elected not to call any witnesses, did not testify on his own behalf and did not make a closing statement. The Appellee made a closing statement. The Hearing Officer considered the entire administrative record.

FINDINGS OF FACT

1. The Appellant, Kyle Soister, was employed as a Youth Worker I at the Northern Kentucky Youth Development Center. (Appellee's Exhibit 3.)

2. On July 27, 2024, the Appellant was involved in the physical restraint of a youth after the youth refused directives to sit down in the gym, then refused to walk out of the gym. Once the Appellant and another Youth Worker used an Aikido Control Technique to escort the youth to the Isolation Room and into the corner of the room, the Youth turned and spat in the Appellant's face. The Appellant then grabbed the youth by the throat with his left hand and took him down onto the concrete bench. (Appellee's Exhibits B and C.)

3. The technique and force utilized by the Appellant was not an approved Aikido controlling technique. (Testimony of Ronald Bowman and Randy White.)

4. Staff, such as the Appellant, are trained in Aikido Controlling Techniques, which is the only appropriate technique for juvenile restraint. (Testimony of Ronald Bowman.)

5. DJJ Policy and Procedure 104, Code of Conduct, provides in relevant part:

I. Staff, volunteers, interns and contract personnel shall conduct themselves in a professional manner. All persons shall be aware that their personal conduct reflects upon the integrity of the agency and its ability to provide services to youth.

IV. B. Staff shall perform their work assignments competently and in a professional manner. It is the responsibility of each staff to know and act in accordance with department policy and procedures.

- U. Staff shall protect the individual safety of youth and themselves through the use of approved controlling techniques utilizing no more than the absolute amount of force necessary to diffuse a confrontational situation. Staff shall only use controlling techniques in which they have been certified by the division of Professional Development.
- W. Abuse or other mistreatment of youth in the care or custody of the department shall not be tolerated. Staff abusing youth shall be subject to disciplinary action up to and including dismissal under 101 KAR 1:345. All persons suspected of abuse are subject to investigation and prosecution under all applicable laws.

(Appellee's Exhibit D.)

6. The Hearing Officer finds that, on July 27, 2024, the Appellant violated the above provisions of the policy when a youth spat in his face and he took the youth down to a concrete bench, placing his hand around the youth's neck during the process. (Appellee's Exhibits D, B, and C.)

CONCLUSIONS OF LAW

- 1. KRS 18A.095 provides:
 - (1) A classified employee with status shall not be dismissed, demoted, suspended without pay, or involuntarily transferred except for cause.
 - (8) A classified employee with status who is demoted, suspended without pay, or involuntarily transferred shall be notified in writing of:
 - (a) The demotion, suspension, or involuntary transfer;
 - (b) The effective date of the demotion, suspension, or involuntary transfer;
 - (c) The specific reason for the demotion, suspension, or involuntary transfer, including:
 - 1. The statutory, regulatory, or policy violation;
 - 2. The specific action or activity on which the demotion, suspension, or involuntary transfer is based;
 - 3. The date and place of the action or activity; and
 - 4. The names of the parties involved; and

(d) That he or she has the right to appeal to the board within thirty (30) calendar days, excluding the day that he or she received notification of the personnel action.

2. Consistent with the above statute, on September 19, 2024, the Appellant was given a letter by the Appellee advising him of his suspension without pay for a period of five (5) days on September 22, 2024 and September 25-28, 2024. In accordance with KRS 18A.095, the letter outlined that the Appellant had violated 101 KAR 1:345, Section 1 (unsatisfactory performance, DJJ Policy and Procedure 104, Code of Conduct, Section I, and IV (B, U and W) on July 27, 2024. While the letter of suspension lists several other policies the Appellant is alleged to have violated, the Appellee has failed to put forth any evidence of the policies or how the Appellant violated them, so the Appellee has failed to prove a violation of any other policy.

3. However, the Appellee has met its burden to prove, by a preponderance of the evidence, a violation of several provisions of DJJ Policy and Procedure 104, Code of Conduct. Accordingly, the Hearing Officer must determine whether the penalty was excessive or erroneous. While the Appellee has a range of disciplinary action that it may take, Rodney Moore testified that they do utilize progressive discipline and this penalty was appropriate given the egregiousness of the circumstances and consistent with other discipline dispensed by the organization. There was nothing in the record to indicate the Appellant was involved in other misconduct during his tenure with the Appellee. A suspension of five (5) days without pay is likely to deter future use of excessive force.

4. The Hearing Officer concludes that the Justice and Public Safety Cabinet, Department of Juvenile Justice, has met its burden of proof that the suspension without pay of the Appellant, Kyle Soister, complied with the requirements of 101 KAR 1:345 and KRS 18A.095, was for just cause and was neither excessive nor erroneous.

RECOMMENDED ORDER

The Hearing Officer recommends to the Personnel Board that the case of **KYLE SOISTER V. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF JUVENILE JUSTICE (APPEAL NO. 2024-142)** 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 exception that are filed by the other party within fifteen (15) 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 the 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).

Any document filed with the Personnel Board shall be served on the opposing party.

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).

The parties are strongly encouraged to send any exceptions and/or requests for oral argument by email to: PersonnelBoard@ky.gov.

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 Brenda D. Perry 7 day of November, 2025.

KENTUCKY PERSONNEL BOARD


HON. GORDON ROWE
EXECUTIVE DIRECTOR

A copy this day emailed and mailed to:

Hon. William Codell, counsel for Appellee
Kyle Soister, Appellant
Hon. Rosemary Holbrook, Personnel Cabinet