

**CERTIFICATION OF PERSONNEL BOARD RECORDS**

I certify that attached hereto is a true and correct copy of the Findings of Fact, Conclusions of Law and Recommended Order and Final Order Altering in the case of **NATASHA STEWART VS. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2014-101)** as the same appears of record in the office of the Kentucky Personnel Board.

Witness my hand this 17<sup>th</sup> day of March, 2015.

  
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**MARK A. SIPEK, SECRETARY**  
**KENTUCKY PERSONNEL BOARD**

Copy to Commissioner, Department of Personnel

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2014-101**

**NATASHA STEWART**

**APPELLANT**

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

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

**APPELLEE**

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The Board at its regular March 2015 meeting having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated December 30, 2014, (having noted Appellee's exceptions were returned as untimely) and being duly advised,

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

A.    **Delete** Conclusions of Law numbers 2, 3 and 4 and substitute the following:

2.    The Board concludes these actions occurred as discipline for a child in the Appellant's own home and thus were not the type of behavior which could prejudice her ability to do her job with adults or constitute unprofessional behavior such as would dampen the public's confidence and the integrity of public servants. As such, the Appellee has failed to establish just cause for the disciplinary action against the Appellant and her demotion was excessive and erroneous.

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

**IT IS HEREBY ORDERED** that the appeal of NATASHA L. STEWART V. CABINET FOR HEALTH AND FAMILY SERVICES, (APPEAL NO. 2014-101) be **SUSTAINED**, that Appellant be reinstated to her position of Social Service Clinician I, or a position with like pay and status, with back pay, and otherwise be made whole. **Further**, the Board orders the matter be expunged from Appellant's personnel records. The Board orders the Appellee shall reimburse the Appellant for any leave time she used attending the evidentiary hearing and any pre-hearing conferences at the Personnel Board. (KRS 18A.105, KRS 18A.095(25) and 200 KAR 12.030.)

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

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 17<sup>th</sup> day of March, 2015.

**KENTUCKY PERSONNEL BOARD**

  
\_\_\_\_\_  
**MARK A. SIPEK, SECRETARY**

A copy hereof this day mailed to:

Hon. Rebecca Wooldridge  
Hon. Monica Hill  
J.P. Hamm

**COMMONWEALTH OF KENTUCKY  
PERSONNEL BOARD  
APPEAL NO. 2014-101**

**NATASHA L. STEWART**

**APPELLANT**

**VS.**

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

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

**APPELLEE**

\* \* \* \* \*

This matter came on for an evidentiary hearing on October 2, 2014, at 9:30 a.m., 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.

The Appellant, Natasha L. Stewart, was present at the evidentiary hearing and was represented by the Hon. Monica Hill. The Appellee, Cabinet for Health and Family Services, was present and represented by the Hon. Rebecca Wooldridge.

**BACKGROUND**

1. By letter dated April 15, 2014, Appellant was demoted from her position as a Social Service Clinician I, Pay Grade 14, to a Family Support Specialist I, Pay Grade 10. Said demotion was to be effective April 16, 2014.

2. The basis for the demotion was lack of good behavior as set forth in the letter of demotion, which is attached hereto as **Recommended Order Exhibit 1**.

3. Appellant filed a timely appeal on May 12, 2014, essentially alleging that she had filed a KAPTA appeal, and the demotion had occurred without her having the opportunity to defend herself in regard to the investigative finding of substantiated risk of harm neglect for Appellant's failure to protect her son from her paramour.

4. Appellant testified at the hearing that she was employed as an Adult Protective Service Worker.

5. With regard to the incident in this matter on November 23, 2013, Appellant testified that her seven-year-old son has had behavior issues with ADHD, and is impulsive. He has had biting issues, and she has tried everything she knows to correct that. He had bitten his brother, and got bitten back, and had bitten her the day before this incident occurred. She

acknowledged that her boyfriend who bit her son in this matter was a large man, being 6'4" and weighing over 300 pounds. At that time, her son was a small six-year-old child.

6. Appellant testified that her boyfriend lived in the residence, and both of them cared for the children, and he has helped in all aspects of the children's care, including disciplining them. Appellant's paramour is not the natural father of her son.

7. A photograph introduced as Appellee's Exhibit 1 showed a round bite mark around the child's shoulder area. It did not appear from the photograph that the skin was broken, but it did appear that there were marks which could be consistent with a bite, and Appellant did not deny that her paramour bit the child.

8. Appellant further testified that on the day the biting occurred, her son had urinated on the couch, and the urine had been cleaned up before he was taken to the couch. She stated he had to sit on the couch where he urinated, but denied his face was put in the urine. Her son had urinated on the couch while he was in time-out. He stood up and intentionally urinated on the couch because he did not want to be in time-out. She told him that he could not do that, and had asked him if he needed to go to the bathroom while he was in time-out, and he said he did not. Appellant was in the kitchen with her paramour's mother at the time this occurred, and she went in and cleaned it up.

9. Appellant acknowledged that she did not try to stop her paramour from the punishment of biting her son.

10. As a result of this incident, a misdemeanor Assault, 4th degree charge was brought against her paramour and a diversion agreement for two years was entered. He was working on a case plan in the matter. Under the current case plan, Appellant still retains custody of the children, and her paramour continues to reside in the residence. The current Social Worker on the matter feels there is no risk for him being in the home with the boys. Appellant testified that she and her ex-husband, the father of the children, have had great difficulties regarding custody and visitation with the children.

11. Appellant further testified that since this matter, the son has been tested for ADHD and is on medications through Dr. Cruser at Pathways. In addition, he is involved with the Impact Plus program, and there has been a request for Asperger's testing for him. He also goes to occupational therapy weekly. During this past summer, her son had such problems that she had to take off work under Family Medical Leave Act (FMLA), some of which was without pay, to get him stabilized.

12. Appellant acknowledged her duties in adult care included recognizing vulnerable adults.

13. Appellant stated that during the time the child was punished, neither she nor the paramour was angry, because the actual biting situation of the other child had died down. The decision was made by both of them that they thought a bite to the child would be appropriate to show him how it felt, and that he could not continue with such behavior. Her son had actually

begun medication and treatment through Impact Plus at the time the biting occurred, but the initial medication had made his situation worse. This summer, the medication was changed and his behavior has improved.

14. Appellant worked nine years with the Cabinet, including work as a Child Protective Worker for seven years and an Adult Protective Worker for the remainder of her career.

15. Appellant cooperated with both Social Services and the Kentucky State Police, who were involved in this matter. They came to her residence after 9:00 p.m. on the day this matter was reported, and the children were in bed. She took off work the next day to take her son to Dr. Barrows per request of the investigating Social Worker and then to the hospital.

16. Appellant testified that at the time the bite occurred, the child cried, but he did not have to be taken to the doctor, and there was no bleeding or broken skin. Dr. Barrows did not give a diagnosis or any kind of treatment as a result of the bite. She gave Dr. Barrows the information that there was a social work investigation, and he tried to call the worker to see if she wanted a full-body scan, but was unable to reach her, so he went ahead and did that at the hospital as a precaution. The children were never taken from her care as a result of this incident. Her child had no prolonged physical injury from this matter, and no scar.

17. Appellant related that the divorce with the children's father was very difficult. She was working at the time and finishing her Master's Degree, and took care of the children financially and otherwise alone for almost a year. She had to obtain a Domestic Violence Order because their father followed her and was verbally abusive. When she told him she wanted a divorce, he punched holes in the walls of their home with a hammer. All of these actions contributed to their son's behavior, and the doctors have stated that he has PTSD and anxiety from what he witnessed with his father. A CAF Assessment was recommended before visitation occurred with their father, and at this time a Case Worker is trying to get a judge to sign an order to obtain such assessment.

18. Appellant stated that given the training she had received, she did not believe the events with her son constituted physical abuse. Her son was not complaining about the bite hurting, and he was playing a short time after it occurred. Appellant felt that the statute on abuse requires physical injury or risk of harm, and the bite of her son did not rise to that level.

19. After this matter, in May 2014, there was another allegation made to Social Services, and Appellant signed a Prevention Plan, where her paramour would not be in the residence, because it was alleged he had spanked the child. The paramour left the residence until the results of the investigation came back unsubstantiated.

20. Appellant testified that Angela Estep was the Social Worker who conducted this investigation. She works at the regional office in Ashland. Appellant had concerns with Ms. Estep conducting the investigation, because she felt by policy an individual who investigates is not supposed to work in the county where a perpetrator lives and works, and Ms. Estep regularly works in both Rowan and Bath Counties. Appellant works in the Rowan County office.

Appellant did not believe that the Service Region Administrator would stay in her chain-of-command, and that person is Brittany Davis, who has an office in Bath County, which is a county where Appellant worked. She saw Ms. Davis at holiday parties during this investigation.

21. Appellant introduced as Appellant's Exhibit 1, SOP 2.15.8, Section B, which states: "an investigation must be assigned 'in another county within the region, but not in the same county in which the employee is currently working or lives'."

22. Appellant testified that the KAPTA Appeal is still pending.

23. Appellant testified that in her current position, she is processing food stamp applications. Her Bachelor's and Master's Degrees are in Social Work. She was obtaining certification in Behavioral Analysis. Appellant acknowledged she had received one prior written reprimand in 2011 for unsatisfactory performance of duties during the period of time she was going through her divorce. A Performance Improvement Plan (PIP) was carried out, and she has had no other disciplinary actions since that time.

24. With regard to the injury to her son, Appellant testified that if she was a Child Protective Services Worker and saw the injury that was reflected in the photo, she would discuss other forms of discipline with the family, but did not believe it would rise to the level of physical abuse or a risk of harm. In her opinion, if corporal punishment leaves a mark, it depends on what area of the body it is on. In order for it to be abuse, it must be in a critical area of the body, such as the head or chest.

25. **Brittany Davis**, a specialized Investigator for CHFS, testified that she regularly investigates child fatalities, near fatalities, foster home abuse and employee abuse matters. She has a Bachelor's in Social Work and a Master's Degree. She obtained the assignment in this matter for the investigation. Her office is located in Bath County, and she covers all 15 counties within their region, which includes Rowan County, where Appellant works.

26. The report Davis received was that the bite occurred on November 23rd, and she took the photograph (which was introduced as Appellee's Exhibit 1) on November 25th. She reviewed medical records, school records and talked to collaterals, including the paramour of Appellant, the children, the paramour's mother, the family doctor and school staff. She prepared Appellee's Exhibit 2, the letter which substantiated risk of harm neglect on the Appellant, as Appellant was present for a physical abuse incident and had failed to intervene on her child's behalf. Further, Appellant had not expressed that she disagreed with either of the punishments, and stated that she allowed her paramour to punish her children, even though he was not their biological parent and had only been in a relationship with her for a year. Davis's investigative report was introduced as Appellee's Exhibit 4.

27. During her investigation of the children privately, the child reported that the paramour had bitten him as discipline for biting another child. She did not locate any bite marks on the other children, but Appellant did show her a bite mark on her leg. The child also reported to her that he was placed in time-out and had to go to the restroom and was not allowed to, so he urinated on the couch. The paramour put the child's face in the urine, and he had to sit on the

couch where he urinated according to the child. Both of the other children verified this. The paramour stated he did not put the child's face in the urine, but just close enough to it to smell it. A prevention plan that Davis put into place on November 25th allowed the paramour to stay at the residence, but stated he could not be unsupervised with the children, and could not do any discipline for them. Physical abuse and neglect was substantiated on the paramour for the one child, and risk of harm neglect was substantiated on Appellant.

28. Davis introduced Appellee's Exhibit 5, a CHFS 2.3 Acceptance Criteria, Section 10, which is the basis for her finding of a risk of harm neglect on the Appellant. Davis testified that her supervisor, Angela Estep, reviewed the report and then it goes on to Central Office, who makes a recommendation on whether there would be substantiation. They agreed with the finding. A KAPTA hearing had been set for the week prior to the hearing, but due to the fact the paramour was on diversion until May 2016, he would not be able to testify and the KAPTA hearing was continued.

29. Davis acknowledged that Dr. Barrows did not provide any follow-up or treatment for the mark, and the full-body scan showed no other signs of other problems. Davis further acknowledged Appellant was cooperative and truthful during this investigation. She stated Appellant was overall concerned for her children, but not concerned for the child regarding this injury. During the time Davis was there for the investigation, it was stated to her that the child was actually biting another child, but she did not see any marks at that time.

30. **Angela Estep**, the Service Region Administrator Associate for the Northeast Service Region, testified she had been with Social Services for 11 years. She supervises local teams primarily in the area of child protection. Jennifer Schworm is the Appellant's second-line supervisor. Ms. Schworm does the Adult Protective Services.

31. Estep testified she supervised Brittany Davis as she conducted the investigation in this matter. Estep testified that all employee investigations are referred to her, and the procedure is that if an employee is under investigation, if the person being investigated is a regional staff member, those investigations are sent out of the region per SOP 2.15.8, Section E. However, if it is an employee in a county office, as long as the investigation is done by someone outside the office where the employee is located or lives, it is appropriate. Appellant works in the Morehead Regional Office, but is not a regional staff member. Appellant is a Rowan County Office worker. Estep talked to Lesa Dennis, her supervisor, and two individuals on the team. Jason Tackett works with the Appellant, and could not do the investigation, but Davis had not met the Appellant, and at the time, did not know her. Estep acknowledged that Davis does work in Rowan County foster homes, but stated her office is in Bath County. She further acknowledged that Appellant works in Bath County at times also. At the time of the investigation, Davis lived in Lexington, and Appellant's work station was in Rowan County.

32. Estep testified that she discussed the matter with Davis after the investigation and looked at the pictures and medical records, agreed with the substantiation and sent it on to Central Office.



33. **Shannon Hall**, a SRAA since January 2012, has worked with the Cabinet for 14 years. Her duties included disciplinary actions. At the end of this investigation, she gathered the collaborating information and reviewed it with the statutes, Personnel Practices and Policies and the Office of Human Resources Management (OHRM). The information is sent to OHRM, who does its own investigation, and determines the type of discipline. Hall did not make a recommendation on what discipline would be imposed.

34. Hall testified that Child Protective Services and Adult Protective Services have the same duties in that they assess the risk of safety to vulnerable people. He felt that the situation with Appellant's personal life and what had happened could prejudice her ability to be neutral in her investigations. Substantiating a risk of harm and the ability to know if there is a risk is part of the job. Hall testified that the other penalty that could have been appropriate in this matter would have been suspension.

35. Hall testified that in a similar case about a year before this, an employee had abuse substantiated on them, and they were demoted to a Family Support Specialist. He was not aware of any prior disciplinary actions of this other employee who was demoted.

36. **Kimberly Tucker**, the Human Resources Administrator for CHFS since 1999, testified that her duties are to review requests for major disciplinary action. Tucker introduced Appellee's Exhibit 6, 101 KAR 1:345, and Appellee's Exhibit 7, CHFS Policy and Procedure 2.1 concerning employee conduct. She felt that Appellant's actions violated Policy 2.1 because her primary duty is to assess risk factors and ensure the safety of clients. Investigation substantiated neglect against Appellant because she did not intervene, and shows she did not maintain a high standard of contact or behave professionally.

37. Tucker further introduced as Appellee's Exhibit 8, CHFS Policy 1.1 on Ethical Practice, and she felt that Appellant's actions in this matter violated number eight, because of her inaction in not intervening to protect her child. Tucker's recommendation was a demotion to a position outside of the Social Work field.

38. Tucker testified there were other Social Workers who had had neglect substantiated against them in their personal lives, and she could remember at least four of them were demoted to an area outside of the Social Work field. Her recommendation was sent to Shawn Estep, who reviewed it together with the Office of Legal Services, the Cabinet's EEO, and ultimately, Jay Klein, the Appointing Authority.

39. Tucker testified that both Estep and Klein agreed with her recommendations without change.

40. Tucker testified it was insignificant that the children were left in Appellant's care. Just a substantiation of neglect is sufficient to remove her from the Social Work field.

41. When questioned further about demotions of other social workers who had abuse or neglect substantiated, Tucker testified that at least two of those were individuals where neglect

was substantiated, and they had no prior disciplinary actions. One was a domestic violence on an adult, and there was no KAPTA appeal.

42. Tucker felt there was an unwritten policy or preference that if there is one lapse of personal judgment, a person cannot remain in the field of Social Work. Since 2009, there have been no cases of any disciplinary action less than a demotion for substantiated neglect.

43. **Jay Klein**, the Appointing Authority, testified that he agreed with the demotion in this matter.

44. **Appellant** testified that there was not an open-mouth bite, and she was somewhat concerned because the child's father had had them for Thanksgiving visitation right after this bite occurred. He had them from Wednesday to Sunday, and brought them back late. Her oldest son said the child got into trouble for biting and that the father had spanked him with a back scratcher. She tried to call the Social Worker, Brittany Davis, and have the Sheriff's Department do a JC3 on this, and went the next day to talk to Davis about the matter. She then called in this report to the Centralized Intake Unit. Appellant recognized there was risk of harm to her son that day as a result of his father's actions.

### **FINDINGS OF FACT**

1. On November 23, 2013, Appellant's paramour bit her son in her presence as punishment for his biting another child. The bite was on the child's shoulder, and left a bite mark, but the skin was not broken. The child immediately thereafter returned to playing.

2. Appellant cooperated entirely with the investigation into this matter, and took the child to a doctor, who did not provide any treatment or follow-up for the injury. In addition, on the same date, the child was placed near urine and made to sniff urine where he had urinated on the couch during a time-out. Appellant was aware of this, and the same occurred in her presence as well.

3. An investigation occurred by a worker who was located in another office, who does occasional work in the office where Appellant is located, and Appellant does occasional work in the office where the Investigator was located.

4. As a result of the investigation, neglect because of risk of harm was substantiated against Appellant. The finding is still on appeal. The child was never removed from Appellant's custody, and her paramour was not removed from the home as a result of the findings.

5. All prior employees who have had either neglect or abuse substantiated against them have been demoted to work in positions outside of Social Work. No evidence was given as to KAPTA or Personnel Board appeals in such cases.

6. CHFS Policy 1.1, Ethical Practices, Paragraph 8 states that employees shall "refrain from entering into any activity which may prejudice (or give the appearance of such) their ability to objectively perform their duties and responsibilities."

7. CHFS Policy 2.1, Employee Conduct, states its purpose is that "CHFS expects its employees to maintain a high standard of conduct and professional behavior, including outside of work, to maintain the public's confidence in the integrity of its government and public servants."

8. 101 KAR 1:345, Section 1, states "Appointing Authorities may discipline employees for lack of good behavior or the unsatisfactory performance of duties."

9. CHFS Policy 2.3, Acceptance Criteria, Section X, under risk of harm – neglect, states "1. The Intake SSW accepts a report alleging risk of harm if a child is...(c) in a situation if the factors provided in a report indicate that (iii) ...the circumstances are such that a child is likely to be physically abused." "2. The Intake SSW accepts a report alleging risk of physical harm if [there is]...(b) a child being verbally threatened in a manner that creates fear of bodily harm or death to self and/or others;...(d) [or] bizarre behavior by a caretaker when there is reason to believe that the caretaker may lose control, which may result in injury to the child."

10. KRS 600.020(1)(a) defines an abused or neglected child as "his or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child: (1) inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means; (2) creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means."

11. KRS 600.020(47) describes physical injury as "substantial physical pain or any impairment of physical condition."

### **CONCLUSIONS OF LAW**

1. The Appellant is not a regional office employee, and therefore the investigation herein does not violate SOP 2.15.8.

2. The bite in this matter was for a disciplinary matter, and did not cause substantial physical pain to the child (as the child returned to play shortly thereafter), was not treated, even after being seen by a doctor, and there was no broken skin. The child or paramour was not removed. Further, having a child smell where he intentionally urinated on a couch does not cause physical or emotional injury to the child and this was not abuse or neglect. Therefore, the Appellant cannot be guilty of a substantiated finding of risk of harm neglect in this matter.

3. Due to the absence of a substantiated finding, Appellant cannot be said to have violated any policies or statutes, and her actions in this matter did not constitute lack of good behavior.

4. These actions occurred as discipline for a child in her own home and thus was not the type of behavior which could prejudice her ability to do her job with adults or constitute unprofessional behavior such as would dampen the public's confidence in the integrity of public servants.

**RECOMMENDED ORDER**

The Hearing Officer recommends to the Personnel Board that the appeal of **NATASHA L. STEWART V. CABINET FOR HEALTH AND FAMILY SERVICES, (APPEAL NO. 2014-101)** be **SUSTAINED**, that Appellant be reinstated to her position of Social Service Clinician I with back pay, and otherwise be made whole. Further, this matter shall be expunged from Appellant's personnel records. The Appellee **SHALL** reimburse the Appellant for any leave time she used attending the evidentiary hearing and any pre-hearing conferences at the Personnel Board. (KRS 18A.105, KRS 18A.095(25) and 200 KAR 12.030.)

**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).

**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).

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 30<sup>th</sup> day of December, 2014.

**KENTUCKY PERSONNEL BOARD**

  
\_\_\_\_\_  
**MARK A. SIPEK**  
**EXECUTIVE DIRECTOR**

A copy hereof this day mailed to:

Hon. Rebecca Wooldridge  
Hon. Monica Hill



Received

APR 15 2014

Personnel Board

CABINET FOR HEALTH AND FAMILY SERVICES  
OFFICE OF HUMAN RESOURCE MANAGEMENT

Steven L. Beshear  
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Audrey Tayse Haynes  
Secretary

April 15, 2014

Natasha Stewart

Re: Demotion

Dear Ms. Stewart:

Based on the authority of 101 KAR 1:345, Section 1, and in accordance with KRS 18A.095 and 101 KAR 2:034, Section 3(2), you are hereby notified that you will be demoted from your position as a Social Service Clinician I, Position Number 31008861, Class Code 62220V000101, Pay Grade 14, with the Department for Community Based Services, Northeastern Service Region, to a Family Support Specialist I, Position Number (to be determined by the Kentucky Human Resource Information System), Class Code 65100V000101, Pay Grade 10, with the Department for Community Based Services, Northeastern Service Region, effective April 16, 2014. Accordingly, your monthly salary will be reduced from \$3,189.42 monthly to \$2,657.86 monthly. You are to report to Field Services Supervisor Della Wightman, on Tuesday, April 16, 2014.

You are being demoted for the following specific reason:

**Lack of Good Behavior.** As reported by Service Region Administrator Lesa Dennis, the Department of Community Based Services (DCBS) substantiated neglect against you.

You are employed as a Social Service Clinician I with the Adult Protective Services Unit. In your position, you are responsible for assessing the ability of adults to perform daily life activities, assessing the ability of families to protect and meet the needs of vulnerable adults, investigating allegations of abuse and neglect, and determining whether vulnerable adults are at risk for abuse or neglect.

On November 25, 2013, DCBS received a report of suspected child abuse and neglect that named your three children as victims and your paramour, Client I\*, as the perpetrator. Based on the information provided in the report, the report was accepted as both a physical abuse referral and a neglect referral for investigation. The referrals were assigned to Social Service Clinician I Brittany Davis to investigate.

Following her investigation, Ms. Davis documented her findings in a March 4, 2014 letter to you. Ms. Davis' findings read as follows:



*"This referral was staffed with SRAA Angela Estep and it was agreed that this referral would be SUBSTANTIATED PHYSICAL ABUSE per KRS 600.020 and SOP 2.3, Physical Abuse on [Client 1\*], due to him admitting that he bit [your six-year-old son] as punishment for biting, leaving a large bite mark with teeth marks on his upper left shoulder on 11/23/2013. [Client 1\*] also put [your six-year-old son's] face in urine on the couch after he urinated on it in order for him to 'smell' the urine on 11/24/2013.*

*NEGLECT OF RISK OF HARM will be SUBSTANTIATED on [Client 1\*] on all three boys due the [sic] inappropriate acts of punishment and inflicted injury on [your six-year-old son] by [Client 1\*] also places the other children in the home at risk of physical harm in the future....*

*PHYSICAL ABUSE will be UNSUBSTANTIATED in regards to [your other two sons] as they did not suffer any physical injury/abuse by [Client 1\*] in the home at this time.*

*RISK OF HARM NEGLECT will be SUBSTANTIATED on [you] for all three boys, per KRS 600.020 and SOP 2.3 Risk of Harm (Neglect) as [you were] present for both physical abuse incidents and failed to intervene on [your] son's behalf in order to protect him from [Client 1\*'s] punishments. [You have] also not expressed that [you] disagreed with either of these punishments and [have] stated that [you] allow [Client 1\*] to discipline [your] children, even though he is not the biological parent and [the two of you] have only been in a relationship for a year, which places all of the children at risk of harm inside the home."*

In her March 4, 2014 letter to you, Ms. Davis went on to document the justification of her findings. The justification for her findings read as follows:

*"[Client 1\*] has been charged with Assault 1<sup>st</sup> degree and has a pending criminal court case in this matter. The county attorney, Greg Hall, has stated that he will be sending a summons to all parties involved in this case to appear in court.*

*[You] have a history of allowing [your] paramours to physically punish [your] children and one prior report of the children obtaining injuries from that punishment. There have been 4 prior reports in TWIST, one APS and three CPS cases with allegations of domestic violence and previous injuries on the children that have been substantiated.*

*During the investigation, [you] continued to blame the investigation on [your] ex-husband, as opposed to taking any responsibility for [your] own failure to protect [your] son and [your] paramour's actions of inflicting injury to him by biting him. [You] observed the actions done by [Client 1\*] and did not intervene on behalf of [your] child's safety.*

*A report was then filed on [your] ex-husband...for [your son] receiving bruises on him while on a home visit to his father's house. [Your ex-husband] and [you] have a history of conflict between the two, which puts major stressors on the boys and does not appear to be assisting in their behavior management."*

As outlined above, you are responsible for protecting those who are vulnerable. Your ability to carry out this responsibility has been compromised by the finding of neglect against you that involved you failing to intervene to protect your own children. Further, in your position it is imperative that you recognize risk factors for abuse and neglect. Based on the investigation, it is clear that you did not and do not recognize the risk to your children.

Natasha Stewart  
April 15, 2014  
Page 3 of 4

Your actions violate DCBS Standard of Practice (SOP) 1.1, Ethical Practice and the Cabinet for Health and Family Services' Personnel Procedure 2.1, Employee Conduct. Further, your actions constitute lack of good behavior for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

You previously received the following action(s):

<u>DATE</u>	<u>ACTION</u>	<u>REASON</u>
April 1, 2011	Written Reprimand	Unsatisfactory Performance of Duties

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

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

For your information, the Kentucky Employee Assistance Program (KEAP) is a voluntary and confidential assessment and referral service for state employees. This service may help you with any personal problems that may be affecting your job performance. KEAP can be reached at 1-800-445-5327 or (502) 564-5788.

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

Sincerely,



Howard J. Klein  
Appointing Authority

HJK:kmt

cc: Secretary Tim Longmeyer, Personnel Cabinet  
Executive Director Mark Sipek, Personnel Board  
Commissioner Teresa James, DCBS  
Service Region Administrator Lesa Dennis, Northeastern Service Region  
Cabinet Personnel File