

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-190

MELODY WESTERFIELD

APPELLANT

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

CABINET FOR HEALTH AND FAMILY SERVICES

APPELLEE

*** **

The Board, at its regular August 2016 meeting, having considered the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer dated May 3, 2016, Appellant's Motion for Leave to File Exceptions and Request for Oral Argument, Appellee's Motion to Strike Appellant's Exceptions and Request for Oral Argument, Appellee's Response to Exceptions, oral arguments, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer be, and they hereby 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 17th day of August, 2016.

KENTUCKY PERSONNEL BOARD


MARK A. SIPEK, SECRETARY

A copy hereof this day sent to:

Hon. Blake Vogt
Ms. Melody Westerfield (regular and certified mail)
Mr. Jay Klein

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2015-190**

MELODY WESTERFIELD

APPELLANT

VS.

**FINDINGS OF FACT, CONCLUSION'S OF LAW
AND RECOMMENDED ORDER**

CABINET FOR HEALTH AND FAMILY SERVICES

APPELLEE

** ** *

This matter came on for evidentiary hearing on February 23, 2016, at 10:15 a.m., at 28 Fountain Place, Frankfort, Kentucky, before the Hon. John C. Ryan, Hearing Officer. The proceedings were recorded by audio/video equipment and were authorized by KRS Chapter 18A.

Appellant, Melody Westerfield, was present and was not represented by legal counsel. Appellee, Cabinet for Health and Family Services, was present and represented by the Hon. Blake A. Vogt. This appeal was the subject of at least one pre-hearing conference, at which the issues were defined and mediation encouraged by the Hearing Officer. In due course, however, no mediation occurred.

BACKGROUND

1. As of July 29, 2015, Melody Westerfield held the position of Social Service Clinician I within the Department of Community Based Services of the agency. By letter of that date consisting of three plus pages, over the signature of Howard J. Klein, the then-Appointing Authority, she was assessed a three-day suspension for unsatisfactory performance of duties. A true copy of the letter is attached hereto as "**Recommended Order Attachment 1**". Essentially, the position of Ms. Westerfield required she conduct specified investigations of alleged abuse and complete reports concerning them, called Assessment Documentation Tools or ADTs. These reports, together with a suggested finding, are ordinarily due within 30 days, presumably following the event generating the need for the report. The agency deemed her performance seriously deficient due to a number of these past due from her.

2. Appellant took issue with the action of the agency by timely filing an appeal on August 18, 2015, under the appropriate category of "suspension". She further wrote at that time;

I had more case then reported regarding this suspension, it was reported that I had 56 but I had nearly 70 cases. There was no help provided only unreasonable tasks. Help that was provided, I had to write type those cases because insufficient work was done on these cases. The expectation was unreasonable. I received 45 past dues on Sept 16, upon my return to work after my medical leave. The amount of completed cases in that timeframe is not correct, and other work had to be done and management was aware of those tasks. (sic)

Appellant filed a more lengthy summery of her position in her appeal on August 28, 2015.

3. Upon convening the evidentiary hearing, the agency was assigned the burden of proof under standard operating procedure and presented the testimony of **Jason Mellenkamp**, who assumed the position of Service Region Administrative Associate, based in Scott County, in March 2015. He oversees a total of seven counties and was Appellant's second-line supervisor. He has been employed by the agency since January 2001.

4. The witness summarized the duties of the position of Appellant; specifically, she investigated allegations of child abuse as received by the agency, her territory consisting of Scott County, Kentucky. He briefly described the procedure therefor, which culminates in the preparation of a report with a set of findings and, presumably, a recommendation. Essentially Appellant, although assigned a standard caseload, did not timely prepare the reports. The witness produced, as part of his testimony, certain material from the operating manual of the Cabinet, designated as SOP (Standard Operating Procedure) which is supplied to all agency personnel and who are expected to be familiar with its contents. These "standards of practice" depict in detail the criteria and level of performance required in the investigation of child abuse allegations. The witness explained that failure to timely prepare and submit the work-ups causes distress within the affected family, since it is left in a suspended circumstance until the findings are finalized. Also, he added, a pending but unresolved allegation disrupts any services or benefits attributable to the family, such as Medicaid, food stamps, and similar welfare. Finally in that regard, he pointed out, if there is genuine risk, the impacted child or children should be removed or otherwise protected, and any delay could have serious consequences.

5. The witness continued that Appellant's work record reflects a history of delinquencies. He introduced summaries which, he urged, demonstrate a continuing failure to satisfactorily carry out or complete her assigned caseload. He also produced a series of charts which he stated reflect the delinquencies that caused her suspension; the workups commence with January 2015, and range through July of that year. He reviewed and explained the materials for the record, noting that during that timeframe Appellant was assigned a reduced workload to enable her to clear up her past dues. He asserted that, whereas a normal monthly assignment of

new investigations approximates 17 to 21, Appellant received only five new cases in January 2015.

6. The witness continued that, in light of Appellant's work deficiencies, he and her supervisor commenced to regularly meet with her in early January 2015, and to generate a series of Performance Improvement Plans (PIPs). These plans undertook to obtain a commitment from her to complete a specified number of her delinquent reports within a set timeframe. He offered a series of the completed plans in the course of his testimony, indicating that they were of limited success. He noted that in February 2015, Appellant received only four new assignments while completing seven delinquent cases and, in March, she received just two additional investigations. However, after March 10, 2015, no new cases were assigned to her and she was removed from the new case rotation; at that time, records indicate that she was past due for 57 reports.

7. The witness recalled that, at the meetings concerning her work, Appellant was permitted to select those investigations she viewed were ripe for completion. Simultaneously, her other duties connected with her position were blended in (to the extent possible) while the delinquencies continued to be a work-in-progress. He noted that in April 2015, Appellant was charged with 52 past due reports; she requested and received five hours of overtime and, ranging through June of that year, she completed 24 of those cases. The expectation, however, was to finalize at least ten during each work week, or 40 for each month, a target which Appellant was never able to achieve. The witness cited from the records that she completed 12 reports in May and nine cases in June, although utilizing five hours of overtime in May and having no new assignments during either month.

8. Other steps were also implemented to aid Appellant in fulfilling her duties. In June 2015, the witness contacted a seasoned employee to seek aid for Appellant in properly completing her reports, a step he noted was unusual and never engaged for any other employee. Also around that time, the physical location of Appellant's office was changed and her telephone removed to decrease distractions while completing her reports. In July, Appellant had five past-due cases and completed three, ultimately becoming current by the end of that month. However, throughout the first seven months of the year she never achieved the expectations attached to the position which she held. Consequently, in July she was reassigned to what the witness depicted as an "on-going team" which apparently did not require generation of new reports; Appellant objected to this assignment. All documents referenced by the witness were introduced. Appellant objected to a chart reflecting the name "Melony" which, she urged might have been another employee, but the witness explained this was a typographical error and that the chart was prepared under his supervision.

9. Under cross-examination, Mr. Mellenkamp acknowledged that the charts utilized to reflect delinquencies do not indicate the total number of cases assigned for the timeframe. He agreed that other workers in Scott County similarly situated also had past due reports and many

do not meet the preferred standard of 80% completion. Appellant explored with him the transition of management during the timeframes referenced; he agreed that supervisory turnover had occurred, although the same supervisor served from December 2014 through March 2015, a portion of the term under scrutiny. Appellant pressed the witness as to his knowledge concerning her performance of various other duties during the time discussed, alluding to aiding a coworker in Harrison County and spending a full day in Pike County. The witness acknowledged he was not aware that Appellant was off work sometime in 2014 for surgery and also out for two months upon another occasion, also in 2014.

10. Appellant discussed with the witness his various communications with supervisors in the Scott County office and the meetings involving himself, Appellant, and her supervisor. He recalled that during one or another of these weekly meetings Appellant complained about delay between the submission of her reports and their review and return to her by her supervisor. He explained this was partly the motivation for calling in a seasoned worker to go over and correct her reports as alluded to in his prior testimony. In response to questioning, the witness recalled that some of the reports received from her which he saw were lacking in specifics, and required corrections. They were, of necessity, circulated back and forth until brought into compliance with the minimum content expected. He acknowledged that as a Regional Administrator over several counties, he would not have been aware of all details of day-to-day duties being performed by Appellant. He pointed out that in his weekly meetings with her she was afforded the opportunity to either complain about or expand upon activities which she felt were preventing her from completing her reports. He ratified that not all of her day-to-day activities would have been reflected in the PIPs. He explained, under brief re-direct examination, that her suspension was assessed due to an on-going lack of timely completion of her case reports rather than upon the total number of her delinquencies at any given time.

11. **Lindsey Romans** currently serves as Family Services Supervisor in Powell County, Kentucky, starting there on October 16, 2015. She previously held this position in Scott County commencing on December 1, 2014, until her transfer to Powell. She depicted the duties of the position to be oversight of an investigative team, dealing with matters of staffing, assigning cases, and reviewing and approving case reports as completed by the investigative staff. Specifically, the reports, with documentation, come to her for screening for completeness, accuracy, and final disposition.

12. She served as Appellant's first-line supervisor from December 1, 2014, through her suspension in July 2015. She was well aware of the delinquencies giving rise to her suspension and was, as supervisor, directly involved with the preparation and implementation of the PIPs. She ratified that the PIPs were generated entirely due to Appellant's past due investigative reports. She discussed for the record the nature and extent of the delinquencies for the months of January and February 2015, and confirmed her agreement that the PIPs were necessary due to her incomplete or absent reports. In addition, she added, some of the workups

which were submitted were defective and required follow-up information or additional supporting documentation.

13. The witness continued that her own expectation of Appellant for curing the delinquencies was at least one completed report each working day. She acknowledged that throughout the timeframe, Appellant was assigned and performed other duties, particularly in the nature of follow-up and related chores. However, her progress was slow and, in fact, much slower than other workers similarly situated who also were working on their past dues. She was not involved in the decision to remove Appellant from the new case rotation. In summary, she urged, Appellant did not meet expectations during the first seven months of 2015, and the support efforts supplied her did not appear to achieve the desired result as promptly as management hoped.

14. Under Appellant's cross-examination of this witness, she primarily focused upon the procedure utilized within the Scott County office for the initial assignment of investigations and the mode of processing of corrections of the reports as they were handed in. The witness ratified that among her duties as supervisor was the screening of reports from staff for completeness and accuracy, and this process was engaged for those cases submitted by Appellant. She agreed that in some instances reports might be handed back and forth multiple times if corrections were incomplete, inaccurate, or otherwise defective. She agreed that Appellant performed other duties while out of rotation, or in "lockdown," such as attending court or similar chores required by the position.

15. **Jay Klein**, at the time of hearing, served as Acting Director, Division of Employment Management within the Cabinet. He has a total of 15 years with the agency. Although not currently serving as the designated Appointing Authority, he did hold that capacity at the time of issuance of the letter suspending Appellant on July 29, 2015. He identified the letter and offered it as part of his testimony, noting that it undertakes to blueprint the grounds for the suspension and the regulation(s) and/or policies viewed to have been violated. He presented the text of 101 KAR 1:345 cited in the suspension letter, and the agency policy, which he noted essentially parallels the regulation.

16. Directed to describe the method whereby a disciplinary action is implemented, the witness explained that the process commences with a request from the particular department, submitted without any suggested level of discipline. It is then organized with all supporting documentation viewed to establish the need, whereupon the witness or his office assigns the file to a staff person for review and recommendation. He described the levels of management involved with the review, culminating in a submission to his office with a suggested level of penalization, if any, which he either approves or alters. He pointed out that the process also involves a review of disciplines imposed in similar situations previously, together with the history of the specific employee.

17. Under cross-examination, although the witness could not expressly recall when the request in this case came to him, he observed from contents of the suspension letter that it would have occurred sometime after July 13, 2015, a date referenced in the letter. He reiterated that the level of discipline was derived from a review of previous actions and examples from within the agency, combined with Appellant's past history. Appellant discussed the weight given to any previous discipline of her; he recalled that in her particular instance it was only modest, since the prior warning or warnings involved time and attendance issues.

18. Appellant pressed the witness concerning the extent to which his office or staff may have considered her performance of other duties related to her position during the time periods under scrutiny which may have either distracted her or prevented her from timely completion of her reports. He acknowledged the possibility that the documentation supplied and/or the PIPs may or may not have included the entirety of all duties and actions performed by her, but he reiterated that the focus was upon the number of delinquencies and their length rather than whether or not she was performing her other duties as well.

19. The agency having concluded its proof-in-chief, Appellant, **Melody Westerfield**, offered her own testimony. She ratified that she is no longer employed with the agency. She recalled that she was off work upon two occasions in 2014, the first being for two weeks in February for a surgical procedure and then later for approximately for two months in August and September. When she returned in October, she was presented with 40 past due reports to deal with. She noted that around that time the Scott County office underwent a sizable turnover of workers, and supervisors coming and going, as well. She viewed management to be inconsistent or non-existent during that period, and workers were required to essentially manage themselves. In her own circumstance, when she submitted reports for review, there was a lag in getting them returned for corrections. Further, she urged, the offices were relocated to other quarters, adding to the disarray.

20. Appellant insisted that in addition to physically preparing the reports, all workers, including herself, were assigned many other duties which consumed considerable amounts of time. She performed these duties without question and as directed, but no reference thereto was made in the PIPs or in materials supplied to management seeking to discipline her. Notwithstanding any appearance that she was not getting her work done, she satisfactorily performed all of these other duties such as home visits, court attendance, and certain other functions to which she alluded during the course of her testimony. She viewed that the help afforded her to correctly complete her reports, as claimed by management, was of little benefit. She submitted a series of emails during her testimony which depicted examples of other functions performed by her variously during the timeframe under scrutiny which did not reach the PIPs and, in her view, should have been considered by management in mitigation of the suspension.

21. Under very brief cross-examination, Appellant recalled that she commenced with the Department of Community-Based Services with the agency on March 16, 2005, holding the position at that time of Investigative Social Service Worker. Thereupon concluded the sworn testimony, and this matter stood submitted for Recommended Order.

22. KRS 18A.095(1) provides that "a classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause."

23. 101 KAR 1:345 is the regulation implemented to govern imposition of disciplinary actions. Section 1, thereof, authorizes appointing authorities to discipline employees for "...lack of good behavior or the unsatisfactory performance of duties." Section 4 relates to the imposition of suspensions and mandates that no suspension shall exceed 30 working days.

24. Supplementary to the referenced regulations, the Cabinet for Health and Family Services has in place one or more Standards of Practice (SOP) governing its personnel, notable DCBS Standard of Practices, Section 2.12 requires completion of assessment and documentation pertaining to investigations, together with a finding, ordinarily within 30 days. Agency personnel are subject to other standards as well, more fully cited in the suspension letter.

FINDINGS OF FACT

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

1. At all times germane to this proceeding, to and including an undisclosed date following her suspension, Appellant, Melody Westerfield, was a classified employee with status of the Cabinet for Health and Family Services, holding the position of Social Service Clinician I within the Department for Community-Based Services, assigned to Scott County, Kentucky. She was a ten-year employee of the agency. Included among her duties was a requirement that she conduct investigations of allegations of child abuse within the geographical area assigned, thereupon document the events or non-event as the case may be, and prepare a report with findings, identified as an Assessment and Documentation, or "ADT," to be entered into agency records. One or more standards of practice officially require these reports be completed for scrutiny by management within 30 working days, presumably from the time the field investigation is deemed completed. It is recognized that this deadline functions more as a guideline than an absolute requirement, and it is not uncommon, according to the testimony, for workers to fail to meet the asserted due date in many instances. Of necessity, each investigation turns upon its own circumstances.

2. Attendant to the job description are a variety of other duties in addition to the preparation of the reports including, but not limited to, follow-up visits, court appearances, standard office chores, and other routine day-to-day activities. All personnel are expected to perform these chores as directed or requested and undertake to prepare, or correct, as need be, their investigative reports roughly on time.

3. Appellant, who was off work at least 2.5 months in 2014, became delinquent upon a sizeable number of her investigative reports and this status drew increased attention of management at the beginning of 2015. She does not dispute that in January of 2015, she was past due upon 56 of her investigations; her past dues carried through at least June 2015, notwithstanding active steps by management to decrease her investigative workload and to somewhat insulate her from distractions to enable her to cure the delinquencies. Further, she was assigned no new cases after March of that year. Meanwhile, the families impacted by the abuse allegations and/or investigation were in suspension pending these findings and final disposition of their case, and the proof is that certain benefits which may have been due them were held up.

4. In addition to insulating Appellant from some distractions and curtailing her new assignments, management met frequently with her and created a series of Performance Improvement Plans with which, in some instances, she disagreed and refused to sign. The testimony indicates that these aids, which were implemented to enable her to focus upon what has been demonstrated to be a primary function of her position, had little immediate effect, although by July 2015, her delinquencies were essentially dealt with. Appellant does not challenge the number of delinquencies or their status, her position being that she was, throughout the timeframe, performing various other duties for which she deserves more credit than has been afforded her.

5. The Hearing Officer finds the testimony of all witnesses, including that of Appellant, to be credible.

CONCLUSIONS OF LAW

1. 101 KAR 1:345 affords agency management some flexibility in determining what constitutes "... the unsatisfactory performance of duties." Of necessity, this discretion will vary from agency to agency, and even between divisions, since the level of performance is unique to the expectations attached to the particular job description.

2. It would seem that the primary function of the position held by Appellant was the investigation of abuse allegations and generation of a write-up thereof as promptly as possible to enable all affected parties to discern their status and be governed appropriately. Unreasonable delay in any portion of the process would seem to be a rather serious violation of this important

and vital duty. Appellant does not dispute the delinquencies. She instead urges that she performed other chores which did not show up in the records and that these either mitigated her lack of promptness, or interfered therewith as the case may be. She also points to certain disarray in the management structure. However, her claims in those areas seem misplaced – there was ample opportunity in weekly meetings to raise such concerns. More importantly, whether or not they were brought forth, her primary task of bringing the specific abuse allegations to a close so that the status of the affected parties could be established seems to have been secondary to her in her performance of duties. Management's view that this was unsatisfactory was within its discretion.

3. The action of the agency, in assessing a three-day suspension from duty and pay for failure to perform the primary function of the position by Appellant was neither excessive nor erroneous in light of the overall circumstances.

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 **MELODY WESTERFIELD VS. CABINET FOR HEALTH AND FAMILY SERVICES (APPEAL NO. 2015-190)** be **DISMISSED**.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

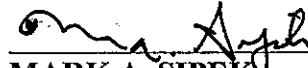
Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are 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 John Ryan** this 3rd day of May, 2016.

KENTUCKY PERSONNEL BOARD



MARK A. SIPEK
EXECUTIVE DIRECTOR

A copy hereof this day mailed to:

Hon. Blake A. Vogt

Ms. Melody R. Westerfield

Received

JUL 31 2015

Personnel Board



**CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF HUMAN RESOURCE MANAGEMENT**

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Audrey Tayse Haynes
Secretary

July 29, 2015

Melody Westerfield

Re: Three (3) Day Suspension

Dear Ms. Westerfield:

Based on the authority of KRS 18A.095 and 101 KAR 1:345, you are hereby notified that you are officially suspended from duty and pay for a period of three (3) working days. The effective dates of your suspension are August 3, 4 and 5, 2015.

In accordance with 101 KAR 1:345, Section 1, you are being suspended from your position as a Social Service Clinician I, with the Department for Community Based Services (DCBS), Northern Bluegrass Service Region for the following specific reasons:

Unsatisfactory Performance of Duties. As reported by Acting Service Region Administrator (SRA) Lesa Dennis and Service Region Administrator Associate (SRAA) Jason Mellenkamp, you consistently fail to timely complete investigative Assessment Documentation Tools (ADTs) within the 30 day requirement as outlined in DCBS Standard of Practice (SOP).

Per DCBS Standard of Practice (SOP) 2.12 Complete the Assessment and Documentation Tool (ADT) and Making a Finding within 30 Days, "The SSW (Social Service Worker): Completes the assessment within thirty (30) working days."

On January 1, 2015, per The Workers Information System (TWIST) 292 report, you had 56 past due 2014 investigative cases that required you to complete ADTs. Also, in January, February and early March 2015, you were assigned 11 new investigations. Then, on March 10, 2015, you were taken off rotation, meaning that you no longer received any new case assignments for investigation, so that you could concentrate on completing your past due investigative ADTs.

As of May 18, 2015, despite being taken off rotation and being afforded other efforts to assist you in completing your past due casework, you had only reduced your past dues to 26, and the 11 new

investigations you had received in 2015 were now past due as well, making your total past dues at 37 cases. You needed to complete ADTs for these 37 past due cases.

As of June 8, 2015, according to the TWS-292 report, you had reduced your 26 past dues to 13.

As of July 13, 2015, the TWS-292 report showed that you had only 4 past due cases remaining.

Efforts to assist you in improving your work performance include:

- From January 6, 2015 through June 15, 2015, you were issued 14 Performance Improvement Plans (PIPs). These PIPs listed specific past due cases you were to complete and provided you with specific job duties you were to perform each day of the week (e.g. field work, check emails, return phone calls, etc.). However, despite these PIPs, you still only showed minimal progress.
- As indicated above, you were taken off of rotation from receiving any new investigative cases from March 10, 2015, and have remained off of rotation until the present time.
- You were offered overtime to assist you in the completion of past due ADTs. Then, beginning April 20, 2015 to June 1, 2015, Detailed Family Services Office Supervisor (FSOS) Lindsey Roman directed you to work 5 hours of overtime each week in an effort to ensure that you were provided with additional time to complete past due ADTs. However, directed overtime was discontinued on June 1, 2015 by SRAA Mellenkamp, due to your lack of sufficient productivity.
- You were asked what would help you improve your work performance in completing past due ADTs. You stated you needed someone to type your ADTs for you. Therefore, Social Service Clinician I Lori Walden began to review your ADTs and assist with typing. Ms. Walden would correct and make suggestions for your ADTs in Microsoft Word to allow you to easily correct and then copy and paste for efficiency.
- To prevent distractions from your Protection and Permanency (P&P) coworkers, your office was moved to the family support hallway. Additionally, your office phone was removed from your office.

Your failure to timely complete investigational ADTs and make a finding within 30 days of receiving the referral for investigation, directly impacts the safety and well-being of the alleged victims. Your lack of follow through in completing the assessments and making findings in a timely manner has undeniably increased the risk of harm where abuse/neglect was present. Due to your failure to promptly and timely complete your investigations and make a finding, you have left clients in limbo, some without being seen for months at a time, and left many without needed service referrals and/or services for months at a time.

Your failure to adequately and timely meet DCBS compliance expectations for completion of investigative ADTs was addressed on your May 30, 2014 and October 29, 2014 interim reviews, as well as your 2014 Year-End Evaluation, completed on March 10, 2015. Additionally, your failure to adequately and timely

meet DCBS compliance expectations for ADT completion was addressed during your 2015 first interim review on July 7, 2015.

According to DCBS' Division of Protection and Permanency's Standard of Practice (SOP) 1.1 Ethical Practice, "Social Service Professionals: Act in the best interest of those toward whom they have professional responsibilities; Promote the welfare of those toward whom they have professional responsibilities; Avoid harming those toward whom they have professional responsibilities;" and "Minimize harm when it is unavoidable." As a Social Service Clinician I, your failure to recognize the serious and critical responsibilities associated with your position seriously jeopardizes the Cabinet's mission to protect and enhance the health, safety and well-being of some of the Commonwealth's most vulnerable citizens.

Further, as a social service professional with the Cabinet for the past ten years, you knew or should have known the importance of following appropriate policies and procedures as it relates to properly and timely conducting investigations and timely connecting clients with needed services and resources, to ensure their needs are immediately met to ultimately ensure that no more harm comes to these vulnerable adults and children.

Your actions violate 922 KAR 1:330 and DCBS' Division of Protection and Permanency's Standards of Practice (SOP) 1.1, Ethical Practice; SOP 2.12, Completing the Continues Quality Assessment and Making a Finding; and the Cabinet for Health and Family Service's Personnel Policy 2.1, Employee Conduct. Further, your actions constitute unsatisfactory performance of duties for which you may be disciplined pursuant to 101 KAR 1:345, Section 1.

You previously received the following actions:

<u>DATE</u>	<u>ACTION</u>	<u>REASON</u>
September 6, 2013	Three Day Suspension	Unsatisfactory Performance of Duties
March 11, 2015	Verbal Warning	Lack of Good Behavior (Time and Attendance)

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

On June 16, 2015, you were advised that due to a legitimate business need in the Scott County DCBS, P&P office, as well as your inability to complete investigative ADTs according to SOP requirements, your duties would change from the investigative team to the ongoing team as of June 29, 2015 (this was delayed until July 14, 2015). This would mean that instead of receiving referrals and conducting investigations of alleged abuse and neglect, you would be providing ongoing services to adults and children who had already been through the investigative phase and were found to have been in need of ongoing DCBS plans and services.

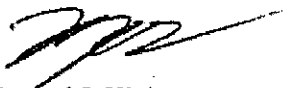
Since being advised of this change in duties, you have been extremely resistant, especially during discussions of being transitioned from your current supervisor to the Scott County ongoing supervisor, FSOS Alison Hines. Temporarily, you remained under the supervision of FSOS Romans, until you completed all of your past due investigative ADTs, and while you transitioned to the ongoing team. Once that is complete, you will be placed under the supervision of FSOS Hines, as she is the ongoing supervisor in Scott County.

Melody Westerfield
July 29, 2015
Page 4 of 4

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

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

Sincerely,



Howard J. Klein
Appointing Authority

HJK:jty

Attachments

c: Secretary Tim Longmeyer, Personnel Cabinet
Executive Director Mark Sipek, Personnel Board
Commissioner Teresa James, DCBS
Acting Service Region Administrator Lesa Dennis, Northern Bluegrass Service Region
Cabinet Personnel File