

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Lisa Hensley-Boggs,

Appellant,

v.

Case No. 2013-REM-02-0066

Hamilton County Developmental Disabilities Services,

Appellee.

ORDER

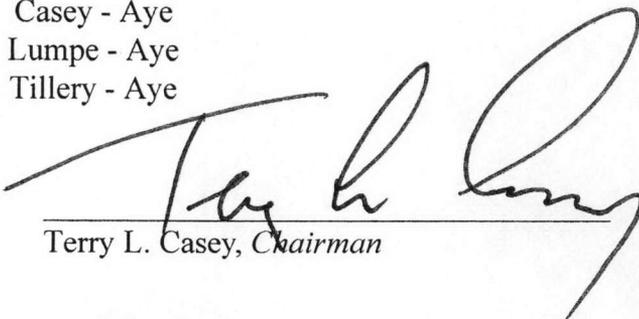
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the entirety of the record, including a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the **REMOVAL** of Appellant from her Service Facilitator position with Hamilton County Developmental Disabilities Services is **AFFIRMED**, pursuant to Ohio Revised Code Sections 124.03 and 124.34.



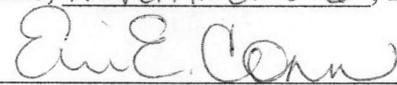
Casey - Aye
Lumpe - Aye
Tillery - Aye


Terry L. Casey, *Chairman*

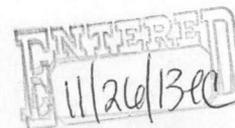
CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes (~~the original~~/a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, November 26, 2013.


Clerk

NOTE: Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.



**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Lisa Hensley-Boggs,

Case No. 2013-REM-02-0066

Appellant

v.

October 17, 2013

Hamilton County Developmental
Disabilities Services,

Appellee

James R. Sprague
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This case came to be heard at record hearing on September 10, 2013. Present at the hearing was Appellant, who appeared *pro se*. Appellee was present through its designee, Shaun Garver, Human Resources (HR) Director for Appellee, Hamilton County Developmental Disabilities Services (HCDDS). Appellee was represented by Kathleen H. Bailey, Assistant Prosecuting Attorney. On May 30, 2013, the parties also attended a pre-hearing in this matter.

This cause comes on due to Appellant's February 13, 2013 timely filing of an appeal from Appellant's removal from her position of Service Facilitator with Appellee. Appellant's pertinent R.C. 124.34 Order of Removal was signed on February 6, 2013. The Order was effective on February 7, 2013 and the Order was hand-delivered on February 7, 2013.

CONSOLIDATED STATEMENT OF THE CASE AND FINDINGS OF FACT

The pertinent language of Appellant's R.C. 124.34 Order of Removal reads as follows:

Pursuant to Section 124.34 of the Ohio Revised Code, the reason for this action is that you have been found guilty of dishonesty and a general failure of good behavior (emphasis in original) in the following particulars, to wit:

On **October 1, 2 and 3, of 2012**, you reported in progress notes that you completed progress notes for individuals. There are no notes entered on those dates.

On **October 4, 2012**, you reported in progress notes that you completed progress notes. There are only a few notes entered on that date. You report two hours of productivity on this date but there is no supporting documentation. In addition, you inflated the amount of time it took to write the notes you did enter.

On **November 5, 2012**, you reported in progress notes that you completed progress notes for individuals. There are no notes entered on those dates.

On **November 7, 2012**, you reported in progress notes that you completed progress notes for individuals. There are only a few notes entered on that date. You report two hours of productivity on this date but there is no supporting documentation. In addition, you inflated the amount of time it took to write the notes you did enter.

On **December 5, 2012**, you reported in progress notes that you completed progress notes. There are only a few notes entered on that date. You report five hours of productivity on this date but there is no supporting documentation. In addition, you inflated the amount of time it took to write the notes you did enter.

On **December 6, 2012**, you inflated the amount of time it took to write the notes you did enter.

On **December 21, 2012**, you reported that you completed case notes on this date and "file review" for 6 individuals. Gatekeeper shows there were no progress notes entered for these individuals on this date.

In **January, 2013**, you informed your supervisor and submitted a monthly report that indicated that you had completed a My Plan

meeting for individual D.B. When Lisa Myers questioned you about this, you then stated the meeting had not been held.

In **October, November and December of 2012**, you blamed your lack of follow up re: T.B.'s My Plan on a co-worker when you were aware of all necessary information to complete the My Plan. You stated that you did not have information when progress notes written by you and the co-worker as well as emails written by you and the co-worker indicate that you did have all information needed. (emphasis on months and dates added for ease of reference)

At hearing, Appellee called Lisa Myers and Peggy Kurz to testify on direct examination and Appellant conducted cross examination.

First to be called by Appellee was **Lisa Myers**, Community Services Supervisor for the HCDDS

Next to be called by Appellee was **Peggy Kurz**, Director of Community Services for the HCDDS.

At hearing, Appellant chose not to offer testimony on her own behalf.

Appellee's Personnel Policy and Procedure Manual (Appellee's Exhibit 19) describes terminable offenses to include:

... Group III Offenses. This misconduct, which is of a serious and possible criminal nature, and could result in severe disruption to the Agency's ability to function, and/or have a long-lasting and deleterious impact upon the organization, may result in immediate dismissal, even in the absence of a record of prior discipline on the part of the employee. Such offenses include, but are not limited to:

f. Falsifying or assisting in falsifying, or destroying without authorization, any Agency records.

q. Dishonesty or any dishonest action. (Some examples of what is meant by “dishonesty” or “dishonest action” are: ... making or causing to be made, inaccurate or false reports. ...) (emphasis in original)

Appellant, Lisa Hensley-Boggs, was hired on March 31, 2011 by Hamilton County as a Service Facilitator at HCDDS. Appellant’s position facilitates and assists the individual and/or family in the development of a single service plan that would clarify team members’ responsibilities, along with identifying goals and action plans for treatment. The Service Facilitator is also required to complete documentation in compliance with regulatory provisions and prepare case notes. Ms. Hensley-Boggs reported directly to Lisa Myers, Community Services Supervisor.

At hearing, it was established that an individual’s case notes, also known as “progress notes”, are to be entered into the County’s system (known as “Gatekeeper”) by the Service Facilitator. Appellant was to track her time as she wrote these notes into the system. Gatekeeper also tracks the time one spends in the system completing progress notes. The County then uses these notes and time stamps for billing purposes.

Appellant reported that, for October 1, 2012 through October 4, 2012, she completed progress notes for twenty five hours and twenty minutes. Gatekeeper documentation shows time stamps equaling 26 minutes during this timeframe. The difference of 1,494 minutes exists between Appellant’s report and Gatekeeper documentation.

Appellant reported that on November 5 and November 7, 2012, she completed progress notes for 18 hours and 26 minutes. Gatekeeper time stamps indicate a total of 160 minutes spent completing progress notes for these two days. The difference here is 946 minutes.

On December 5, December 6, and December 21, 2012, Appellant reported completing progress notes for 20 hours and 29 minutes. Gatekeeper reports that Appellant was entered progress notes for 133 minutes. The difference here is 1,096 minutes.

In the months of October, November, and December, 2012, from the sample provided, the total difference between the times Appellant reported she was completing progress reports and Gatekeeper time stamps was greater than 58 hours.

Appellant's position is also responsible for completing a "My Plan" for each individual assigned to her. This My Plan serves as a guide for all the care providers who assist with the individual and who receive financial support. It is completed with the help of the individual's family and the requisite care providers.

Appellant was to create a My Plan for Dorian B. by December 15, 2012. Although Appellant had stated this My Plan was completed, it was established that Appellant did not complete the My Plan in the required time frame with the needed family members.

It was also reported that Dorian B.'s mother called in to Director of Community Services Peggy Kurz in December, 2012 to inquire as to why Dorian B.'s family had not been contacted by their Service Facilitator (*i.e.* Appellant) since November, 2012. Indeed, Appellant had not yet even re-scheduled her appointment with Dorian B.'s family; after Appellant, herself, cancelled that appointment.

The family was supposed to have gone over the My Plan with Appellant during that (now-cancelled) meeting. Community Services Supervisor Lisa Myers called Dorian B.'s mother and confirmed the information that Dorian B.'s mother had relayed to Peggy Kurz.

Appellant e mailed Ms. Myers that an appointment had been in place regarding Dorian B. However, Appellant also apprised Ms. Myers that Appellant had to cancel the appointment; due to the need to attend a priority meeting at the SODC.

There is no documentation to support any claim by Appellant that Appellant actually went to this meeting at the SODC. According to testimony, Appellant's actual attendance at the meeting at the SODC would have constituted a legitimate excuse to have (temporarily) cancelled, and then quickly re-scheduled, the My Plan meeting with Dorian B.'s family.

Appellant also submitted mileage for the trip to Dorian B.'s house. Phone records indicate Appellant called Dorian B.'s family residence to cancel the aforementioned My Plan appointment hours before the time submitted for this claimed trip.

Appellant was assigned an individual, Teresa, on October 19, 2012. According to notes completed by the previously-assigned Service Facilitator on that same date, Appellant was informed that a new My Plan was to be completed to change the funding; because Teresa had received a "Level One" waiver.

Appellant reported that she had reviewed Teresa's case on October 19, 2012 for three hours as stated in Appellant's Service Facilitator report. On November 14, 2012, the previously-assigned Service Facilitator notes again that he informed Appellant that a new My Plan would have to be completed for Teresa. In notes on Teresa's case in Gatekeeper and through an e mail Appellant sent, Appellant denies being informed that a new My Plan was required.

At hearing, Appellant attempted to demonstrate that her behavior was motivated by her belief that, when she transferred her notes from a notebook into her calendar, she was legitimately performing work on her progress notes; as required for her position. Appellant also stated in her closing argument that her previous supervisors had known and accepted that method of performing (and capturing) work. Since Appellant chose not to testify on her own behalf, no substantive evidence was offered to further these claims.

Based on the testimony presented and evidence admitted at hearing, I make the following Findings:

I note that I incorporate, by reference, any Finding set forth, above, whether express or implied.

Further, I find that, on several occasions, Appellant did commit a Group III offense as defined by Appellee's Personnel Policy and Procedure Manual. Appellant was made aware of the manual in initial training for her position.

First, a series of violations occurred when Appellant did not follow procedure. This occurred when Appellant claimed and entered time into the Gatekeeper system to the effect that she was entering progress notes into the County's computer

system, when in fact she was not. Indeed, Appellant committed this act several times during the pertinent three-month period at issue, herein.

Secondly, a series of violations occurred when Appellant did not complete a My Plan for Dorian B. Appellee demonstrated that Appellant not only cancelled (and failed to re-schedule) the appointment with Dorian B.'s family but also submitted (non-accumulated) mileage for travel to Dorian B.'s house to work on Dorian B.'s My Plan.

The record reflects that it is more likely than not that Appellant was dishonest with Appellee regarding the paperwork Appellant submitted and, furthermore, that Appellant was dishonest with Appellee regarding the ostensible reason that Appellant gave for cancelling the meeting with Dorian B.'s family.

Lastly, the record supports a finding that Appellant was, in fact, aware that a new My Plan was required for "Teresa", another client assigned to Appellant's caseload. The timely filing of Teresa's My Plan would ensure receipt of pertinent federal funding covering Teresa's treatment.

Moreover, the record reflects that it is more probable than not that Appellant was dishonest with several County employees concerning Appellant's claim that she was unaware of Teresa's situation or of the need for this paperwork to be timely filed. Finally, the record reflects that Appellant (once again) failed to complete the required paperwork in a timely manner, here for Teresa.

Thus, I find that Appellee has demonstrated that Appellant committed the Group III Offenses of **falsification** and of **dishonesty**, thus substantiating Appellee's allegation of "**dishonesty**" contained in Appellant's pertinent R.C. 124.34 Order of Removal.

Appellee's proven allegations against Appellant regarding falsification and dishonesty also demonstrate that Appellant committed several **failures of good behavior** through her acts and omissions. Accordingly, Appellee has also proven the allegation of "**a general failure of good behavior**" contained in Appellant's pertinent R.C. 124.34 Order of Removal.

Finally, I find that Appellee has demonstrated that it followed its discipline policy and that it provided Appellant with her requisite procedural due process rights.

CONCLUSIONS OF LAW

Appellant was removed from her employment with Appellee. Her removal was based upon her alleged violations of Appellee's Personnel Policy and Procedure Manual. As in any disciplinary appeal before this Board, Appellee bears the burden of establishing, by a preponderance of the evidence, that Appellant engaged in the conduct alleged.

The facts of this case present a County agency that must follow strict regulations to receive federal funding; so as to properly assist those in need. The guidelines put in place by Appellee are designed to ensure that Appellee does not jeopardize its critical flow of funding. Appellee has further demonstrated that all of its pertinent policies at issue in the instant appeal need to be followed to obtain that goal.

Honest reporting is crucial to Appellee's success in this area. Conversely, inaccurate data could lead to funding disruptions for Appellee and even significant agency liability.

That being said, Appellee has the right to require its employees to be forthright and honest in their reporting and dealings. Appellee demonstrated that, on several occasions, Appellant was less than such.

The record reflects that Appellant essentially falsified time reports concerning case notes over several months. The record also reflects that Appellant was dishonest about certain documentation she claimed to have completed (which she did not), documentation she claimed to have timely filed (which she did not), and time and travel she claimed she accumulated (which she did not).

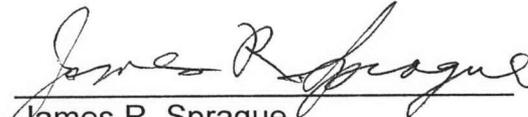
Of even more importance, as reflected in the record, is that these documents were used by Appellee for billing purposes, including billing submitted to the federal government. Accordingly, continued dishonest acts and falsification of records by

Appellee's employees can lead to fiscal liability for Appellee and to potential fraud charges for an offending employee.

Appellee clearly demonstrated that Appellant's acts and omissions were sufficient to violate Appellee's procedures, specifically the Group III offenses of falsifying Agency records and dishonesty or any dishonest act. Further, Appellee has met its burden to prove, by a preponderance of the evidence, all the allegations contained within the instant R.C. 124.34 Order of Removal. Thus, Appellant's removal should be affirmed.

RECOMMENDATION

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **AFFIRM** the **REMOVAL** of Appellant from her position of Service Facilitator with Hamilton County Developmental Disabilities Services, pursuant to R.C. 124.03 and R.C. 124.34.


James R. Sprague
Administrative Law Judge

JRS: