

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Rebekah Williams,

*Appellant,*

v.

Case No. 2013-REM-08-0213

Richland County Board of Developmental Disabilities,

*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 (ALJ), along with any objections to that report which have been timely and properly filed, the Board hereby MODIFIES the Recommendation of the ALJ and AFFIRMS Appellant's REMOVAL. This is because the record contains sufficient reliable, probative, and substantial evidence to demonstrate that Appellee met its burden of proof in this matter regarding the allegations set forth against Appellant.

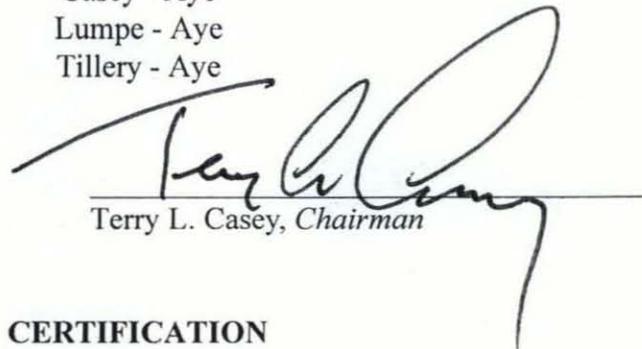
Wherefore, it is hereby **ORDERED** that the instant removal is hereby **AFFIRMED**, pursuant to R.C. 124.03 and R.C. 124.34.



Casey - Aye

Lumpe - Aye

Tillery - Aye

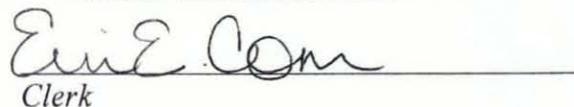


Terry L. Casey, *Chairman*

**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 20, 2014.



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**

Rebekah Williams

Case No. 2013-REM-08-0213

*Appellant*

v.

September 9, 2014

Richland County Board of Developmental  
Disabilities,

*Appellee*

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on for consideration pursuant to Appellant's appeal of her termination from employment. A record hearing in the instant matter was held on March 10, 2014. Appellant was present at the record hearing and appeared *pro se*. Appellee was present at record hearing through its designee, Human Resources Director Alicia Bailey, and was represented by Steven P. Postalakis, Attorney at Law.

The letter notifying Appellant of her removal from employment listed as grounds for her dismissal:

- 1.) Neglect of duty- Failure to meet with a family Richland Newhope supports on 05/03/2013 when the family was present and requesting service.
- 2.) Neglect of duty- 06/13/2013 Complaint by Meredith [name removed] stakeholder and parent due to dissatisfaction of services provided by Rebekah Williams.
- 3.) Failure to perform job duties in a timely manner PO's not being processed in the 2-3 day timeframe.

- 4.) Failure to perform required job duties not inputting data into the Family Support Service tracking system.
- 5.) Neglect of duty Jodi [name removed] complaint on dissatisfaction of service provided by Rebekah Williams.
- 6.) Neglect of Duty Complaint from Yvonne [name removed] on the dissatisfaction of service provided by Rebekah Williams.
- 7.) Failure to perform job duties- Surveys to family and stakeholders have not been sent out this calendar year. This is a requirement to allow feedback from stakeholders and families. These surveys are to be distributed throughout the year
- 8.) Violation of the Information Systems Computer Use- Deleting Public Records specifically the 2013 Family Support Services PO tracker (P.O. TRACKER-NEW FORMAT 7/18/2012). The document came up as not being available. The IT department was contacted to locate the document and research the documents history. It was discovered by the IT Department that the document had been deleted by Rebekah Williams from the Common Drive on 7/8/2013 at 11:37 am. This document was found under Rebekah William's H Drive
- 9.) Unauthorized use of your workstation violation of the Information Systems Computer Use- Specifically completing homework assignments on your assigned workstation, along with other personal programs.

The effective date of Appellant's removal was July 30, 2013.

**CONSOLIDATED STATEMENT OF THE CASE  
AND FINDINGS OF FACT**

Based on the testimony presented and evidence admitted at record hearing, I make the following findings of fact:

Appellant was employed by Appellee, Richland County Board of Developmental Disabilities, as a Family Services Specialist in the Department of Service and Support Administration. Appellant participated in a pre-disciplinary conference on July 12 and July 23, 2013. Her employment with Appellee was terminated on or about July 30, 2013.

Carla Rumas, Renee Putman, Chris White, Meredith Spoon, Kim Blevins and Michelle Giess testified regarding difficulties experienced by staff and client families in working with Appellant, and Appellant's failure to communicate with staff and client families. Specifically, the witnesses indicated that both therapists and client families had problems getting a timely response from Appellant regarding supplies and/or equipment that had been ordered. Mr. White recalled that Appellant refused on at least one occasion to speak with a client to provide information about respite care; Ms. Putman and Ms. Blevins noted that although Appellant was supposed to come to the front desk when parents picked up their supplies, she rarely did so. Ms. Giess observed that she received complaints from therapists and family members that Appellant did not return telephone calls or respond to emails.

Ms. Giess, who was Appellant's immediate supervisor, communicated to Appellant that purchase orders were expected to be completed within three days. Processing purchase orders typically takes from five to seven minutes; some items can be purchased from local retailers the same day the purchase order is submitted. Appellant was also instructed to acknowledge receipt of equipment/supply requests from families and record the process on an internal spreadsheet.

Appellant was made aware that she needed to conduct herself more professionally in her interactions with both staff and client families. She was also advised that telephone calls were to be returned in a timely manner.

For a period of time immediately prior to her removal, Appellant was placed in a temporary position in a different building. During that time the Family Support

Services (FSS) purchasing order spreadsheet was deleted. Appellee's third-party computer services contractor determined that Appellant was the user who had deleted the spreadsheet; a copy of the spreadsheet was later discovered on Appellant's personal network drive. When the third-party contractor restored files deleted by Appellant within the last six months of her employment, Appellee found approximately 166 pages of non-work related, personal documents.

### **CONCLUSIONS OF LAW**

As in any disciplinary appeal before this Board, Appellee bears the burden of establishing by a preponderance of the evidence, certain facts. Appellee must prove that Appellant's due process rights were observed, that it substantially complied with the procedural requirements established by the Ohio Revised Code and Ohio Administrative Code in administering Appellant's discipline, and that Appellant committed one of the enumerated infractions listed in R.C. 124.34 and on the disciplinary order. In the matter at hand, Appellant was provided with a letter on or before the effective date of her removal, stating the basis for her termination of employment.

The standard of proof required by this Board, a "preponderance of the evidence," means that Appellee must produce evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. With regard to the infractions alleged in the letter of termination, Appellee must prove for each infraction that Appellee had an established standard of conduct, that the standard was communicated to the Appellant, that the Appellant violated that standard of conduct, and that the discipline imposed upon Appellant was an appropriate response.

In weighing the appropriateness of the discipline imposed upon Appellant, this Board will consider the seriousness of Appellant's infractions, Appellant's prior work record and/or disciplinary history, Appellant's employment tenure, and any evidence of mitigating circumstances or disparate treatment of similarly situated employees presented by the Appellant.

Due process requires that a classified civil servant who is about to be disciplined receive oral or written notice of the charges against her, an explanation

of the employer's evidence, and an opportunity to be heard prior to the imposition of discipline, coupled with post-disciplinary administrative procedures as provided by R.C. 124.34. *Seltzer v. Cuyahoga County Dept. of Human Services* (1987), 38 Ohio App.3d 121. Information contained in the record indicates that Appellant was notified of and had the opportunity to participate in a pre-disciplinary hearing. Appellant had notice of the charges against her and an opportunity to respond to those charges. Accordingly, I find that Appellant's due process rights were observed. I further find that Appellee substantially complied with the procedural requirements established by the Ohio Revised Code and Ohio Administrative Code in removing Appellant.

This Board's scrutiny may, therefore, proceed to the merits of the charges made against Appellant. Appellant's removal was based on neglect of duty, failure to perform job duties and violation of information systems computer use policies.

The charge of neglect of duty was based on several specific incidents: Appellant's failure to meet with a family requesting information on respite care services, and complaints received from three individuals regarding services provided. The three complaints raised issues regarding Appellant's alleged lack of communication and follow through, resulting in difficulty obtaining necessary supplies, services, and equipment. Testimony and evidence contained in the record indicated that Appellant had previously been counseled on her job performance in this area and made aware that she needed to communicate in a professional and timely manner with staff and clients. Information presented at record hearing established Appellant's failure to sufficiently improve her work performance with regard to communication with staff and client families, accordingly, I find that Appellee has demonstrated the charge of neglect of duty by a preponderance of the evidence presented.

The charge of failure to perform job duties arose specifically from Appellant's alleged failure to process purchase orders in a 2-3 day timeframe, her alleged failure to send surveys to client families and stakeholders, and her alleged failure to input data into the Family Support Service tracking system. Appellee produced sufficient evidence at record hearing to establish that the 2-3 day timeframe for processing purchase orders had been communicated to Appellant, however, Appellee failed to demonstrate that Appellant had actually failed to meet that timeframe. Appellee did not produce sufficient evidence to establish that Appellant had failed to distribute surveys in a specific manner or by a specific date, or that any

specific standard of conduct regarding sending surveys to client families and stakeholders had been communicated to her. Appellee did establish that Appellant knew of the requirement to input purchase order data into the FSS tracking system and failed to do so. Accordingly, I find that Appellee has substantiated the charge of failure to perform job duties with respect only to the allegation that Appellant failed to input data into the FSS tracking system.

The charge of violation of information systems computer use policy arose from Appellant's alleged deletion of public records (i.e., the FSS tracking system spreadsheet), and her unauthorized use of her workstation to create personal documents. Appellee provided no testimony or evidence to establish that it had defined policies in place regarding either the deletion of public records or unauthorized use of workstations, or that any policies regarding the same were ever communicated to Appellant. Therefore, I find that Appellee has failed to support the charges of violation of information systems computer use policy outlined in Appellant's letter of removal.

Appellant has no history of prior discipline. Given Appellee's failure to prove by a preponderance of the evidence a significant number of the charges upon which Appellant's termination was premised, I find that removal from employment was not an appropriate disciplinary response by Appellee. Clearly, however, the charges substantiated are cause for concern, and Appellant may certainly benefit from increased training or on-the-job mentoring.

Accordingly, after consideration of all of the information contained in the record, I respectfully **RECOMMEND** that Appellant be reinstated to the position of Family Support Specialist, and her removal from employment be **MODIFIED** to a 30-day **SUSPENSION**.



Jeannette E. Gunn  
Administrative Law Judge