



KANSAS

D. KENT HURN, CHAIRPERSON

DEPARTMENT OF ADMINISTRATION
CIVIL SERVICE BOARD

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TO: George Vega, Interim Director, Division of Personnel Services
Tracy Diel, Director, Office of Administrative Hearings
D. Kent Hurn, Chairman, Civil Service Board

FROM: Peggy Graham, Secretary, Civil Service Board

DATE: April 16, 2007

SUBJECT: Quarterly Update

The following reflects the Civil Service Board cases in which action was taken since the January 15, 2007 quarterly report:

A. Cases Decided and/or Disposed Of:

1. dismissal *affirmed*
Rainbow Mental Health Facility
Mental Health Developmental Disability Technician. The appellant was injured and as a result had permanent restrictions placed on her activities. Unfortunately, most of these restrictions prevented her from performing the required duties of her job. After hearing all of the evidence the Board found the decision of the appointing authority to be reasonable.

2. dismissal *dismissed*
Larned State Hospital
Mental Health Developmental Disability Technician. The appellant was on probation as a new employee when he was dismissed for poor performance. The request for hearing was dismissed for lack of jurisdiction.

3. 3-day suspension *affirmed*
Department of Corrections
Parole Officer. The appellant failed to enter the proper information into the computer system to indicate an offender's sentence release date. Subsequently, she requested and received a warrant for the offender's arrest after his sentence had expired and he was no longer in the custody of the department. The appellant received a 2-day suspension previously for a similar error. After hearing all of the evidence the Board found the decision of the appointing authority to be reasonable.

4. dismissal *withdrawn*
Department of Commerce
Program Services Manager II. The appellant told his supervisor that he was “coming armed” to his next performance review and that if he did not receive an exceptional rating on his evaluation he would be armed and would take it personally. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
5. demotion and suspension *withdrawn*
Hutchinson Correctional Facility
Corrections Specialist I. The appellant was suspended and demoted for sexually harassing a female employee that he supervised. The appellant withdrew his request for hearing prior to the scheduled hearing date.
6. demotion *affirmed*
El Dorado Correctional Facility
Corrections Specialist I. The appellant was demoted to a Corrections Officer II position which does not require him to supervise other employees. This action was taken after the appellant engaged in unprofessional and inappropriate behavior. The appellant allowed his emotions to get the best of him and unnecessarily used pepper spray on an inmate who was already secured in a locked cell. He stated out loud, within hearing range of the inmate, that an inmate should hang himself; and he along with his subordinates, taunted inmates. After hearing all of the evidence the Board found the decision of the appointing authority to be reasonable.
7. failure to hire *dismissed*
Department of Health and Environment
Environmental Technician III. The appellant applied for an Environmental Technician III position. However, by the time his application was received, that position had been offered to another applicant. The appellant filed his appeal claiming he was not certified to the class and alleging whistleblower violations. The agency filed a motion to dismiss and the appellant responded. The Board dismissed the action for lack of jurisdiction.
8. dismissal *affirmed*
Parson’s State Hospital and Training Center
Client Training Supervisor. The appellant received a letter of reprimand for improper use of mechanical restraints on two occasions. He was transferred to a different cottage on two occasions due to his inability to get along with his supervisors. He received numerous counseling and feedback sessions, and was dismissed after he received two unsatisfactory performance evaluations within 180 days. The appellant appealed both unsatisfactory evaluations to the evaluation review committee and both ratings were upheld. After hearing all of the evidence the Board affirmed the decision of the appointing authority.
9. dismissal *affirmed*
El Dorado Correctional Facility
Corrections Officer I. The appellant made a racial slur in the presence of an inmate. The appellant failed to follow procedure in providing security for a unit nurse when an inmate became angry with her. Instead of providing her assistance and security, the appellant told her to work it out with the inmate and left the area. The appellant used his facility radio for inappropriate and unprofessional comments in violation of agency policy. After hearing all of the evidence the Board affirmed the decision of the appointing authority.

10. dismissal *affirmed*
Wichita Work Release Facility
Corrections Specialist II. The appellant was the shift supervisor on duty from 6:00 am to 2:00 pm on March 26, 2006. At about 10:00 that morning, he was notified by another corrections officer that an inmate was in severe pain and appeared to be very ill. The appellant did not make any effort to see the inmate in his bunk, but instead required the inmate to walk downstairs to the shift office. As the inmate lay on the floor outside of the office, groaning in pain, the appellant called the nurse on duty at Winfield Correctional Facility to ask what to do. He told the nurse the inmate was experiencing pain in his shoulder from an old injury. He failed to report the severe pain in his arm, labored breathing, distended stomach and stomach pain. The nurse instructed him to allow the inmate to have pain medication for his shoulder. The appellant gave the inmate the medication and sent him back to his bunk. He never laid eyes on the inmate again for the rest of the shift. However, throughout the shift, other officers and inmates reported that the inmate continued to be in extreme pain and had difficulty breathing. The appellant took no further action to seek medical treatment for the inmate. He also instructed the shift that arrived to relieve him and his staff that the inmate was fine and did not need emergency treatment. The inmate was later found unresponsive in his bunk and subsequently died. After hearing all of the evidence the Board affirmed the decision of the appointing authority.
11. dismissal *withdrawn*
Kansas Veterans Home
Certified Nurse Assistant I. The appellant falsified the need for funeral leave when she claimed that her sister had passed away and she needed funeral leave to travel to the funeral out of town. The agency later learned that her sister had not passed away as she had claimed. The appellant withdrew her request for a hearing prior to the scheduled hearing date.
12. 3-day suspension *dismissed*
Department of Social and Rehabilitation Services
Human Services Specialist. The appellant repeatedly failed to provide courteous customer service. She was counseled and reprimanded about the need to do so several times, yet her behavior failed to improve. The appellant failed to appear at her scheduled hearing and a default order was issued.
13. dismissal *withdrawn*
Parsons State Hospital
Developmental Disability Technician. The appellant was dismissed for abuse of a resident. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
14. dismissal *withdrawn*
Kansas Highway Patrol
Highway Patrol Trooper. The appellant received two unsatisfactory performance evaluations within 180 days. He withdrew his request for a hearing prior to the scheduled hearing date.
15. demotion *dismissed*
Topeka Correctional Facility
Corrections Specialist II. The appellant was promoted from a Corrections Officer II position to a Corrections Specialist I position. While on probation for the promotion, he received an

unsatisfactory performance rating and was demoted to his previous position. The appeal was dismissed for lack of jurisdiction.

16. dismissal *dismissed*
Kansas Neurological Institute
Developmental Disability Technician. The appellant received performance evaluation counseling in which she was told to use better judgment in caring for residents so that their safety and well-being is insured. In September 2006, a report was made regarding the appellant's care of the residents. An investigation was conducted and it was found that the appellant had not been providing adequate care for the residents. The appellant failed to appear at her scheduled hearing and a default order was issued.
17. mail complaint *dismissed*
Ellsworth Correctional Facility
Inmate. The appellant is an inmate at ECF. He filed a complaint with the Board regarding the opening of his mail by the facility. The complaint/appeal was dismissed for lack of jurisdiction.
18. dismissal *withdrawn*
Department of Commerce
Economic Development Representative II. The appellant was dismissed due to her failure to maintain a harmonious relationship with her co-workers. The appellant withdrew her request for a hearing the day after filing her request for a hearing.
19. dismissal *withdrawn*
Kansas State University
Environmental Technician II. The appellant stole a case of bottled water from a group that provides concessions for KSU athletic events. He placed the bottled water into a state van and covered it with a large plastic bag. The water was later discovered in the van by his supervisor. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
20. 3-day suspension *dismissed*
Fire Marshal's Office
Fire Prevention Specialist. The appellant did not file her request for a hearing within the time allowed and therefore her appeal was dismissed for lack of jurisdiction.
21. 3-day suspension *withdrawn*
Osawatomie State Hospital
Public Service Executive II. The appellant was assigned a laptop computer by the agency. The appellant was later asked to return the laptop computer as well as other state equipment to the agency. The appellant initially refused to return the laptop computer and when he eventually did, he had used a "kill disk" program to erase the computer's entire hard drive including all of the operating systems. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
22. dismissal *withdrawn*
Osawatomie State Hospital
Public Service Executive II. The appellant received two unsatisfactory performance evaluations within 180 days and was adequately counseled regarding his performance

problems during that time. The appellant withdrew his request for a hearing prior to the scheduled hearing date.

23. dismissal *withdrawn*
Kansas State University
Senior Administrative Assistant. The appellant called into work requesting sick leave in order to take her daughter to the emergency room. Her supervisor requested that she bring a note from her doctor when she returned to work regarding the emergency room visit. Subsequently, she provided a note from a local hospital doctor. The note seemed unusual and an investigation was conducted. It was determined that the doctor does not work out of that hospital and he confirmed that the signature on the note was not his. The appellant withdrew her request for hearing prior to the scheduled hearing date.
24. dismissal *dismissed*
Department of Social and Rehabilitation Services
Human Services Assistant. The appellant was dismissed for failure to meet established productivity standards and deadlines. She was a probationary employee at the time of her dismissal and therefore the Board lacked jurisdiction to hear her appeal.
25. 3- day suspension *affirmed*
Lansing Correctional Facility
Corrections Specialist I. The appellant brought cigarettes and a lighter into the facility in violation of the agency's tobacco free policy. After hearing all of the evidence the Board found the decision of the appointing authority to be reasonable.
26. dismissal *dismissed*
Rainbow Mental Health Facility
Mental Health Developmental Disability Technician. The appellant received two unsatisfactory performance evaluations within 180 days. The appellant failed to appear for her scheduled hearing and a proposed default order was issued for her failure to appear.
27. dismissal *affirmed*
Topeka Correctional Facility
Corrections Officer II. The appellant continued her previous pattern of flagrant and habitual use of leave when she used all of her sick and vacation time as they accrued, used all of her allotted FMLA time and still took 51.5 hours of unauthorized leave without pay. The appellant had been disciplined many times over the course of 6 years for her inappropriate use of leave time. In the spring of 2006, the appellant was warned that she would no longer be permitted to use leave without pay. In November 2006 she used 51.5 hours of leave without pay. After hearing all of the evidence the Board found the decision of the appointing authority to be reasonable.

B. Cases Filed Between January 15, 2007 and April 15, 2007:

1. demotion, Topeka Correctional Facility, filed January 25, 2007
2. dismissal, Department of Social and Rehabilitation Services, filed January 25, 2007
3. dismissal, Kansas State University, filed February 2, 2007
4. dismissal, Larned State Hospital, filed February 2, 2007
5. demotion, KU Medical Center, filed February 12, 2007
6. dismissal, Department of Social and Rehabilitation Services, filed February 13, 2007
7. dismissal, Osawatomie State Hospital, filed February 15, 2007

8. dismissal, Larned State Hospital, filed February 16, 2007
9. dismissal El Dorado Correctional Facility, filed February 27, 2007
10. dismissal, Social and Rehabilitation Services, filed March 12, 2007
11. dismissal, Department of Transportation, filed March 13, 2007
12. dismissal, Department of Commerce, filed March 21, 2007
13. dismissal, Wichita State University, filed March 22, 2007
14. dismissal, Hutchinson Correctional Facility, filed March 26, 2007
15. dismissal, Department of Corrections, filed March 28, 2007
16. dismissal, Department of Commerce, filed April 5, 2007
17. promotion, KU Medical Center, filed April 11, 2007

C. Cases Still To Be Heard:

1. dismissal, Hutchinson Correctional Facility, set 5/10/07
2. dismissal, Larned State Hospital, set 8/9/07
3. dismissal, Social and Rehabilitation Services, set 6/7/07
4. 3-day suspension, Parsons State Hospital and Training Center, set 5/7/07
5. dismissal, Department of Revenue, set 6/5/07
6. dismissal, Social and Rehabilitation Services, set 4/17/07
7. dismissal, Department of Corrections, set 5/7/07
8. 5-day suspension, KU Medical Center, set 5/8/07
9. demotion, KU Medical Center, mot dism pending
10. 5-day suspension, Wichita Work Release, set 7/19/07
11. dismissal, Wichita State University, set 8/22/07
12. promotion, KU Medical Center, mot dism pending
13. dismissal, Topeka Correctional Facility, set 4/18/07
14. 5-day suspension, Department of Commerce, set 7/17/07
15. dismissal, Department of Commerce, set 7/17/07
16. dismissal, Department of Corrections, set 9/7/07
17. dismissal, El Dorado Correctional Facility, set 8/21/07
18. 10-day suspension, Topeka Correctional Facility, set 4/16/07
19. 3-day suspension, Department of Commerce, set 6/20/07
20. 3-day suspension, Department of Social and Rehabilitation Services, set 6/6/07
21. dismissal, Larned State Hospital, set 5/9/07
22. dismissal, Social and Rehabilitation Services, set 8/8/07
23. dismissal, Parsons State Hospital, set 6/19/07

D. Statistics for Completed Cases:

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| 1. | Dismissals: | 17 |
| 2. | Demotions: | 3 |
| 3. | Suspensions: | 6 |
| 4. | Other: | 2 |
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| 1. | Affirmed: | 8 |
| 2. | Reversed: | 0 |
| 3. | Modified: | 0 |

- 4. Dismissed: 9
- 5. Withdrawn: 11

- 1. Social and Rehabilitation Services: 10
- 2. Department of Corrections: 10
- 3. Department of Commerce: 2
- 4. Kansas State Univ: 2
- 5. Highway Patrol: 1
- 6. Health and Environment: 1
- 7. Kansas Veterans Home: 1
- 8. Fire Marshall: 1