

TO: George Vega, Director, Division of Personnel Services
Tracy Diel, Director, Office of Administrative Hearings
James E. Lowther, Chairperson, Civil Service Board

FROM: Peggy Graham, Secretary, Civil Service Board

DATE: January 15, 2008

SUBJECT: Quarterly Update

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

A. Cases Decided and/or Disposed Of:

1. 1-day suspension *affirmed*
Larned Juvenile Correctional Facility
Juvenile Corrections Officer II. The appellant sent an unprofessional and inappropriate email to his staff regarding cleaning that needed to be done during his shift. He cast blame on a co-worker who was not on duty when the cleaning was not done and caused a great deal of disruption and distress for his staff by the tone and manner of his email. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.

2. dismissal *withdrawn*
Kansas Highway Patrol
Highway Patrol Lieutenant. The appellant withdrew his request for a hearing prior to the scheduled hearing date.

3. dismissal *dismissed*
Department of Transportation
Equipment Operator. The appellant was convicted of driving under the influence of alcohol and had his driver's license suspended and restricted. He also had his CDL suspended for one year beginning in April 2007. He failed to report that his CDL had been suspended. His position description requires that he have and maintain a CDL as he cannot do his job without it. In addition, he continued to operate KDOT equipment while his CDL was suspended. The appellant did not appear for his hearing and a default order was issued against him.

4. 5-day suspension *withdrawn*
Kansas State Fire Marshal
Fire Prevention Inspector. The parties reached a settlement and the appellant withdrew his request for a hearing.
5. demotion *withdrawn*
Department of Administration
Physical Plant Supervisor Senior. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
6. 2-day suspension *affirmed*
Department of Commerce
Economic Development Representative I. The appellant used his office telephone to place at least 31 long distance calls that were not business related. The calls were to locations outside of the State of Kansas and his job duties do not require that he place calls outside of the state. In addition, when his supervisor used a reverse telephone book, she determined that a number of calls were placed to locations regarding the appellant's father's needs in California. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
7. dismissal *dismissed*
Social and Rehabilitation Services
Human Services Specialist. The appellant filed her request for a hearing 32 days after the effective date of her dismissal. The agency filed a motion to dismiss for lack of jurisdiction. The appellant responded that her request was post marked within the 30 day time period. Kansas Statute requires that the request be received within 30 days, not that it be mailed within 30 days. The request for hearing was dismissed as untimely.
8. 1-day *withdrawn*
Kansas Neurological Institute
Licensed Practical Nurse, Senior. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
9. 3-day suspension *affirmed*
Winfield Correctional Facility
Facilities Maintenance Supervisor. The appellant brought his personal power washer to the workplace with the intent to repair it using state resources and equipment. He did use state resources and equipment to wash it and attempted to convince a coworker and an inmate to use state equipment and resources to weld a broken bracket back onto the washer. The coworker refused and ordered the inmate not to perform the work. The appellant had been disciplined previously for inappropriate use of state resources and equipment. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.

10. 1-day suspension *affirmed*
Department of Transportation
Equipment Operator Senior. While driving near the Chanute city limits he and his partner, who was riding in the passenger seat, observed a pothole in the road. Rather than pull onto the shoulder in order to fix the pothole, the appellant stopped his KDOT truck in the driving lane and proceeded to back up. In doing so, he ran the rear of the KDOT truck into the front of a car that was traveling down the highway behind him. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
11. dismissal *affirmed*
Social and Rehabilitation Services
Human Services Specialist. The appellant began behaving erratically and continued making disturbing comments to her coworkers about her death and stabbing her husband. On March 15, 2007 she told a coworker that she wanted to stab her husband and that her marriage was a mistake. Later that day she did cause injury to her husband which required 400 stitches, and she attempted suicide. She was involuntarily committed to a state hospital and upon her release continued to behave erratically. As a result, SRS ordered her to contact Lifeline for a Fit For Duty determination. The appellant failed to comply with the terms of the Lifeline plan and continued to deny that she had behaved inappropriately or done anything wrong. After hearing all of the evidence, the Board affirmed the decision of the agency.
12. dismissal *affirmed*
Department of Transportation
Engineering Associate II. The appellant received two unsatisfactory performance evaluations within 180 days. He received numerous counseling and feedback sessions, yet continued to perform his duties at an unsatisfactory level. After hearing all of the evidence, the Board affirmed the decision of the agency.
13. 2- day suspension *withdrawn*
Kansas Health Policy Authority
The parties reached a settlement agreement and the appellant withdrew her request for a hearing prior to the scheduled hearing date.
14. dismissal *affirmed*
University of Kansas Medical Center
Facilities Specialist. The appellant got into an argument with a coworker that escalated to a physical altercation in which he pushed his coworker. As a result of the push, the coworker tripped and fell backward hitting his head on a sink. After hearing all of the evidence the Board affirmed the decision of the agency.
15. dismissal *affirmed*
El Dorado Correctional Facility
Corrections Officer I. The appellant became angry while working at the correctional facility and displayed an unprofessional and aggressive attitude toward inmates and other staff. She pushed a wooden box off of a desk and used profanity toward inmates. Her behavior caused

a coworker to become so uncomfortable that she felt the need to leave the area. The appellant had received a 5-day suspension without pay just months prior to this incident for punching another officer in the chest. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.

16. dismissal *withdrawn*
Lansing Correctional Facility
Facility Maintenance Supervisor. Prior to the completion of the hearing, the appellant reached a settlement with the agency and he withdrew his request for a hearing.
17. dismissal *withdrawn*
Department of Social and Rehabilitation Services
Human Services Specialist. The appellant withdrew her request for a hearing prior to the scheduled hearing date.
18. dismissal *affirmed*
Kansas University Medical Center
Building Systems Technician. The appellant was injured on the job in July 2006. After receiving treatment from the agency's employee health clinic and from a private physician, the appellant's lifting restriction became permanent in March 2007. Because lifting is an essential function of his position, the appellant was dismissed for inability to perform the essential functions of his position. After considering all of the evidence, the Board found that the decision of the agency was reasonable. However, because this was a medical dismissal, it is without prejudice and the appellant may still apply for a position with a state agency for which he is qualified.

B. Cases Filed Between October 15, 2007 and January 15, 2008:

1. dismissal, Department of Social and Rehabilitation Services, filed October 31, 2007
2. dismissal, Kansas Highway Patrol, filed November 6, 2007
3. 10-day suspension, Department of Commerce, filed November 14, 2007
4. demotion, Department of Administration, filed November 16, 2007
5. dismissal, KU Medical Center, filed November 27, 2007
6. dismissal, Larned Correctional Facility, filed December 6, 2007
7. 1-day suspension, Kansas Neurological Institute, filed December 10, 2007
8. dismissal, Department of Health and Environment, filed December 26, 2007

C. Cases Still To Be Heard:

1. 1-day suspension, Lansing Correctional facility, set 1/24/08
2. dismissal, Social and Rehabilitation Services, set 2/6-7/08
3. 10-day suspension, Department of Commerce, set 3/4/08
4. dismissal, Department of Health and Environment, set 3/19/08
5. dismissal, Larned Correctional Facility, set 3/6/08
6. dismissal, Department of Health and Environment, set 3/3/08

D. Statistics for Completed Cases:

1. Dismissals: 10
 2. Demotions: 1
 3. Suspensions: 7
 4. Other: 0
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1. Affirmed: 9
 2. Reversed: 0
 3. Modified: 0
 4. Dismissed: 2
 5. Withdrawn: 7
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1. Social and Rehabilitation Services: 4
 2. Department of Corrections: 3
 3. Department of Transportation: 3
 4. KU Medical Center: 2
 5. Department of Commerce: 1
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6. Juvenile Justice Authority: 1
 7. Kansas Highway Patrol: 1
 8. State Fire Marshal: 1
 9. Department of Administration: 1
 10. Health Policy Authority: 1