

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: July 15, 2008

Re: Quarterly Update

The following reflects the Civil Service Board cases in which action was taken since the April 15, 2008 quarterly report:

A. Cases Decided and/or Disposed Of:

1. dismissal *withdrawn*  
Department of Transportation  
Equipment Operator Senior. The appellant was injured on the job on January 24, 2006. He was released to work on January 31, 2006 with a lift restriction of no more than 25 pounds. The area was able to accommodate that restriction on a temporary and he returned to work. He had surgery on November 16, 2006 for the back injury but was never able to return to work without the lift restriction. The area was unable to accommodate the lift restriction on a permanent basis. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
  
2. dismissal *withdrawn*  
Kansas Highway Patrol  
Trooper. The appellant altered his location on an enforcement action to change the location of the traffic stop from US highway 24 to Highway K-4 to cover the fact that he was not in his patrol region at the time. This was done after he had been repeatedly counseled about staying in his patrol region. He also allowed two media outlets access to his in-car video of an actual accident scene at the time of the accident in flagrant disregard of agency policy as well as disrespect for the deceased driver and his family and friends. The appellant withdrew his request for a hearing prior to the scheduled hearing date.
  
3. 1-day suspension *affirmed*  
Department of Corrections  
Staff Development Specialist I. Without authority or authorization to do so, the appellant cancelled the second day of a three-day training session, leaving at least 13 trainees sitting in hotel rooms in Topeka without work to perform. The appellant did not notify his supervisor or anyone in the chain of command that he had cancelled the training and the cancellation was not discovered until an attendee arrived at the training site and was told it had been canceled. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.

4. dismissal *withdrawn*  
Lansing Correctional Facility  
Correctional Officer I. The appellant engaged in a romantic relationship with a parolee from Missouri who was under the supervision of the Kansas Department of Corrections in direct violation of agency policy. On the day of the hearing, prior to the beginning of the evidence, the parties announced that they had reached a settlement agreement and the appellant verbally withdrew his request for a hearing on the record.
5. 3-day suspension *withdrawn*  
Norton Correctional Facility  
Correctional Officer II. The appellant brought a cellular telephone into the facility in violation of agency policy. He withdrew his request for a hearing prior to the scheduled hearing date.
6. 6-day suspension *affirmed*  
Parsons State Hospital and Training Center  
Mental Health Developmental Disability Technician. The appellant was instructed numerous times regarding the agency's policy that two diapers are not to be placed on residents at one time, yet on two different occasions residents in her care were found to be wearing two diapers at one time. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
7. dismissal *withdrawn*  
Juvenile Justice Authority  
Juvenile Correctional Officer I. The appellant was injured away from his job and received a 10%, whole person impairment from his physician. As a result, he was unable to lift, bend, stoop or twist, all of which are required job duties for his position. He was accommodated for a period of time, but the agency was unable to accommodate his restrictions permanently. His dismissal was without prejudice as it was not as a result of his conduct. The appellant withdrew his request for a hearing prior to his scheduled hearing date.
8. 3-day suspension *dismissed*  
El Dorado Correctional Facility  
Correctional Officer I. The appellant brought a cellular telephone into the facility in violation of agency policy. She failed to appear for her scheduled hearing and a default order was issued against her.
9. dismissal *dismissed*  
Department of Transportation  
Administrative Assistant. The appellant's last day of work was January 28, 2008. She did not report to work on January 19, 2008, nor did she contact her supervisor to report her absence that day. By e-mail on February 2, 2008, the appellant indicated that she was abandoning her position with KDOT. Later the appellant reported being the victim of an assault and she was provided information on Lifeline and FMLA. The agency continued to attempt to work with the appellant through the month of February, but she did not respond or return to work and was dismissed effective March 19, 2008. The appellant did not file her appeal until April 22, 2008, 33 days after the effective date of her dismissal and did not respond to the Board's request that she address the assertion that her appeal was untimely. Her appeal was dismissed as untimely.
10. 3-day suspension *withdrawn*  
Hutchinson Correctional Facility

Unit Manager. The appellant miscalculated an inmate's good time credits and failed to withdraw several credits from him after he received discipline for violating agency policies. The appellant withdrew her request for a hearing prior to the scheduled hearing date.

11. dismissal *withdrawn*  
Larned Correctional Mental Health Facility  
Correctional Specialist I. The appellant created a hostile working environment for female co-workers when he put the antenna of his radio down the front of the shirt of one female co-worker and when he cursed at and called another female co-worker a "little girl" in anger. At the conclusion of the state's evidence at the hearing, the parties announced that the appellant had offered to resign his position effective from the date of his dismissal and the appointing authority had accepted his resignation. As part of that agreement, the appellant withdrew his request for a hearing on the record.
12. 3-day suspension *withdrawn*  
Beloit Juvenile Correctional Facility  
Social Work Specialist. The appellant used profane and inappropriate language with a juvenile offender during an investigation. The appellant withdrew his request for hearing prior to his scheduled hearing date.
13. dismissal *affirmed*  
Department of Health and Environment  
Public Service Administrator III. Over the course of about three years, the appellant kissed at least three of his co-workers on the lips against their will and after being told not to do so. He kissed at least one co-worker on two separate occasions. After hearing all of the evidence, the Board found the decision of the appointing authority to be reasonable.
14. dismissal *dismissed*  
Kansas State University  
Painter Senior. The appellant exhibited a habitual and flagrant misuse of her annual and sick leave. She was routinely counseled about the need to arrive for work on time and to maintain at least 40 hours of leave time so that she would not be in leave without pay status. She received a one-day suspension and a three-day suspension for failure to adhere to the agency's leave policies and yet she continued to fail to come to work as scheduled. The appellant did not appear for her scheduled hearing and a default order was issued against her.
15. 3-day suspension *withdrawn*  
Parsons State Hospital and Training Center  
Mental Health Developmental Disability Technician. The appellant was instructed numerous times regarding the agency's policy that two diapers are not to be placed on residents at one time, yet on two different occasions residents in her care were found to be wearing two diapers at one time. The appellant withdrew her request for hearing prior to the scheduled hearing date.

B. Cases Filed Between April 15, 2008 and July 15, 2008:

1. dismissal, Department of Transportation, filed April 22, 2008
2. dismissal, Osawatomie State Hospital, filed May 5, 2008
3. 3-day suspension, Hutchinson Correctional Facility, filed May 9, 2008
4. dismissal, Juvenile Justice Authority, filed May 13, 2008
5. dismissal, Kansas Neurological Institute, filed May 19, 2008

6. 3-day suspension, El Dorado Correctional Facility, filed May 30, 2008
7. 3-day suspension, Norton Correctional Facility, filed June 3, 2008
8. dismissal, Larned Correctional Mental Health Facility, filed June 3, 2008
9. dismissal, Topeka Correctional Facility, filed June 6, 2008
10. dismissal, Osawatomie State Hospital, filed June 25, 2008
11. 3-day suspension, Larned Correctional Mental Health Facility, filed June 27, 2008
12. dismissal, Department on Aging, filed June 30, 2008

C. Cases Still To Be Heard:

1. dismissal, Larned Correctional Mental Health Facility, set 8/19/08
2. 3-day suspension, El Dorado Correctional Facility, set 7/24/08
3. dismissal, Department on Aging, set 8/4/08
4. dismissal, Osawatomie State Hospital, set 9/16/08
5. dismissal, Topeka Correctional Facility, motion to dismiss pending
6. dismissal, Parsons State Hospital, set 8/7/08
7. dismissal, Osawatomie State Hospital, set 8/5/08
8. 3-day suspension, Social and Rehabilitation Services, set 8/6/08
9. dismissal, Juvenile Justice Authority, set 9/4/08
10. 3-day suspension, Larned Correctional Mental Health Facility, set 8/6/08
11. dismissal, Department of Administration, set 7/23/08
12. dismissal, Kansas Neurological Institute, set 9/17/08

D. Statistics for Completed Cases:

- |    |                                     |   |
|----|-------------------------------------|---|
| 1. | Dismissals:                         | 8 |
| 2. | Demotions:                          | 0 |
| 3. | Suspensions:                        | 7 |
| 4. | Other:                              | 0 |
|    |                                     |   |
| 1. | Affirmed:                           | 3 |
| 2. | Reversed:                           | 0 |
| 3. | Modified:                           | 0 |
| 4. | Dismissed:                          | 3 |
| 5. | Withdrawn:                          | 9 |
|    |                                     |   |
| 1. | Department of Corrections:          | 6 |
| 2. | Department of Transportation:       | 2 |
| 3. | Social and Rehabilitation Services: | 2 |
| 4. | Juvenile Justice Authority:         | 2 |
| 5. | Kansas Highway Patrol:              | 1 |
| 6. | Health and Environment:             | 1 |
| 7. | Kansas State University:            | 1 |