

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

From: Michele L. Tunnell, Secretary, Civil Service Board

Date: October 15, 2009

Re: Quarterly Update

The following reflects the Civil Service Board cases in which action was taken since the July 15, 2009 quarterly report:

A. Cases Decided and/or Disposed Of:

3-day suspension

withdrawn

Parsons State Hospital and Training Center

Mental Health Developmental Disability Technician. Appellant failed to maintain satisfactory and harmonious relationships with fellow employees. Appellant withdrew her appeal.

Reprimand/whistleblower

affirmed

Ft. Hays State University

Plant Science Technician II. Appellant claimed that he was reprimanded in retaliation for reporting that the chair of the Department of Agriculture had used state equipment for personal use. The Board found that the chair had not violated the Kansas whistleblower act.

Dismissal

modified

Rainbow Mental Health Facility

Safety and Security Officer I. Appellant was dismissed after providing conflicting statements from her doctor regarding her ability to perform the duties of her job while she was pregnant. The Board found the evidence regarding her limitations inconclusive and modified the decision of the appointing authority. The Board allowed the appellant 30 days from the date of the order to provide an opinion from a board certified OB/GYN stating that she could perform the duties of her position, without restriction. If such opinion was provided, the appellant would be reinstated; if no such opinion was provided, the appointing authority's decision to dismiss would be affirmed. Appellant provided the required opinion so the Board ordered her reinstatement.

Dismissal

affirmed

Department of Transportation

Equipment Operator. Appellant was dismissed due to a confirmed positive result on a follow-up drug test. After hearing all the evidence, the Board affirmed the decision of the appointing authority.

5-day suspension*affirmed*

Hutchinson Correctional Facility

Corrections Officer I. Appellant was suspended for five days for failing to make rounds and conduct proper counts during his shift. After hearing all the evidence, the Board affirmed the decision of the appointing authority.

5-day suspension*dismissed*

Juvenile Justice Authority

Corrections Manager I. Appellant initiated unwarranted use of force on a youth on a staircase. Appellant also allowed an officer to apply excessive force on the youth in his presence. The parties reached a settlement prior to the scheduled hearing and therefore, the appeal was dismissed.

Job abandonment/presumed resignation*dismissed*

Department of Revenue

Management Systems Analyst I. Appellant had been referred to Lifeline, Employee Assistance Program, for a fitness for duty evaluation. The evaluation was completed and the appellant was released to return to work. Appellant then provided another document with a later release date. Appellant did not return to work on this date and did not provide KDOR with any documentation. Appellant was informed that her failure to provide documentation regarding her absence from work had been deemed job abandonment and a presumed resignation. The parties reached a settlement prior to the scheduled hearing and therefore, the appeal was dismissed.

Dismissal*withdrawn*

Department of Revenue

Driver's License Examiner Senior. Appellant was dismissed due to inefficiency or incompetency in the performance of his duties, gross carelessness or gross negligence, conflict of interest, and disregard of rules, regulations and policies. The appellant withdrew his appeal.

Demotion*withdrawn*

Social and Rehabilitation Services

Social Work Specialist. Appellant claimed that she was threatened with termination after she sought reasonable accommodations and was demoted. SRS claimed that the appellant sought and accepted a voluntary demotion from a Social Work Specialist to a Human Services Assistant. Appellant withdrew her appeal.

Dismissal*withdrawn*

Social and Rehabilitation Services

Human Service Consultant. Appellant was unable to perform the essential functions of his position. The parties reached a settlement prior to the scheduled hearing and therefore, the appellant withdrew his appeal.

3-day suspension*withdrawn*

Hutchinson Correctional Facility

Corrections Counselor I. Appellant exhibited inappropriate behavior with a female employee. Appellant withdrew his appeal.

5-day suspension*affirmed*

Larned State Hospital

Registered Nurse Specialist. Appellant refused to accept a reasonable and proper assignment from her supervisor, i.e., to timely complete delinquent Risk Management cases and provide a plan for keeping the cases current. After hearing all the evidence, the Board affirmed the decision of the appointing authority.

Dismissal*withdrawn*

University of Kansas Medical Center

Safety and Security Officer I. Appellant failed to ensure the safety of an individual who had requested that he escort her to her vehicle. He had been suspended for a prior conduct infraction and received written counseling. Appellant withdrew his appeal.

Dismissal*withdrawn*

Osawatomie State Hospital

Safety and Security Officer I. Appellant was unable to perform the essential functions of his position due to physical restrictions imposed by his physician. Appellant withdrew his appeal.

B. Cases Filed Between July 16, 2009 and October 15, 2009:

Dismissal, Norton Correctional Facility, filed July 16, 2009
3-day suspension, Hutchinson Correctional Facility, filed July 20, 2009
Dismissal, Department of Health and Environment, filed July 21, 2009
Dismissal, Kansas State University, filed July 28, 2009
Dismissal, Social and Rehabilitation Services, filed July 31, 2009
Dismissal, Kansas Highway Patrol, filed July 31, 2009
5-day suspension, Larned State Hospital, filed August 5, 2009
Dismissal, KBI, filed August 5, 2009
Dismissal, Osawatomie State Hospital, filed August 21, 2009
Dismissal, Osawatomie State Hospital, filed August 21, 2009
Dismissal, University of Kansas Medical Center, filed August 21, 2009
Dismissal, Osawatomie State Hospital, filed August 24, 2009
Dismissal, Topeka Correctional Facility, filed September 15, 2009
Demotion, Emporia State University, filed September 15, 2009
5-day suspension, Department of Transportation, filed September 16, 2009
Dismissal, Wichita State University, filed September 23, 2009
Dismissal, Department of Health and Environment, filed September 25, 2009
Dismissal, Department of Administration, filed September 25, 2009
Dismissal, Kansas Neurological Institute, filed October 5, 2009
Dismissal, Wichita State University, set November 20, 2009

C. Cases To Be Heard:

Dismissal, Social and Rehabilitation Services, set January 4-8, 2010
Dismissal, Norton Correctional Facility, set December 8, 2009
Dismissal, Department of Health and Environment, set December 9, 2009
Dismissal, Kansas State University, set November 4, 2009
Dismissal, Social and Rehabilitation Services, set November 3, 2009
Dismissal, Kansas Highway Patrol, stayed upon the request of the parties
Dismissal, KBI, motion to dismiss filed, awaiting response and reply
Dismissal, Osawatomie State Hospital, set November 17, 2009

Dismissal, Osawatomie State Hospital, motion to dismiss filed, awaiting response
Dismissal, Topeka Correctional Facility, set October 21, 2009
Demotion, Emporia State University, set December 7, 2009
5-day suspension, Department of Transportation, set October 20, 2009
Dismissal, Wichita State University, set December 10, 2009
Dismissal, Department of Health and Environment, status conference set
Dismissal, Department of Administration, set November 6, 2009
Dismissal, Kansas Neurological Institute, set November 19, 2009
Dismissal, Wichita State University, set November 20, 2009

D. Cases Awaiting Decision:

Dismissal, Kansas Department of Corrections, heard on October 8, 2009 but awaiting decision by quorum of the Board

E. Statistics for Completed Cases:

Dismissals: 6
Demotions: 1
Suspensions: 5
Other: 2

Affirmed: 4
Reversed: 0
Modified: 1
Dismissed: 2
Withdrawn: 7

Department of Corrections: 2
Department of Revenue: 2
Department of Transportation: 1
Ft. Hays State University: 1
Juvenile Justice Authority: 1
Social and Rehabilitation Services: 6
University of Kansas Medical Center: 1