

COMMONWEALTH OF PENNSYLVANIA

Raheemah Shamsid-Deen Hampton : State Civil Service Commission

v.

Department of Human Services : Appeal No. 30362

Timothy N. Welbeck
Attorney for Appellant

Peter J. Garcia
Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Raheemah Shamsid-Deen Hampton challenging her demotion from regular Southeast Regional Manager with the Office of Children, Youth and Families, Department of Human Services employment to Income Maintenance Caseworker employment with the Department of Human Services. Hearings were held October 30 and December 18, 2020, via video, before Commissioner Gregory M. Lane.

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearing, as well as the Brief submitted by the appointing authority.¹ The issue before the Commission is whether the appointing authority had just cause to demote appellant.

¹ Appellant did not file a Brief.

FINDINGS OF FACT

1. By letter dated November 26, 2019, appellant was demoted from her position of Southeast Regional Manager with the Office of Children, Youth and Families to Income Maintenance Caseworker with the Office of Income Maintenance, effective close of business on November 29, 2019. The appointing authority charged appellant with:

a. **Inappropriate Conduct** (as defined by DHS Policy 7174) and Conduct Unbecoming a Regional Manager for OCY&F's Bureau of Children and Family Services Southeast Region. Specifically, you engaged in a pattern of pervasive verbal bullying and intimidation directed toward office staff.

b. **Failure to properly execute your duties** as the Regional Manager for OCY&F's Bureau of Children and Family Services Southeast Region:

- On June 21, 2019 it was discovered that there was a backlog of approximately 1600 complaints of alleged child abuse that had not been reviewed to determine if there was a safety risk to a child. As Regional

Director it was your responsibility to ensure that complaints of alleged child abuse are properly processed.

- You failed to exercise reasonable judgment by allowing a contracted employee to continue to work after you became aware, on or about March 11, 2019, that the contracted employee had been criminally charged with Possession of Cocaine, Conspiring to Distribute Cocaine and Possession with the Intent to Distribute Cocaine.
- You failed to act timely thereby causing a delay in the issuance of a Licensing Inspection Report (LIS) for Deveraux [sic]² CIDD Services, Reed Program, regarding incidents that occurred between July of

² The proper spelling is Devereux and shall be used throughout this adjudication. (See AA Ex. 3).

2018 and November of 2018. The LIS (which contained substantive errors) was not issued until on or about June 27, 2019. A Corrected LIS was not re-issued until on or about September 24, 2019.

Note that either of these two Charges, standing alone, would warrant this level of discipline.

Comm. Ex. B (emphasis in original).³

2. The appeal was properly raised before this Commission and was heard under Sections 3003(7)(i) and 3003(7)(ii) of Act 71 of 2018. Comm. Ex. C.⁴
3. Approximately 11.5 years ago, appellant began employment with the appointing authority as the Regional Manager for the Bureau of Children and Family Services Southeast Region. N.T. p. 309.

³ The Commission shall address the issues in chronological order.

⁴ During the hearing, appellant withdrew her claim of discrimination under 3003(7)(ii) of Act 71 of 2018. N.T. p. 662.

Contract Employee

4. On or about March 2, 2021, Roseanne Perry left her position as Bureau Director and appellant's supervisor. N.T. p. 297.
5. On March 4, 2021, Robena Spangler became the Bureau Director and appellant's supervisor. N.T. p. 297.
6. Licensing Technicians are contracted employees whose duties include entering and inspecting residential facilities, speaking directly with children, reviewing documentation, and ensuring residential facility staff are properly trained. N.T. pp. 59-61, 171.
7. On March 8, 2019, Licensing Technician Michael Smith, a contracted employee, was arrested and charged with felony drug offenses in New Jersey. N.T. pp. 62, 168, 298.
8. On March 11, 2019, Smith told appellant he had been absent from work because of his arrest. N.T. pp. 332-333.

9. Appellant did not tell Spangler about Smith's felony arrest. N.T. pp. 67, 170-171, 200, 298-299.
10. Appellant reviewed Child Protective Services Law and determined Smith could continue employment. N.T. pp. 335, 388-389.
11. Appellant also told Perry about Smith's arrest; they determined together Smith could continue employment. N.T. pp. 335, 377-380.
12. Clerk Typist 3 Patricia Moore-Grant learned about Smith's arrest while watching the news on television. N.T. p. 62.
13. Moore-Grant contacted Human Services Program Representative 1 Kenneth Wilson and they tried unsuccessfully to reach appellant to make sure she was aware of Smith's arrest. N.T. p. 63.
14. On or about March 20, 2019, Moore-Grant, and Wilson created a packet of information for appellant about Smith's arrest. They left the information on appellant's desk because she was not in the office. N.T. pp. 63-64.

15. On March 21, 2019, appellant returned to work. In response to the packet of information regarding Smith, appellant sent an email to all of her subordinates indicating she already knew of his arrest “well before” the news story. N.T. pp. 66; AA Ex. 2.
16. Appellant continued to allow Smith to work and perform his duties as a Licensing Technician. N.T. p. 70.
17. In June 2019, Acting Deputy Secretary Amy Grippi⁵ discovered a newspaper article about Smith’s arrest, immediately showed it to Spangler and Labor Relations, and asked how to handle the situation. N.T. pp. 168-169, 272.
18. Labor Relations and the appointing authority’s legal office determined Smith should leave the office immediately and not be permitted to continue his employment. N.T. p. 168.
19. Labor Relations provided Grippi with a portion of Smith’s contract, which she reviewed. N.T. p. 181.

⁵ At the time of the hearing, Grippi was the Child Services Executive Director. At all times relevant to the issues in this appeal, Grippi was the Acting Deputy Secretary. N.T. pp. 143, 146.

20. When Grippi showed the newspaper article to appellant, appellant acknowledged she already knew about the charges against Smith. N.T. pp. 272, 295-296.
21. Appellant informed Grippi she had spoken to Perry about the charges against Smith and they had determined he did not need to be removed. N.T. pp. 273-274.
22. Spangler met with Smith and told him to leave the office immediately. N.T. pp. 275-276.

Licensing Inspection Report

23. A Licensing Inspection Report (hereinafter “LIS”) is the document by which the appointing authority notifies facilities of licensing violations. N.T. pp. 161-162.
24. After an LIS is issued, a formal Corrective Action Plan is developed, approved by the appropriate Regional Office, and then utilized by the facility to improve upon the issues raised in the LIS. N.T. pp. 162, 165.

25. Appellant's job duties included issuing LIS documents. N.T. p. 167.
26. In July and September 2018 and again in January 2019, the Devereux CIDD Services Reed Program (hereinafter "Devereux") faced numerous allegations of child abuse. N.T. p. 163.
27. In 2019, when the media began inquiring about the allegations against Devereux, they were informed the appointing authority was working on an LIS that would be sent to the facility and posted online. N.T. p. 163.
28. On June 10, 2019, when the media inquired for the fourth time, Grippi learned an LIS had not been created and was, in fact, one year overdue. N.T. pp. 163-164.
29. Grippi told appellant she needed the LIS finalized and sent out by June 11, 2019. N.T. p. 164.
30. On June 12, 2019, Grippi read the initial draft of the LIS and found substantive errors including the omission of one critical incident and the inclusion of confidential information. N.T. p. 164.

31. The LIS draft went through several substantive edits before it was finally sent to Devereux on or about September 24, 2019. Comm. Ex. B: N.T. pp. 164, 167-168.

Backlog of Unassigned Complaints

32. A Complaint is a report that comes into the facility which does not rise to the same level of concern as a child abuse investigation. These Complaints must be investigated and could result in assistance to a family or providing the family with access to resources. N.T. pp. 98-99.
33. The appointing authority must begin to process all Complaints within thirty calendar days from their receipt. N.T. p. 110.
34. Complaints can come into the office in several different ways: the Governor's Office, a facility, the ChildLine registry, a telephone call directly into the office, or a written complaint received via letter or email. N.T. pp. 99-100, 157.
35. All Complaints are entered into the computerized Child Welfare Information System (hereinafter "CWIS") and automatically go into a queue for

unassigned Complaints. CWIS is also used to track the status and progress of each complaint investigation. N.T. pp. 100, 103-105, 107.

36. All employees can access the CWIS system; their job title determines the level of access. N.T. pp. 100, 104.
37. A Regional Manager, such as appellant, and Income Maintenance Casework Supervisors can access the unassigned Complaints in CWIS. N.T. p. 101.
38. As Regional Manager, appellant was responsible for managing the processing of all Complaints in Montgomery, Berks, Bucks, Philadelphia, and Delaware Counties. N.T. pp. 26-27, 205-204; AA Ex. 4.
39. Appellant supervised four Income Maintenance Casework Supervisors and was responsible for directing them to assign Complaints. N.T. pp. 103, 107-109, 114, 207.

40. Each of the four Income Maintenance Casework Supervisors is tasked with assigning Complaints on a round robin rotation basis to Program Representatives or Licensing Representatives. N.T. pp. 103, 107-109, 110, 112.
41. Each Income Maintenance Casework Supervisor is responsible for assigning Complaints only during the month of his or her rotation; he or she is not responsible for assigning Complaints that should have been assigned in previous months. N.T. pp. 113-114.
42. Every Complaint must be reviewed by a Program Representative or Licensing Representative to determine if there is a potential risk to a child or a potential regulatory violation. N.T. p. 157.
43. Once a Program Representative or Licensing Representative is assigned to a Complaint, that employee can access the Complaint in the CWIS system to input necessary information and should complete all required work on that Complaint within thirty-days. N.T. pp. 101, 110-111.

44. Within the CWIS system, Complaints can be tracked to determine their progress. Assigned Complaints and completed Complaints do not appear in the CWIS queue for unassigned Complaints. N.T. p. 111.
45. In late June 2019, a meeting was held with all of the Regional Directors, Grippi, and Spangler to discuss Complaints that were assigned but not completed and Complaints that needed to be entered into the CWIS system. N.T. pp. 121, 152, 278.
46. During the meeting, Human Services Representative 2 Shelly-Ann Neptune Johnson offered her assistance with entering the Complaints into CWIS. N.T. pp. 121, 153.
47. Grippi asked appellant if any of the Complaints involved a safety concern; appellant stated she was not sure and none of the Complaints had been reviewed. N.T. p. 153.
48. When Grippi told appellant to immediately review the Complaints for any risks to children or regulatory violations, appellant became irate and

yelled she was being targeted. Grippi advised appellant she was not being targeted and the unassigned Complaints constituted a serious issue. N.T. p. 153.

49. Grippi reiterated the unassigned Complaints needed to be reviewed immediately to determine if there were safety risks for children or potential regulatory violations. N.T. p. 154.
50. None of the other three Regional Managers had a significant backlog of unassigned Complaints, only Complaints that were not completed. N.T. pp. 154, 159, 200, 303.
51. The CWIS system showed there were approximately 1600 unassigned Complaints in appellant's regional territory. N.T. pp. 215, 304, 649.
52. Some of the unassigned Complaints dated as far back as 2015. N.T. p. 650.

53. On or about June 27, 2019, appellant's subordinate, Human Services Program Representative 2 Emilio Pacheco⁶ began helping Neptune-Johnson assign the Complaints. N.T. pp. 123-124, 627.
54. By July 4, 2019, Pacheco and Neptune-Johnson had assigned all of the Complaints. N.T. pp. 123-124, 627-628.

Inappropriate Conduct

55. On July 23, 2019, Pacheco informed appellant he would be unavailable the following day because he was scheduled for a deposition in a federal case in which he was personally named as a defendant on behalf of the appointing authority. N.T. p. 611.
56. On the morning of July 24, 2019, Pacheco, met with the appointing authority's legal office to prepare for his deposition, which was scheduled for 2:00 p.m. N.T. pp. 610.

⁶ Throughout the transcript, the witness is referred to as "Emilio Pacheco." His testimony is provided under the name "Emilio Pacheco Reyes." For the sake of continuity, the Commission shall refer to the witness as "Emilio Pacheco."

57. When Pacheco left the appointing authority's legal office, he had a document of approximately seventy-five pages to review prior to his deposition. N.T. p. 610.
58. Pacheco returned to his cubicle and began reviewing the document. N.T. p. 612.
59. At approximately 11:30 a.m., appellant approached Pacheco's cubicle and asked for a report that had been due the previous day. N.T. pp. 226-227, 612.
60. Pacheco advised appellant he had emailed her the report the previous day and could not provide it again because he was preparing for the deposition. N.T. pp. 44, 127, 611-612.
61. Appellant stated she had not seen the document and asked Pacheco to print it for her. Appellant also requested he provide some additional information. N.T. pp. 240, 613.
62. Pacheco stated he did not have time to get the work to her because he had to read a document to prepare for his deposition. N.T. p. 613.

63. Appellant insisted he provide the work to her and Pacheco repeated he needed to prepare for the deposition. N.T. pp. 613-615.
64. Appellant stated she thought Pacheco had already completed his deposition. N.T. pp. 229, 240, 253.
65. Pacheco informed appellant the deposition would be taking place at 2:00 p.m. N.T. pp. 229, 240, 253.
66. Appellant looked at her watch, stated it was 11:30 a.m. and asked again if he could provide the information. N.T. pp. 229, 240, 253.
67. Pacheco again stated he could not provide the information and had to read the document to prepare for his deposition. N.T. p. 229.
68. Appellant said, "You know what, forget it" and began to walk down the hallway, away from Pacheco's cubicle. N.T. pp. 241, 615.
69. Pacheco replied, "I'm not worried about it." N.T. pp. 229, 615.
70. Appellant turned around and returned to Pacheco's cubicle. N.T. pp. 229, 242, 615.

71. Appellant became insistent and began yelling that Pacheco was being insubordinate, she did not care about his deposition, and she needed him to provide her with the work she had requested. N.T. pp. 44, 49, 127, 615-616.
72. Pacheco stood up at his desk, said, “Please do not speak to me that way,” and then sat back down. N.T. p. 128.
73. Both appellant and Pacheco raised their voices and exchanged comments. N.T. pp. 127, 615.
74. Appellant told Pacheco he needed to leave the office; he stated he could not do so because he had a deposition in the afternoon and he would provide her with the requested information later. N.T. pp. 128, 616.
75. Appellant told Pacheco she did not care about the deposition and he needed to go home. Pacheco replied, “I’m not going anywhere.” N.T. pp. 44-45, 616.
76. Appellant repeated that Pacheco needed to depart the office and said she would enter his leave time. N.T. p. 45.

77. Pacheco told appellant to contact security if she wanted him to leave the office. N.T. pp. 616-617.
78. Appellant contacted the building's security team and had Pacheco escorted out of the building. N.T. pp. 45, 128, 622.
79. Grippi and Spangler were attending a work-related conference when Grippi received a telephone call from the appointing authority's legal office stating there had been a disagreement between appellant and Pacheco and they needed Pacheco to return to the office. N.T. pp. 172, 177.
80. Grippi contacted the Labor Relations Office and asked for advice. Labor Relations advised appellant should not have asked Pacheco to leave the office. N.T. p. 172.
81. Grippi told Spangler to contact appellant, tell appellant to leave the office for the day, and advise appellant Labor Relations would contact her. N.T. pp. 172-173, 178-179, 267-268.
82. Spangler contacted appellant and told her to leave the office. Appellant told Spangler that Pacheco had been disrespectful. N.T. pp. 267-268.

83. Spangler again stated appellant needed to leave the office. N.T. p. 268, 290.
84. That evening, Spangler telephoned appellant at her home and asked why security had become involved in the incident. N.T. p. 270.
85. When appellant stated she felt threatened by Pacheco, Spangler stated she should put the allegation into writing and stay at home until further notice. N.T. p. 271.
86. By letter dated August 9, 2019, appellant was suspended pending investigation from her position of Southeast Regional Manager with the Office of Children, Youth and Families.⁷ Comm. Ex. A.

DISCUSSION

At issue before the Commission is whether the appointing authority had just cause for demoting appellant from her position as Southeast Regional Manager to Income Maintenance Caseworker. The appointing authority charged appellant

⁷ Commission Exhibit A is appellant's completed Appeal Request form from the suspension pending investigation letter. The suspension pending investigation letter is not attached. The Commission utilizes August 9, 2019 as the date of the suspension pending investigation letter based upon the date appellant indicated on her Appeal Request she received notice of the disciplinary action and testimony provided in the record. Additionally, after the hearing, the appointing authority reimbursed appellant's backpay for the period of the suspension pending investigation. Thus, the issue of a suspension pending investigation is no longer before the Commission and shall not be analyzed.

with inappropriate conduct, and failure to properly execute her job duties because she had a backlog of unassigned Complaints, permitted a contracted employee with felony charges to continue working, and improperly delayed the issuance of a Licensing Inspection Report. The Commission shall address each charge in chronological order.

Under Section 2503 of Act 71 of 2018, an appointing authority may demote an employee to a position in a lower class if the employee does not satisfactorily perform the duties of the position the employee holds, and the employee is able to perform the duties of the lower class position. 71 Pa.C.S. § 2503(a). The language is substantially the same as the language of Section 706(a) of Act 286 of 1941. 71 P.S. § 741.706(a). Commonwealth Court has interpreted this language as requiring that the appointing authority establish just cause for the demotion of a regular status employee since a demotion is the removal of the employee from a higher level position. *See Pennsylvania Liquor Control Board v. Flannery*, 141 Pa. Commw. 228, 232, 595 A.2d 685, 687 n.2. (1991) (“We approve of the Commission’s application of the just cause standard to a regular status demoted employee because a demotion is actually a ‘removal’ from the higher level position.”). Consequently, the issue in an appeal of a demotion under Act 71 is whether the appointing authority has established just cause for removal. Just cause must be job related and in some manner rationally and logically touch upon the employee’s competency and ability to perform. *Mihok v. Department of Public Welfare, Woodville State Hospital*, 147 Pa. Commw. 344, 348, 607 A.2d 846, 848 (1992).

The appointing authority presented the testimony of Clerk Typist 3 Patricia Moore-Grant, Human Services Representative 2 Shelly-Ann Neptune-Johnson, Acting Deputy Director Amy Grippi, and Chief of Employee Relations and Workplace Support with the Office of Administration Erica Flagg. Appellant testified on her own behalf and presented the testimony of Human Services Program Representative 1 Kenneth Wilson, and Bureau Director Robena Spangler. Upon rebuttal, the appointing authority presented the testimony of Emilio Pacheco Reyes, and Neptune-Johnson.

Contract Employee

The Commission first addresses the charge of appellant's failure to properly execute her duties because she allowed the contracted employee to continue employment after his felony arrest. The following facts are not in dispute. On or about March 2, 2021, Bureau Director Roseanne Perry left her position. N.T. p. 297. On March 4, 2021, Robena Spangler became the Bureau Director and appellant's supervisor. N.T. p. 297. Licensing Technicians are contracted employees whose job duties require entering and inspecting residential facilities, speaking directly with children, reviewing documentation, and ensuring residential facility staff are properly trained. N.T. pp. 59-61, 171.

On March 8, 2019, Licensing Technician Michael Smith was arrested and charged in New Jersey on felony drug charges. N.T. pp. 62, 168, 298. Appellant learned of his arrest directly from Smith on March 11, 2019. N.T. pp. 332-333. Appellant did not inform Spangler of Smith's arrest, but did tell her former

supervisor, Perry. N.T. pp. 67, 170-171, 200, 298-299, 335, 388-389. Appellant reviewed the Child Protective Services Law, determined he could continue to work, and allowed him to do so. N.T. pp. 70, 335, 388-389.

After Moore-Grant saw a news report regarding Smith's arrest, she contacted Human Services Program Representative 1 Wilson and, together, they unsuccessfully tried to reach appellant to make her aware of the news story. N.T. pp. 62-63. When they could not get in contact with appellant, on March 20, 2021 Moore-Grant and Wilson created a packet of information about the arrest and placed it on appellant's desk. N.T. pp. 63-64. The following day, appellant responded to the packet of information by emailing her subordinates stating she was aware of Smith's arrest "well before" the news story. N.T. p. 66; AA Ex. 2.

In June 2019, Acting Deputy Secretary Grippi found a newspaper article about Smith's arrest, which she shared with Spangler and Labor Relations. N.T. pp. 168-169, 272. Labor Relations and the legal office determined Smith should leave the office immediately and not be permitted to continue employment. N.T. p. 168. When confronted, appellant told Grippi she was aware of Smith's arrest and that she and Perry had determined Smith could continue to work. N.T. pp. 273-274, 295-296. Spangler met with Smith and told him to leave the office immediately. N.T. pp. 275-276.

On her own behalf, appellant testified after Smith's arrest, she consulted with Perry because she had not been formally introduced to Spangler and, therefore, believed Perry was still her supervisor. N.T. pp. 335, 377-380. According

to appellant, Smith's arrest was serious, she reviewed the Child Protective Services Law, and her consult with Perry led to the proper result. N.T. pp. 399-400, 408-412. Appellant acknowledges she never informed either Spangler or Human Resources about Smith's arrest. N.T. pp. 335, 383.

Acting Deputy Director Grippi, Chief of Employee Relations and Workplace Support Flagg, and Bureau Director Spangler explained why appellant's decision to allow Smith to continue working constituted a failure to properly execute her duties as a Regional Manager. Spangler explained appellant should have reviewed Smith's contract language and his clearances. N.T. pp. 301-302. Flagg explained a contracted employee does not have any employment protections and, therefore, Smith should not have been permitted to continue working. N.T. pp. 198-199. According to Grippi and Flagg, a state employee would have been immediately suspended without pay; instead, Smith was permitted to continue working and have access to children despite his felony charges. N.T. pp. 170-171, 182, 198-200, 214-215.

Upon review of the record, the Commission finds the appointing authority has presented sufficient evidence to support the charge of failure to properly execute her Regional Manager duties by allowing Smith to remain employed. We find Spangler, Grippi, and Flagg credible⁸ that appellant should have reviewed Smith's clearances and contract and she exercised poor judgment by allowing Smith to continue his employment with access to children.

⁸ The Commission has the inherent power to determine the credibility of witnesses and the value of their testimony. *McAndrew v. State Civil Service Commission (Department of Community and Economic Development)*, 736 A.2d 26 (Pa. Commw. Ct. 1999).

Licensing Inspection Report (hereinafter “LIS”)

There are undisputed facts regarding the charge of failure to properly perform her job duties due to the untimely issuance of the LIS for the Devereux CIDD Services Reed Program (hereinafter “Devereux”). Specifically, an LIS is the report utilized by appointing authority to notify a facility of any licensing violations. N.T. pp. 161-162. After the LIS is issued, a formal Corrective Action Plan is developed to resolve the problems. N.T. p. 165. After the Regional Office approves the Corrective Action Plan, the facility must utilize the information to improve their facility. N.T. p. 162. Appellant’s job duties included issuing LIS documents. N.T. p. 167.

In July and September 2018 and again in January 2019, Devereux had faced numerous allegations of child abuse. N.T. p. 163. In 2019, when the media began inquiring about the allegations against Devereux, Acting Deputy Director Grippi advised them that the appointing authority was working on an LIS, which would be sent to the facility and posted online at a later date. N.T. p. 163. On June 10, 2019, when the media inquired for the fourth time, Grippi learned an LIS had not been sent to Devereux and was, in fact, one year overdue. N.T. pp. 163-164. Grippi told appellant she needed the LIS finalized and sent out by June 11, 2019. N.T. p. 164. On June 12, 2019, Grippi read the initial draft of the LIS and found substantive errors including the omission of one incident and the inclusion of confidential information. N.T. p. 164. The LIS draft went through several substantive edits before it was finally sent to Devereux on or about September 24, 2019. Comm. Ex. B: N.T. pp. 164, 167-168

In response, appellant testified, she met with Devereux in January 2019 to discuss the issues and began working with them on a provisional license. N.T. p. 371. According to appellant, after the January 2019 meeting, there were “timely” decisions made about investigations and procedures, and Devereux began to make improvements. N.T. p. 574. Between January and April 2019, appellant sent information about provisional licensure to Perry for approval. N.T. pp. 371, 574. In April 2019, she did not know Spangler was her supervisor and had not received any directives from her about how to continue the LIS process. N.T. p. 572. Thus, as of April 2019, appellant claims the appointing authority was successfully monitoring Devereux and a plan was in place to grant a provisional license. N.T. p. 374.

According to appellant, in June 2019, she began working with Spangler on the issues surrounding Devereux. N.T. p. 574. Work had begun to create a provisional license and it was determined they should issue a Plan of Correction to Devereux. N.T. pp. 372-373, 562. Appellant stated on June 18, 2019, Spangler advised her the Governor had requested the LIS be provided to him by 6:00 p.m. N.T. p. 366. Because she had already left for the day, appellant came into the office the following day to retrieve the LIS information. N.T. p. 366. Appellant testified the LIS was completed by June 27, 2019, was emailed to Grippi on June 29, 2019, and did not need substantial edits. N.T. pp. 164, 167-168.

Acting Deputy Secretary Grippi and Chief of Employee Relations and Workplace Support Flagg explained why appellant’s failure to issue a timely LIS constituted a failure to properly execute her duties as a Regional Manager. Flagg explained appellant was the person responsible for ensuring the LIS was completed accurately and timely. N.T. p. 207. Grippi testified because appellant did not issue

either an accurate or timely LIS, there was also no formal Corrective Action Plan and, as a result, the issues continued to negatively impact children. N.T. p. 165. Appellant offered no explanation for the untimely issuance of the LIS and the widespread media coverage of the issues at Devereux placed the appointing authority in a negative light. N.T. pp. 166, 168.

Upon review of the record, the Commission finds the appointing authority has presented sufficient evidence to support the charge of failure to properly execute her Regional Manager duties when she failed to properly issue the LIS. Grippi and Flagg credibly testified appellant was responsible for the LIS and there were negative consequences to children as a result of the failure to do so. They further credibly testified the extensive media coverage presented the appointing authority in a negative light.

Backlog of Unassigned Complaints

The parties agree upon the following facts pertaining to charge of failure to perform her Regional Manager job duties because of the backlog of unassigned Complaints. A Complaint is a report that comes into the facility which does not rise to the same level of concern as a child abuse investigation. These Complaints must be investigated and could result in assistance to a family or providing the family with access to resources. N.T. pp. 98-99. Complaints come into the office via the Governor's Office, a facility, the ChildLine registry, a telephone call directly into the office, or a written complaint received by letter or email. N.T. pp. 99-100, 157. Complaints are entered into the Child Welfare Information System (hereinafter "CWIS") and automatically go into a queue for unassigned Complaints. N.T. pp. 100, 103-105, 107. A Regional Manager, such as

appellant, or an Income Maintenance Casework Supervisor can access the unassigned Complaints in CWIS. N.T. p. 101. Appellant's job duties included managing the processing of all Complaints in Montgomery, Berks, Bucks, Philadelphia, and Delaware Counties. N.T. pp. 26-27, 205-204; AA Ex. 4. In addition, appellant was responsible for directing the Income Maintenance Caseworker Supervisors under her supervision to assign Complaints. N.T. pp. 103, 107-109, 114, 207. Each Income Maintenance Casework Supervisors assigns Complaints on a round robin basis to Program Representatives or Licensing Representatives. N.T. pp. 103, 107-109, 110, 112. An Income Maintenance Casework Supervisor is responsible for assigning Complaints only during their rotation month and is not responsible for assigning Complaints that should have been assigned in previous months. N.T. pp. 113-114. All Complaints must be reviewed to determine if there is a potential risk to a child or a potential regulatory violation. N.T. p. 157. Once a Program Representative or Licensing Representative is assigned to the Complaint, that employee can access the Complaint, input necessary information, and should complete all required work on that Complaint within thirty days. N.T. pp. 101, 110-111. A completed Complaint will no longer appear in the CWIS queue for unassigned Complaints. N.T. p. 111.

Acting Regional Manager Neptune-Johnson testified the backlog of unassigned Complaints developed because Income Maintenance Casework Supervisors were not assigning Complaints during their round robin month of rotation. N.T. p. 113. Acting Deputy Secretary Grippi and Bureau Director Spangler explained there was a telephone meeting with all Regional Managers, including appellant. N.T. p. 152. During the meeting, appellant stated she had over 1,000 Complaints that had never been reviewed. N.T. p. 152. When Grippi asked, appellant stated she did not know if any of the Complaints presented a safety concern

because they had never been reviewed. N.T. p. 153. When Grippi told appellant to immediately review the Complaints for any risks to children or regulatory violations, appellant became irate and yelled she was being targeted. Grippi advised appellant she was not being targeted and the unassigned Complaints constituted a serious issue. N.T. p. 153. Spangler testified there were 1600 Complaints in the unassigned CWIS queue. N.T. pp. 303-304.

Neptune-Johnson and Chief of Employee Relations and Workplace Support Flagg provided insight into the reason the backlog of unassigned Complaints constituted an egregious failure of appellant to properly perform her Regional Manager duties. Specifically, Neptune-Johnson explained some of the unassigned Complaints dated back to 2015. N.T. p. 650. Flagg explained appellant's job duties included supervising the Income Maintenance Supervisors. N.T. pp. 207, 215; AA Ex. 4.

In response to the allegation, Human Services Program Representative I Wilson and appellant both claim there was never 1600 unassigned Complaints. N.T. pp. 237, 257, 345, 494-495. According to Wilson, there were "many" Complaints the appointing authority included in the 1600 that were actually assigned to an Income Maintenance Caseworker in the CWIS system, but not completed. N.T. p. 303.

Appellant also asserts there were Complaints in the CWIS system that were never properly marked as completed. N.T. p. 349. Appellant denies stating there were 1,000 unassigned Complaints and claims she did not have any information regarding the number of unassigned Complaints at that time. N.T. p. 359. Appellant claims there were only "a couple hundred" unassigned

Complaints. N.T. pp. 345, 494-495. However, Grippi and Spangler credibly testified no other Regional Office had a backlog of unassigned Complaints, nor was it typical of the other Regional Offices to have such a backlog. N.T. pp. 159, 280.

Finally, appellant argues she was under-staffed and the appointing authority hired additional personnel to process the backlog. N.T. p. 658. However, Neptune-Johnson credibly testified that after the June meeting where appellant indicated she had a backlog, she offered to assist with assigning the Complaints. N.T. p. 121. Additional credible testimony provides that on or about June 27, 2019, Program Representative 2 Pacheco began assisting Neptune-Johnson with the assignment process. N.T. pp. 123-124, 627. By July 4, 2019, all of the previously unassigned Complaints were assigned. N.T. pp. 123-124. By December 2019, all Complaints over sixty-days late were completed and the backlog was nearly eliminated. N.T. p. 125. Neptune-Johnson credibly testified no additional personnel were hired to address the backlog of unassigned Complaints. N.T. p. 658.

Appellant also testified, “if there were 1,600 Complaints that were unassigned” the Income Maintenance Casework Supervisors were negligent in their job duties, not her. N.T. p. 483. However, Neptune-Johnson explained the backlog could have been prevented if appellant had taken a proactive role as a supervisor. N.T. p. 137. Additionally, Flagg testified appellant was responsible for overseeing the Income Maintenance Casework Supervisors. N.T. p. 207; AA Ex. 4.

Upon review of the record, the Commission finds the appointing authority has presented sufficient evidence to support the charge of failure to properly execute her Regional Manager job duties due to the backlog of 1,600 unassigned Complaints.

Inappropriate Conduct

Finally, with respect to the charge of inappropriate conduct, the parties agree upon the following facts. Appellant acknowledges she engaged in a verbal dispute with her subordinate, Program Representative 2 Pacheco wherein she initially walked away, but then turned back toward him, and engaged in additional verbal argument that led her to contact security and have him escorted out of the building. (*See Findings of Fact 55-78*).

Pacheco testified after appellant contacted security, he left the office and the building. N.T. pp. 616-617, 622. During the verbal dispute, appellant never suggested he go elsewhere in the building. N.T. p. 621.

Spangler testified that on the evening of the incident, she telephoned appellant at her home and asked why security had become involved in the incident. N.T. p. 270. When appellant stated she felt threatened by Pacheco, Spangler stated she should put the allegation into writing and stay at home until further notice. N.T. p. 271. By letter dated August 9, 2019, appellant was suspended pending investigation from her position of Southeast Regional Manager with the Office of Children, Youth and Families. Comm. Ex. A.

Appellant and Human Services Program Representative 1 Wilson testified in response to the charge of inappropriate conduct. Specifically, Wilson testified he witnessed a portion of the verbal dispute and noted Pacheco's behavior toward appellant was inappropriate. N.T. p. 232. Appellant testified Pacheco was

disrespectful, yelling, and insubordinate. N.T. pp. 322, 324, 523. According to appellant, she became fearful when Pacheco stood up because he is much larger than her and she began to worry about workplace violence and the safety of herself and others. N.T. pp. 325, 519, 579-580.

Clerk Typist 2 Moore-Grant testified appellant's behavior violated the appointing authority's Code of Professionalism because she did not act in a respectful or dignified manner toward Pacheco. N.T. p. 57; AA Ex. 1. Bureau Director Spangler testified appellant's behavior was inappropriate because there were other, calmer ways to handle the situation. N.T. p. 291. For example, rather than calling security, appellant could have told Pacheco he needed to leave the office immediately after his deposition. N.T. p. 291. Flagg testified when appellant had Pacheco removed from the building, she interfered with his availability for the deposition. N.T. p. 209; AA Ex. 4.

Upon review of the record, the Commission finds the appointing authority presented sufficient evidence to support the charge of inappropriate conduct. Although the appointing authority charged appellant under Policy 7174 and did not present evidence regarding the application of the policy, the Commission finds the presentation of the Code of Professionalism is sufficient to support the charge at issue. This is especially so because appellant acknowledges turning around to confront Pacheco, raising her voice, contacting security, and having Pacheco escorted out of the building. A management employee must strictly adhere to standards and set an example for his subordinates. *See, Woodbridge v. Commonwealth Department of Revenue*, 435 A.2d 300, 302 (Pa. Commw. Ct. 1982). In this instance, appellant's conduct in no way provided a positive example for her subordinates.

Decision to Demote

Chief of Employee Relations and Workplace Support Flagg testified she, along with several others, made the decision to demote appellant. The determination to demote appellant was based upon the fact that appellant was irresponsible in performing her duties of directing the workforce and issuing work assignments. N.T. pp. 210, 213. When considering options for retaining appellant as an employee, they realized she has no right of return to any prior position. N.T. p. 212. The Income Maintenance Caseworker position was vacant and appellant met the minimum experience and training requirements. N.T. p. 213.

Summary

In summation, the appointing authority has presented just cause to demote appellant. There has been sufficient evidence presented to support the charges of failure to properly execute her Regional Manager job duties when she allowed a contracted employee to work several months after his felony charges, allowed a backlog of 1,600 unassigned Complaints to accumulate, and failed to create a timely LIS for the Devereux facility. Moreover, there is sufficient evidence to support the charge of inappropriate conduct; appellant acknowledges engaging in a verbal dispute with her subordinate, Pacheco. Appellant's failure to properly execute her job duties and inability to properly engage with her subordinates clearly negatively impacts her competency and ability to perform her job duties. *Mihok, supra*. Accordingly, we enter the following:

CONCLUSION OF LAW

The appointing authority has presented evidence establishing just cause for demotion under Section 2503 of Act 71 of 2018.

ORDER

AND NOW, the State Civil Service Commission, by agreement of its members, dismisses the appeal of Raheemah Shamsid-Deen Hampton challenging her demotion from regular Southeast Regional Manager with the Office of Children, Youth and Families to Income Maintenance Caseworker with the Department of Human Services and sustains the action of the Department of Human Services in the demotion of Raheemah Shamsid-Deen Hampton from regular Southeast Regional Manager with the Office of Children, Youth and Families to Income Maintenance Caseworker employment effective close of business November 29, 2019.

State Civil Service Commission

Maria P. Donatucci
Chairwoman

Gregory M. Lane
Commissioner

Bryan R. Lentz
Commissioner

Mailed: July 29, 2021