

COMMONWEALTH OF PENNSYLVANIA

Patricia L. Connor-Council : State Civil Service Commission
: :
v. : :
: :
State Correctional Institution at Chester, :
Department of Corrections : Appeal No. 31084

Robert T. Vance, Jr. : Page Darney
Attorney for Appellant : Attorney for Appointing Authority

ADJUDICATION

This is an appeal by Patricia L. Connor-Council challenging her suspension pending investigation and subsequent removal from regular Corrections Unit Manager employment with the State Correctional Institution at Chester, Department of Corrections (hereinafter “appointing authority”). A hearing was held on October 24, 2023, via video, before Commissioner Gregory M. Lane.

The Commissioners have reviewed the Notes of Testimony and exhibits introduced at the hearings, as well as the Brief submitted by the appointing authority.¹ The issue before the Commission is whether the appointing authority has established just cause for appellant’s removal.²

¹ Appellant’s brief was initially due on December 28, 2023. Upon appellant’s request, the filing date was extended to January 4, 2024. Appellant did not submit a brief on January 4, 2024. On January 5, 2024, appellant requested a second extension, which was denied.

² When an appointing authority suspends an employee pending investigation and subsequently removes the employee, the period of suspension will be deemed part of the removal action. *Woods v. State Civil Service Commission (New Castle Youth Development Center, Department of Public Welfare)*, 865 A.2d 272, 274 n. 3 (Pa. Commw. Ct. 2004); 4 Pa. Code § 101.21(b)(2). Appellant was suspended pending investigation, effective February 3, 2023. Appellant remained on suspension until her removal by letter dated April 13, 2023. We consider appellant’s removal, effective as of the date of suspension, to be the sole personnel action to be reviewed through this appeal.

FINDINGS OF FACT

1. By letter dated February 3, 2023, appellant was suspended pending investigation of allegations that she fraternized and/or maintained personal relationships with multiple inmates, reentrants, and family members of inmates and/or reentrants. Comm. Ex. A.

2. Appellant's suspension pending investigation was effective February 3, 2023. Comm. Ex. A.

3. By letter dated April 13, 2023, appellant was removed from her position as Corrections Unit Manager, regular status, with the State Correctional Institution at Chester (hereinafter "appointing authority"), effective April 14, 2023. Comm. Ex. C.

4. In its April 13, 2023 letter, the appointing authority charged appellant with violating: 1) the Department of Corrections (hereinafter "DOC") Code of Ethics; 2) DOC Policy No. 1.1.14, Offender Contact and Relationship Reporting Requirements; 3) DOC Policy No. 2.3.1, Information Technology;

- 4) Management Directive 205.34, Commonwealth of Pennsylvania Information Technology Acceptable Use Policy; and 5) the Scandinavian Prison Project Handbook. Comm. Ex. C.
5. The April 13, 2023 letter informed appellant the charges were based on the following conduct:
 - 1) hugging inmates on C-A and C-B Units;
 - 2) providing an inmate with bags of microwavable popcorn at no cost;
 - 3) failing to report a private relationship with an inmate's mother;
 - 4) communicating through social media with several recent appointing authority inmates; and
 - 5) using her Commonwealth computer to access numerous non-work-related sites. Comm. Ex. C.
6. The appeal was properly raised before this Commission and was heard under Section 3003(7)(i) of Act 71 of 2018. Comm. Ex. E.
7. Appellant was employed by the appointing authority as a Corrections Unit Manager for C-A and C-B Units. N.T. p. 30; AA Ex. 15B (p. 3).

8. As a Corrections Unit Manager, appellant oversaw the inmates and Corrections Counselors assigned to her units and addressed inmate and staffing needs. N.T. pp. 147, 262-263.
9. On February 2, 2023, a pre-suspension meeting was held with appellant. N.T. pp. 200-201; AA Ex. 14.
10. By letter dated February 28, 2023, appellant was notified a pre-disciplinary conference (hereinafter “PDC”) was scheduled for March 9, 2023, at 1:00 p.m. N.T. p. 180; AA Ex. 13.
11. The February 28, 2023, letter informed appellant she would have an opportunity to respond to alleged violations of the DOC Code of Ethics, DOC Policy Nos. 1.1.14 and 2.3.1, Management Directive 205.34, and the Scandinavian Prison Project Handbook. AA Ex. 13.
12. The PDC was held on March 9, 2023, as scheduled. N.T. p. 180.
13. During the PDC, appellant responded to the charges set forth in the February 28, 2023 letter. N.T. p. 181; AA Ex. 12.

14. Employees are trained on different ways inmates can manipulate staff. This training is titled “Manipulation: the CON Game.” N.T. p. 214.
15. Appellant received “Manipulation: the CON Game” training on: May 29, 2019; January 13, 2021; and January 4, 2022. AA Ex. 8 (pp. 2-3, 6).
16. All employees receive a copy of the DOC Code of Ethics. N.T. p. 159.
17. The DOC Code of Ethics is available to employees on the DOC’s intranet and its public website. N.T. pp. 159-160.
18. By signed acknowledgment dated August 31, 2014, appellant certified she received, read, and agreed to abide by the DOC Code of Ethics. N.T. p. 161; AA Ex. 2.
19. Section B.6 of the DOC Code of Ethics provides:

There shall be no fraternization or private relationship of staff with inmates, parolees, or members of their families. This includes, but is not limited to, trading, bartering or receiving gifts, money and favors from the inmate or the inmates’ friends, relatives or representatives. Moreover,

employees are not to deliver gifts or money to inmates' friends, relatives, or representatives.

AA Ex. 1 (p. 3).

20. Hugging is fraternization. N.T. p. 209.

21. Section B.10 of the DOC Code of Ethics provides:

Employees are expected to treat their peers, supervisors, and the general public with respect and conduct themselves properly and professionally at all times; unacceptable conduct or insolence will not be tolerated.

AA Ex. 1 (p. 4).

22. Hugging is unprofessional conduct. N.T. pp. 123-125.

23. Section C of the DOC Code of Ethics informs employees that violations of the provisions therein shall be subject to immediate disciplinary action.

AA Ex. 1 (p. 6).

24. All employees receive a copy of DOC Policy No. 1.1.14. N.T. p. 161.

25. DOC Policy No. 1.1.14 is available to employees on the DOC's intranet. N.T. p. 161.
26. By signed acknowledgment dated June 11, 2014, appellant certified she received and reviewed DOC Policy No. 1.1.14, Offender Contact and Relationship Reporting. N.T. p. 162; AA Ex. 4.
27. Appellant received training on the offender contact and relationship reporting requirements on July 30, 2015, October 31, 2017, and November 16, 2018. N.T. pp. 165-166; AA Ex. 6 (pp. 7, 9, 12).
28. Section 1(A)(1) of DOC Policy No. 1.1.14 provides, in pertinent part:
 - (a) All employees are expected to maintain professional relationships with offenders and the public.
 - (b) No employee shall engage in any activity nor fraternize with an offender, their friends, relatives, or representatives, on or off duty, not authorized within the performance of the employees' assigned duties or otherwise approved by the Facility Manager/Bureau Director/designee.
 - (c) Fraternization behavior includes, but is not limited to, engaging in sexual/personal/private relationships, introducing

contraband, conducting financial transactions, supplying/sharing personal information, electronic/social media interaction, giving/receiving gifts/favors, or any other activity that may jeopardize the safety and/or security of employees, inmates, or the community.

(e) All employee-offender contact and relationships, as defined in this policy, shall be reported as soon as any employee become aware of the situation.

AA Ex. 3 (p. 6).

29. Section 2(A) of DOC Policy No. 1.1.14 provides, in pertinent part:

The following activities are prohibited with [offenders, friends, relatives, or representatives] unless conducted within the performance of the employee's assigned duties or otherwise approved in writing by the Facility Manager/Bureau Director/designee:

9. establishing or continuing a personal relationship;

10. engaging in personal contact;

19. engaging in any activity which might compromise the ability of the employee to perform job duties in an efficient, unbiased and professional manner.

AA Ex. 3 (pp. 8-9).

30. Section 1(A)(3) of DOC Policy No. 1.1.14 provides, in pertinent part:

(a) Each employee shall promptly report any pre-existing personal relationship or personal contact, when an offender meets the definition of relative, friend, or acquaintance, immediately upon discovery. This does not include incidental contact. Reporting requirements are outlined in Section 3 of this procedure.

(b) Each employee shall promptly report incidents of fraternization or prohibited/unauthorized activity they become involved with or witness, immediately upon discovery. Reporting requirements are outlined in Section 3 of this procedure.

AA Ex. 3 (p. 7).

31. Section 3(A)(1) of DOC Policy No. 1.1.14 requires the employee to provide the completed and signed contact Disclosure Report to the Shift Commander.

AA Ex. 3 (p. 10).

32. Section 3 of DOC Policy 1.1.14 requires the reporting employee to complete the Contact Disclosure Report prior to the end of their shift. AA Ex. 3 (p. 10).

33. Section 1(A)(1)(g) of the DOC Policy No. 1.1.14 informs employees that violations of the provisions therein may lead to disciplinary action, up to and including termination. AA Ex. 3 (p. 6).

34. DOC Policy No. 1.1.14 defines “offender,” in relevant part, as:
 1. Any individual currently incarcerated in a Pennsylvania State Correctional Institution;
 2. Any individual under the jurisdiction of the PA Department of Corrections (Department) or Pennsylvania Board of Probation and Parole (PBPP) and residing at a facility owned, operated, or contracted by the Department (Contracted County Jail, Community Corrections Center, Community Contract Facility, etc.);

 4. Any individual released from the custody/supervision of the above within the past 365 days.

AA Ex. 3 (p. 13).

35. DOC Policy No. 1.1.14 defines “relative” to include a parent. AA Ex. 3 (p. 13).
36. DOC Policy No. 1.1.14 defines “friend” as “[a]ny individual who has an established personal relationship with another person. AA Ex. 3 (p. 13).
37. DOC Policy No. 1.1.14 defines “personal relationship” to include, in relevant part, personal and/or private contact that is not incidental and is outside the scope of assigned job duties, including but not limited to physical contact. AA Ex. 3 (p. 13).
38. DOC Policy No. 1.1.14 defines “personal contact” to include social media interaction. AA Ex. 3 (p. 13).
39. DOC Policy No. 1.1.14 defines “incidental contact” as “infrequent contact during daily activities such as dining, shopping, spectator events, etc.” AA Ex. 3 (p. 13).
40. DOC Policy No. 1.1.14 defines “social media” to include Facebook and Instagram. AA Ex. 3 (p. 13).

41. All employees assigned to C-A Unit receive a copy of the Scandinavian Prison Project Handbook. N.T. p. 175.
42. The Scandinavian Prison Project Handbook only applies to C-A Unit. N.T. p. 208.
43. Section 2.2(1)(A)(1) of the Scandinavian Prison Project Handbook provides, in pertinent part:
 - a. All employees are expected to maintain professional relationships with residents and the public.
 - b. No employee shall engage in any activity nor fraternize with a resident, their friends, relatives or representatives, on or off duty, not authorized within the performance of the employee's assigned duties or otherwise approved by the Facility Manager/Bureau Director/designee.
 - c. Fraternization behavior includes, but is not limited to: engaging in sexual/private relationships, introducing contraband, conducting financial transactions, supplying/sharing private information, electronic/social media interaction, giving/receiving gifts/favors, or any other activity that may jeopardize the safety and/or security of employees, residents, or the community.

- i. Fraternalization behavior does not include:
 1. Mutually agreed upon nick names
 2. Physical gestures including,
 - a. Fist bumps, high fives, pat on the back, handshakes
 3. Engaging in activities with residents
 - a. i.e. playing games, exercise, watching tv
 4. Extended productive conversations
 5. Sitting next to resident while maintaining an appropriate distance
 6. Sharing meals
 7. Assisting residents with Shoprite ordering via computer
 8. Providing residents with information conducive to his rehabilitation via computer
 9. Proactively attempting to help achieve the rehabilitation goals of the residents
 10. Any additional contact officer duties not listed above.

AA Exs. 9 (p. 36), 15 (p. 85).

44. Hugging is not permitted on C-A Unit. N.T. pp. 142, 209, 240.
45. Section 2.2(1)(A)(1)(g) of the Scandinavian Prison Project Handbook informs employees that violations of its fraternization policy may lead to disciplinary action, up to and including termination. AA Ex. 9 (p. 37).
46. All employees receive copies of the Commonwealth's Information Technology Policies including Management Directive 205.34. N.T. pp. 162, 164.
47. By signed acknowledgment dated July 9, 2010, appellant certified she was informed of DOC's and the Office of Administration's policies regarding Information Technology, to include DOC Policy No. 2.3.1 and the Executive Orders, Management Directive, Manual, and Bulletins referenced in DOC Policy No. 2.3.1. N.T. p. 163; AA Ex. 7.
48. By signed acknowledgment dated July 9, 2010, appellant agreed to use Commonwealth computers and software in accordance with DOC Policy No. 2.3.1. AA Ex. 7.

49. Section 1(D)(2)(h) of DOC Policy No. 2.3.1 requires staff to use Commonwealth owned/licensed IT hardware, applications, systems, and information for business purposes only. AA Ex. 5 (pp. 17-18).
50. Section 1(D)(2)(e)(2) of DOC Policy No. 2.3.1 requires staff to ensure inmates are permitted access only to machines that have been designated and marked as inmate-use computers. AA Ex. 5 (pp. 17-18).
51. Section 1(F)(1) of the DOC Policy No. 2.3.1 informs employees that violations of the provisions therein may lead to disciplinary action, up to and including termination. AA Ex. 5 (p. 20).
52. DOC Policy No. 2.3.1 cross references Management Directive 205.34 as amended, Commonwealth of Pennsylvania Information Technology Acceptable Use Policy. AA Ex. 5 (p. 4).

53. Section 5(i) of Management Directive 205.34 provides:

IT Resources are intended for business use and shall be used primarily for that purpose. IT Resources are tools that the Commonwealth has made available for Commonwealth business purposes. Where personal use of IT Resources does not interfere with the efficiency of operations and is not otherwise in conflict with the interests of the Commonwealth, reasonable use for personal purposes will be permitted in accordance with the standards established for business use. Such personal use shall be limited, occasional, and incidental. Any personal use that is inconsistent with Commonwealth policy is prohibited.

AA Ex. 6 (p. 5).

54. Section 5(b) of Management Directive 205.34 informs employees that abuse or misuse of IT Resources may result in disciplinary action, up to and including termination. AA Ex. 6 (p. 3).
55. Appellant was trained annually in security awareness and the acceptable use of information technology, which included Management Directive 205.34. N.T. pp. 167-168; AA Ex. 8.

56. Appellant hugged inmates housed on C-A and C-B Units. N.T. pp. 66, 98, 107; AA Ex. 15B (pp. 56-59).
57. Appellant hugged Inmate N. Jenkins. N.T. 270; AA Ex. 12 (p. 3).
58. On April 26, 2022, appellant failed to notice Inmate Booker, who was within her line of sight, carrying a brown paper bag from appellant's office to his housing unit. N.T. pp. 50-54, 60; AA Exs. 15A, 15B (p. 28).
59. In early 2022, appellant hugged Denise Freeman at the appointing authority. N.T. pp. 61, 274-275; AA Ex. 15B (pp. 33-34).
60. Freeman is the mother of Inmate East. N.T. p. 275.
61. Appellant learned Freeman was the mother of Inmate East in early 2022. N.T. p. 275.

62. Appellant listed Freeman as a reference on her DOC employment application. AA Ex. 15 (p. 43).
63. On her employment application, appellant indicated she previously worked with and was friends with Freeman. N.T. p. 61; AA Ex. 15B (p. 33).
64. In or around October 20, 2022, appellant was Facebook friends with Reentrants L. Horton, D. Horton, and S. Hyland. N.T. pp. 63-65; AA Ex. 15B (pp. 31, 42-43).
65. Reentrants L. Horton and D. Horton were paroled on February 12, 2022. AA Ex. 15 (p. 5).
66. Reentrant S. Hyland was paroled February 8, 2022. AA Ex. 15 (p. 5).
67. Appellant frequently visited the following websites on her work computer for non-work-related reasons: Instagram; Amazon; Google; YouTube My Fed Loan; news websites; and travel websites. N.T. pp. 43-47, 84, 86, 129-130, 286, 288; AA Exs. 12 (p. 3), 15 (pp. 5, 138-202), 15B (pp. 45-51).

68. There are no business reasons for appellant to access: Instagram; YouTube; My Fed Loan; travel websites; or news websites. N.T. pp. 223, 231-232, 234-236.

DISCUSSION

By letter dated April 13, 2023, the appointing authority removed appellant from her position as a Corrections Unit Manager, regular status. Comm. Ex. A. Appellant challenged this action under Section 3003(7)(i) of Act 71 of 2018 (hereinafter “Act 71”).³ 71 Pa.C.S. § 3003(7)(i). Thus, the sole issue before the Commission is whether the appointing authority has established just cause for the removal.

In an appeal challenging the removal of a regular status employee, the appointing authority bears the burden of proving just cause for the removal and must prove the substance of the charges underlying the removal. *Long v. Commonwealth of Pennsylvania Liquor Control Board*, 112 Pa. Commw. 572, 575, 535 A.2d 1233, 1235 (1988); 71 Pa.C.S. § 2607. “The criteria for determining 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).

³ Act of June 28, 2018, P.L. 460, No. 71, § 1.

In support of its charges, the appointing authority presented the testimony of Corrections Criminal Investigator (hereinafter “Investigator”) Jeremiah Campbell,⁴ Human Resources Analyst 3 (hereinafter “HR Analyst 3”) Rita Mack,⁵ and Superintendent Gina Clark.⁶ Appellant testified on her own behalf.

Appellant was employed by the appointing authority as a Corrections Unit Manager for C-A,⁷ C-B,⁸ and C-F⁹ Units. N.T. pp. 30, 206, 262; AA Ex. 15B (p. 3). As a Corrections Unit Manager, appellant oversaw the inmates and Corrections Counselors assigned to her units and addressed inmate and staffing needs. N.T. pp. 147, 262-263. In other words, appellant was responsible for the overall running of her units. N.T. p. 263.

⁴ Campbell is employed as a Corrections Criminal Investigator with the Department of Correction’s (hereinafter “DOC”) Bureau of Investigations and Intelligence. N.T. pp. 24-25. Campbell has been employed by DOC since 2011. N.T. p. 25. As an Investigator, Campbell is responsible for conducting both administrative and criminal investigations. N.T. p. 25. In that capacity, he investigated the fraternization incidents for which appellant was removed. N.T. p. 26.

⁵ Mack oversees the investigations and disciplinary process for the appointing authority. N.T. p. 157. Mack is also the custodian of DOC’s personnel records and served as the panel chair for appellant’s pre-disciplinary conference on March 9, 2023. N.T. pp. 159, 180. Mack has worked for the Commonwealth for over five years. N.T. p. 158.

⁶ Clark is the Superintendent for the appointing authority and in that capacity, she oversees the entire facility. N.T. p. 198.

⁷ C-A Unit is known as Little Scandinavia. N.T. p. 30. It is part of a prison project aimed at reducing recidivism by providing more freedoms and amenities to inmates. N.T. pp. 42, 202-203. Corrections Officers assigned to C-A Unit perform the dual roles of security (*e.g.*, enforcing the policies and procedures of the housing unit) and case manager (*e.g.*, assessing their assigned inmates’ goals, reentry plan progress, and similar matters). N.T. p. 204.

⁸ C-B Unit is a general population unit. N.T. p. 207. It is commonly referred to as the Honor Unit because the inmates receive some elevated privileges. N.T. pp. 207-208.

⁹ C-F Unit is the Restrictive Housing Unit (hereinafter “RHU”). N.T. p. 206. The RHU is where inmates complete disciplinary time for misconducts, which are infractions committed inside the facility. N.T. p. 241. In or around June or July 2022, a new Corrections Unit Manager was hired to oversee the RHU and Infirmary. N.T. p. 263.

In or around September 2022, concerns arose that appellant was fraternizing with inmates. N.T. p. 30. Based on these concerns, Regional Deputy Secretary Tammy Ferguson requested an investigation be conducted. N.T. p. 30. On September 30, 2022, Investigator Jeremiah Campbell was assigned to conduct the investigation. N.T. pp. 29-31; AA Ex. 15 (p. 3). The investigation was completed on October 4, 2022 and closed as substantiated on January 23, 2023. N.T. pp. 26-28, 31; AA Ex. 15 (pp. 3, 12). By memos dated February 2, 2023, the Executive Staff and Superintendent Gina Clark were notified of the completed investigation and provided copies of the investigative report. N.T. pp. 48-49; AA Ex. 15 (pp. 210-211).

The following items were included as part of the investigation report:

1) the initial complaint; 2) written statements from Counselor Karina Salamo¹⁰ and Inmate Booker;¹¹ 3) appellant's employment application dated February 25, 2010; 4) Inmate East's approved phone list; 5) Inmate East's housing assignments; 6) the Scandinavian Prison Project Handbook; 7) logs of appellant's internet search history; 8) the charging document;¹² 9) notifications to the Executive Staff and Superintendent Clark; and 10) Investigator Campbell's summary of findings,

¹⁰ Counselor Salamo initially provided her written statement to the appointing authority's security office on September 23, 2022. On October 4, 2022, she was interviewed by Investigator Campbell who asked her to resign her statement, which she did. N.T. p. 35; AA Ex. 15 (pp. 20-27). Salamo did not testify at the hearing on the present matter.

¹¹ Inmate Booker was named in the initial allegation of fraternization. N.T. p. 36. His statement was first provided to Security Captain Baco and Lieutenant Posada on September 22, 2022. N.T. pp. 36-37, 134. Captain Baco later forwarded the statement to Investigator Campbell. N.T. p. 37. Inmate Booker did not testify at the hearing on the present matter.

¹² The charging document, which includes the suggested charges, was provided to the Secretary of the Department of Corrections on January 23, 2023. N.T. pp. 47-48; AA Ex. 15 (pp. 203-209).

conclusions, and recommendation.¹³ N.T. pp. 27, 34-36, 38, 40-43, 47-48; AA Ex. 15. Video footage of an alleged fraternization incident involving Inmate Booker was also reviewed as part of the investigation. N.T. pp. 49-50; AA Ex. 15A.

On February 2, 2023, a pre-suspension meeting was held with appellant. N.T. pp. 200-201; AA Ex. 14. At this meeting, appellant was generally informed of the results of the investigation. N.T. p. 201. Appellant was also provided an opportunity to make a statement, which she declined. N.T. pp. 201-202.

By letter dated February 3, 2023, appellant was suspended pending further investigation, to include facts to be gathered through the pre-disciplinary process. N.T. pp. 178-179. *See also* Findings of Fact 1, 2. On March 9, 2023, the pre-disciplinary conference (hereinafter “PDC”) was held as scheduled. *See* Finding of Fact 12. At the PDC, appellant was provided an opportunity to respond to the allegations set forth in the PDC Notice, which she did. *See* Finding of Fact 13.

By letter dated April 13, 2023, the appointing authority removed appellant and charged her with multiple violations of various policies and directives. *See* Findings of Fact 3, 4. The charges were based on the following conduct: 1) hugging inmates on C-A and C-B Units; 2) providing an inmate with bags of microwavable popcorn at no cost; 3) failing to report a private relationship with an inmate’s mother; 4) communicating through social media with several recent appointing authority inmates; and 5) using her Commonwealth computer to access numerous non-work-related sites. *See* Finding of Fact 5. The relevant evidence and policies related to each violation are discussed below, along with our findings. In

¹³ Campbell completed the narrative section of his report, which included his summary of findings, conclusions, and recommendation, on December 27, 2022. N.T. p. 27; AA Ex. 15 (pp. 3-8).

support of our conclusions, we find credible the testimony and evidence provided by the appointing authority's witnesses and resolve all conflicts in evidence in favor of the appointing authority.¹⁴

Hugging Inmates

The DOC Code of Ethics, DOC Policy No. 1.1.14, and the Scandinavian Prison Project Handbook prohibit fraternization. *See* Findings of Fact 19, 28, 43. Hugging is considered fraternization and is not permissible under the preceding policies. *See* Findings of Fact 20, 43-44. It is also considered unprofessional conduct under the DOC Code of Ethics. *See* Findings of Fact 21-22.

There is no dispute appellant hugged inmates. During the October 20, 2022 interview with Investigator Campbell, appellant admitted she hugged inmates who were housed on C-A and C-B Units. N.T. pp. 66, 98, 107; AA Ex. 15B (pp. 56-59). Appellant explained when inmates were released, she gave them a firm hug and told them to take care of themselves, not to come back, and to do the right thing. N.T. p. 108; AA Ex. 15 (pp. 56, 58). Appellant likened the hug to a firm handshake. AA Ex. 15 (p. 57).

At the PDC, appellant again admitted she hugged inmates after they signed out. AA Ex. 12 (p. 2). Appellant explained she gave the inmates a hug as a positive gesture and encouraged the inmates to use the tools they have been given to

¹⁴ It is within the purview of the Commission to determine the credibility of the witnesses. *State Correctional Institution at Graterford, Department of Corrections v. Jordan*, 505 A.2d 339, 341 (Pa. Commw. Ct. 1986).

succeed. AA Ex. 12 (p. 2). At the PDC, appellant also admitted hugging Inmate N. Jenkins to deescalate multiple situations. AA Ex. 12 (p. 3). Appellant explained she hugged Inmate N. Jenkins to encourage him to do better and she gave him advice on getting out. AA Ex. 12 (p. 3).

At the hearing on the present matter, appellant recalled hugging Inmate N. Jenkins the day before he was released on parole. N.T. p. 270. Appellant indicated prior to hugging Inmate N. Jenkins, she had a brief conversation with him during which she warned him not to go back to Philadelphia; told him he can call the institution and ask for her; offered to give him some resources; and advised him he could go to the office for food stamps. N.T. pp. 270-271.

Based on the undisputed behavior articulated above, we find appellant violated the prohibitions against fraternization as set forth in Sections B.6 of the DOC Code of Ethics, Section 2(A) of DOC Policy No. 1.1.14, and Section 2.2(1)(A)(1) of the Scandinavian Prison Project Handbook. We further find appellant acted unprofessionally when she engaged in fraternization by hugging the inmates. Therefore, we find appellant also violated Section B.10 of the DOC Code of Ethics which prohibits unprofessional conduct.

Appellant's lone denial regarding hugging Inmate Booker does not change our analysis. N.T. p. 269. Her repeated admissions regarding hugging other inmates is sufficient to substantiate the charges related to fraternization and unprofessional conduct. Nor are we persuaded by appellant's belief that hugging inmates was permissible because she was not hiding it and it was not sexual. AA

Ex 15B, pp. 58-59. The DOC's sole responsibility is the safety of the public and community. N.T. p. 209. Permitting fraternizing behavior, such as hugging, puts everyone at risk because contraband can easily be passed during a hug. N.T. pp. 209-210. Hugging also creates a security risk because close contact provides ill-intentioned inmates with the opportunity to harm the employee. N.T. p. 212.

As a Correction Unit Manager, appellant should be vigilant of security risks because she is responsible for the safety of those who work and live on the units that she oversees. Furthermore, an appointing authority can hold managerial employees, such as appellant, to the highest level of conduct. *Woodbridge v. Commonwealth, Department of Revenue*, 435 A.2d 300, 302 (Pa. Commw. 1981). Managerial employees, such as appellant, should be setting an example for subordinate employees by strictly adhering to standards of conduct. *Id.* Thus, we find there is a rational and logical connection to appellant's competency and ability as a Corrections Unit Manager, thereby establishing just cause for the discipline. *See Mihok, supra.*

Gifts to Inmates

The appointing authority's fraternization policies prohibit employees from giving gifts of any kind to inmates. *See Findings of Fact 19, 28, 43.* This includes food. N.T. pp. 114-115. The appointing authority charged appellant with giving microwave popcorn to Inmate Booker in violation of its fraternization policies. Comm. Ex. C.

On August 26, 2022, Inmate Booker¹⁵ and appellant were observed on video leaving appellant's office. N.T. pp. 50-52; AA Ex. 15A. Inmate Booker had a brown paper bag which he carried from appellant's office to his housing unit, which was C-B Unit. N.T. pp. 52-54; AA Ex. 15A. The contents of the bag are not visible on the video. AA Ex. 15A. However, during an interview with Investigator Campell, Inmate Booker claimed appellant gave him the brown paper bag, which contained popcorn. N.T. pp. 112, 139; AA Ex. 15 (p. 15). Inmate Booker also claimed in a written statement that appellant allowed him to use the phone in her office.¹⁶ N.T. p. 38; AA Ex. 15 (p. 28). Inmate Booker did not testify at the hearing on the present matter.

During her October 20, 2022 interview with Campbell, appellant was asked about the contents of the video and Inmate Booker's claims. N.T. pp. 56-60; AA Ex. 15B (pp. 26-28). Appellant denied giving Inmate Booker the brown paper bag or popcorn. N.T. pp. 59-60, 113; AA Ex. 15B (pp. 26-27). Appellant also denied seeing Inmate Booker with the brown paper bag. N.T. pp. 58, 60; AA Ex. 15B (pp. 27-28). However, appellant acknowledged her failure to notice the brown paper bag was "not good." N.T. p. 60; AA Ex. 15B (p. 28).

¹⁵ Inmate Booker worked for appellant as a "block worker." N.T. p. 114. In that capacity, he was responsible for cleaning, emptying the trash, and other such tasks. N.T. p. 114. Appellant testified Inmate Booker also performed office tasks, to include: compiling blank envelopes for the inmates; replenishing phone slips and visitor slips; and processing request slips for appellant's review. N.T. p. 268.

¹⁶ In his written statement, Inmate Booker also claimed he charged other inmates to move to units managed by appellant. N.T. p. 38; AA-15 (p. 28). Campbell was unable to verify this claim. N.T. p. 38. Thus, it was not used as a basis for removal. Comm. Ex. C.

During the PDC and hearing on the present matter, appellant again denied giving Inmate Booker anything in a brown paper bag. N.T. pp. 272-274; AA Ex. 12 (p. 2). Appellant also indicated at the PDC that she did not know what was in the brown paper bag. AA Ex. 12 (p. 2).

Superintendent Clark explained it is concerning appellant allowed Inmate Booker to leave the Unit Manager's office area and go to a housing unit with a brown paper bag because anything could be in that bag. N.T. p. 221. Clark further noted anything is subject to search, especially when inmates walk around. N.T. p. 221. Additionally, Clark testified she frequently gave orders restricting inmates from the Unit Manager's office area because of the blind spots and sensitive information contained in that area. N.T. p. 222. Clark stated inmates should only be in the Unit Manager's office area during the 2:00 and 10:00 shifts to clean the staff bathroom. N.T. p. 222. Inmates performing that function should be under the direct escort of an officer. N.T. p. 222.

Based upon the preceding, we find the hearsay evidence presented regarding the contents of the brown paper bag is insufficient to establish a violation of the appointing authority's fraternization policies. However, we are concerned that this is yet another instance where appellant admittedly disregarded a security concern. Appellant's failure to notice or address the brown paper bag calls into question her competence as a Corrections Unit Manager and further supports our finding of just cause for removal.

Failure to Report a Pre-existing Personal Relationship

Pursuant to DOC Policy No. 1.1.14, employees are required to promptly report any pre-existing personal relationships with the relative of an inmate. *See* Finding of Fact 28, 30. This must be reported immediately upon discovery by submitting a Contact Disclosure Report prior to the end of the employee's shift. *See* Finding of Fact 32. The appointing authority charged appellant with failing to report a pre-existing personal relationship with an inmate's mother. Comm. Ex. C. The pre-existing personal relationship was discovered during the fraternization investigation.

When conducting fraternization investigations, Investigator Campbell reviews the phone numbers the employee submitted with their employment application. N.T. p. 39. Campbell runs the phone numbers through Securus, which is the inmate recorded telephone system. N.T. p. 39. The phone number of one of appellant's references (Denise Freeman) showed a positive hit in Securus. N.T. p. 39; AA Ex. 15 (pp. 43, 48).

On her employment application, appellant indicated Freeman was her friend and a retired coworker. N.T. pp. 39, 115; AA Ex. 15 (p. 43). Freeman is the mother of Inmate East who resides at the appointing authority. N.T. pp. 39-40; AA Ex. 15 (p. 48). Inmate East's approved phone list and appellant's application reflect the same phone number for Freeman. N.T. pp. 40, 115; AA Ex. 15 (pp. 43, 48).

During the October 20, 2022 interview with Investigator Campbell, appellant acknowledged she previously worked with and was friends with Freeman. N.T. p. 61; AA Ex. 15B (p. 33). Appellant also acknowledged during the

October 20, 2022 interview and the hearing on the present matter that she hugged Freeman when Freeman came to the appointing authority for Inmate East's graduation ceremony in early 2022. N.T. pp. 61, 274-275; AA Ex. 15B (pp. 33-34). Appellant indicated it was at this time that she learned Freeman was Inmate East's mother. N.T. p. 275.

Appellant explained she did not report her encounter with Freeman because she believed Inmate East was no longer housed on any of the units she supervised. N.T. pp. 276, 278-279. However, appellant acknowledged Inmate East was housed on C-A and C-B Units during the time she served as the Corrections Unit Manager of these units.¹⁷ N.T. pp. 41, 62, 278; AA Ex. 15B (p. 34).

There is no exception to the appointing authority's policy based on an inmate's housing assignment. As soon as appellant became aware that Freeman was Inmate East's mother, she was required to report it under the appointing authority's policy. *See* Finding of Fact 28. We find appellant's failure to do so was a violation of the policy. We further find appellant's failure to report the relationship is rationally and logically connected to her competency and ability as a Corrections Unit Manager because failing to report such relationships creates a risk of manipulation.

¹⁷ Inmate East was assigned to C-B Unit from July 13, 2020 to August 5, 2021. N.T. p. 41; AA Ex. 15 (p. 49). Inmate East was moved to C-A Unit from August 5 to 9, 2021. N.T. p. 41; AA Ex. 15 (p. 49). Inmate East was returned to C-B Unit on August 9, 2021 and remained there until October 29, 2021. N.T. p. 41; AA Ex. 15 (p. 49). Inmate East was again assigned to C-B Unit from December 27, 2021 through February 8, 2022. N.T. p. 41; AA Ex. 15 (p. 49).

Superintendent Clark explained DOC employees, such as appellant, are required to report relationships with inmate family members because there is a risk of manipulation. N.T. pp. 214-215. For example, the family member may request that the inmate receive an extra phone call or meal tray, or the inmate may ask for a letter to be mailed. N.T. p. 215. These simple requests are gateways for manipulation, thereby leading to higher stages of fraternization such as requests to bring marijuana into the facility. N.T. p. 215. Compliance with the first request can also be used as leverage to force compliance with subsequent requests. N.T. p. 215. For example, if the employee refuses to bring marijuana into the facility, the inmate may threaten to tell someone that the employee mailed a letter for him. N.T. p. 215. Therefore, it is important for all DOC employees to report relationships with inmate family members.

Appellant received training on the offender contact and relationship reporting requirements on July 30, 2015, October 31, 2017, and November 16, 2018. *See* Finding of Fact 27. Indeed, during the PDC, appellant acknowledged she was aware of the Offender Contact Disclosure forms on which private relationships are reported. AA Ex. 12 (p. 3). Also, appellant received annual training on the different ways inmates can manipulate staff on May 29, 2019, January 13, 2021, and January 4, 2022. *See* Findings of Fact 14-15. Therefore, we find appellant knew she was required to report her relationship with Freeman and how to do so. Furthermore, as a managerial employee, appellant should be setting an example for subordinate employees and strictly adhering to the reporting requirements. *See Woodbridge*, 435 A.2d at 302.

We are not persuaded by appellant's attempt to excuse her interactions with Freeman as incidental. DOC Policy No. 1.1.14 defines "incidental contact" as "infrequent contact during daily activities such as dining, shopping, spectator events, etc." *See* Finding of Fact 39. Freeman was listed as a reference on appellant's employment application. AA Ex. 15 (p. 43). This clearly suggests appellant and Freeman had more than infrequent contact. In fact, appellant described Freeman as a friend and retired coworker on the application. AA Ex. 15 (p. 43). DOC Policy No. 1.1.14 defines "friend" as "[a]ny individual who has an established personal relationship with another person." *See* Finding of Fact 36. Clearly, appellant and Freeman had an established relationship which is evidenced by appellant's use of Freeman as a reference. *See* Finding of Fact 62. Their personal relationship was also evidenced by their physical contact in the form of a hug. *See* Findings of Fact 37, 59. Thus, we find appellant was required to report her contact with Freeman. Appellant's failure to do so supports our finding of just cause for her removal. *See Mihok, supra.*

Failure to Report Social Media Contact

The DOC Code of Ethics and DOC Policy No. 1.1.14 prohibit private relationships with reentrants. *See* Findings of Fact 19, 28-30, 34. This includes social media interactions. *See* Findings of Fact 28-29, 38. Additionally, DOC Policy No. 1.1.14 requires employees to promptly report: 1) personal contact with offenders (which includes parolees and individuals released from custody within the past 365 days); and/or 2) any incidents of fraternization with which they become involved. *See* Finding of Fact 30. Personal contact includes social media interactions through Facebook. *See* Findings of Fact 38, 40.

Appellant was charged with having social medial contact with four former offenders who recently resided at the appointing authority—L. Horton, D. Horton, S. Hyland, and E. Riddick. Comm Ex. C. At the time of appellant’s October 20, 2022 interview with Investigator Campbell, three of the former inmates (L. Horton, D. Horton, and S. Hyland) were on parole and had been released from custody within the past 365 days.¹⁸ See Findings of Fact 65-66. The sentence of the remaining former inmate (E. Riddick) was vacated on May 28, 2021. AA Ex. 15 (p. 5). Thus, we find the appointing authority’s fraternization policies and reporting requirements would only apply to appellant’s social media interactions with L. Horton, D. Horton, and S. Hyland. We further find, as to L. Horton, D. Horton, and S. Hyland, appellant violated the fraternization policies and reporting requirements.

During her October 20, 2022 interview with Investigator Campbell, appellant admitted she was Facebook friends with L. Horton, D. Horton, and S. Hyland.¹⁹ N.T. pp. 63-65; AA Ex. 15B (pp. 31, 42-43). Appellant also acknowledged such conduct is not “security minded.” AA Ex. 15B (p. 43). We find it is irrelevant whether appellant and the former inmates messaged each other through Facebook. We also find the substance of any communications appellant had with the former inmates is irrelevant. Employees are prohibited from having private relationships with reentrants, this includes being friends with reentrants on social

¹⁸ The date appellant became Facebook friends with the former inmates is unknown. However, by appellant’s own admission, she was still Facebook friends with them as of the date of the interview (October 20, 2022). Therefore, this date was used for purposes of determining whether the former inmates were “offenders” as defined by DOC Policy No. 1.1.14. See Finding of Fact 34.

¹⁹ Appellant provided conflicting testimony at the PDC and hearing on the present matter regarding her Facebook friend status with the former inmates. During the PDC, appellant acknowledged she was Facebook friends with D. Horton and E. Riddick, but claimed she deleted them after her interview with Campbell. AA Ex. 12 (p. 3). During the hearing, appellant denied being Facebook friends with E. Riddick and S. Hyland and claimed she only accessed their “open pages.” Regarding L. Horton and D. Horton, appellant claimed only L. Horton had a Facebook page, which she followed. N.T. pp. 279-281. Upon reviewing all of appellant’s conflicting statements, we find appellant’s initial admission during the October 20, 2022 interview to be credible. N.T. pp. 63-65; AA Ex. 15B (pp. 31, 42-43).

media. N.T. p. 216. We find such conduct is considered fraternization and violates the DOC Code of Ethics and DOC Policy No. 1.1.14. *See* Findings of Fact 19, 28, 29, 38, 40.

Additionally, we find appellant was required to report her Facebook contact with L. Horton, D. Horton, and S. Hyland under DOC Policy No. 1.1.14. *See* Findings of Fact 28, 38, 40. Appellant failed to do so which is a violation of this policy. Furthermore, as previously noted above, appellant had extensive training on the appointing authority's fraternization policies and reporting requirements. *See* Findings of Fact 14, 15, 27. Also, as a managerial employee, appellant should be setting an example for subordinate employees and strictly adhering to those policies. *See Woodbridge*, 435 A.2d at 302. Accordingly, we find the appointing authority had just cause to remove appellant based on her unreported social media contact with three reentrants.

Misuse of Information Technology

DOC Policy No. 2.3.1 provides employees shall use their work computer for business purposes only. *See* Finding of Fact 49. Similarly, Management Directive 205.34 as amended provides IT Resources shall be used primarily for business purposes. *See* Finding of Fact 53. However, unlike DOC Policy No. 2.3.2, Management Directive 205.34 permits limited, occasional, and incidental personal use of IT Resources. *See* Finding of Fact 53. The appointing authority charged appellant with violating both of these policies. Comm. Ex. C.

Investigator Campbell conducted a ninety-day review of appellant's internet search history. N.T. p. 47; AA Ex. 15 (pp. 5, 138-202). Based on his review, Campbell found appellant frequently visited the following non-work-related sites: Instagram (social media); Amazon (shopping); Google Video (streaming and media); YouTube (streaming and media); Snapchat (instant messaging); TIDAL TV (television); Chicago Today (news); Delco Times (news); Central Jersey (news); 6abc (news); My Fed Loan (finance); Fed-Pro (finance); Peek Travel (travel); Get Your Guide (travel). N.T. pp. 46-47; AA Ex. 15 (p. 5).

In support of his findings, Campbell referenced the internet logs attached to his report. N.T. pp. 43-46; AA Ex. 15 (pp. 138-202). Internet logs for the following categories are listed as being attached to the report: social media; shopping; streaming and media; instant messaging; tv; news and media; finance; travel; and entertainment. AA Ex. 15 (p. 3). However, only the internet logs for shopping and social media were entered into evidence. AA Ex. 15 (pp. 138-202). The shopping and social media internet logs established appellant frequently visited the following websites on her work computer on the days indicated:

Website	Type	Date Visited
Instagram	social media	July 5, 6, 8, 12, 25, 26, and 27, 2022
Amazon	shopping	August 10, 15, 18; September 2, 7, 8, 14, and 27, 2022

AA Ex. 15 (pp. 138-202). No other documentary evidence of appellant's internet search history was presented. However, during the October 20, 2022 interview with Investigator Campbell, appellant admitted to using her Commonwealth computer for personal reasons.²⁰ N.T. p. 86.

Appellant admitted to visiting Instagram, Amazon, YouTube, Google (but not Google Streaming), online news websites, and a travel agency through which she booked a trip to a wedding. AA Ex. 15B (pp. 45-51). Appellant did not specify which online news websites she visited, nor did she indicate which travel agency website she used. AA Ex. 15B. We find it is irrelevant which travel agency website appellant used as there is no dispute she booked a personal trip using her work computer.

Additionally, we are not persuaded by appellant's claim that she accessed online news websites to help inmates who were writing papers for their college classes. N.T. pp. 285, 288-289. Pursuant to DOC Policy No. 2.3.1, inmates shall only have access to computers designated and marked as inmate-use computers. *See* Finding of Fact 50. DOC employees, such as appellant, are responsible for ensuring this. *See* Finding of Fact 50. As a managerial employee, appellant should be particularly cognizant of the restrictions regarding inmate access to computers. For this same reason, we are also concerned about appellant's admission that she permitted several inmates to watch a YouTube tutorial video on her computer. N.T. p. 284; AA Ex. 12 (p. 3).

²⁰ During the hearing on the present matter, appellant claimed all of her computer usage was work-related. N.T. pp. 285, 287-288. This conflicts with her initial admission during the October 20, 2022 interview as well as her statements during the PDC. AA Exs. 12 (p. 3), 15B (pp. 45-51). Thus, we do not find credible appellant's claim that all of her computer usage was work-related.

We further note appellant admitted to using YouTube for non-work-related purposes. Specifically, appellant admitted to playing music and streaming the television show *First 48* on YouTube while at work. AA Exs. 12 (p. 3), 15B (pp. 50-51). Appellant also admitted accessing My Fed Loan and Instagram for non-work-related purposes. N.T. pp. 286, 288. While appellant claims she only accessed Instagram during her break, DOC Policy No. 2.3.1 is clear that appellant may only use her work computer for business purposes. *See* Finding of Fact 49. The blanket prohibition in DOC Policy No. 2.3.1 also applies to appellant's admitted use of Amazon and Google for personal purposes. N.T. pp. 84, 129-130; AA Ex. 15B (pp. 45-46, 48-49). Appellant's concurrent use of Amazon and Google for work-related purposes does not excuse the times she accessed Amazon and Google on her work computer for personal purposes.

Based on the above, we find appellant violated DOC Policy No. 2.3.1. We also find appellant's personal use of her work computer was not incidental. Upon reviewing the frequency of appellant's internet usage, Superintendent Clark wondered how any work got done. N.T. p. 223. Superintendent Clark also noted there are no business reasons for appellant, as a Corrections Unit Manager, to access Instagram, travel websites, Google Video, YouTube, news websites, Snapchat, My Fed Loan, or Fed-Pro. N.T. pp. 223, 231-232, 234-236. Therefore, we find appellant also violated Management Directive 205.34 as amended. Appellant's disregard of both DOC Policy No. 2.3.1 and Management Directive 205.34 as amended further support the Commission's finding that there was just cause to remove appellant.

Summary of Findings

As a managerial employee, appellant can be held to the highest level of conduct. *Woodbridge*, 435 A.2d at 302. Managerial employees, such as appellant, should be setting an example for subordinate employees by strictly adhering to standards of conduct. *Id.* Furthermore, as a Corrections Unit Manager, appellant should be vigilant of security risks because she is responsible for the safety of those who work and live on the units that she oversees. Appellant's failure to adhere to the appointing authority's fraternization policies, reporting requirements, and IT policies calls into question her competency and ability as a Corrections Unit Manager. *See Mihok, supra.* Thus, we find there was just cause to remove appellant. Accordingly, we enter the following:

CONCLUSION OF LAW

The appointing authority has presented evidence sufficient to establish just cause for removal under Section 2607 of Act 71 of 2018.

ORDER

AND NOW, the State Civil Service Commission, by agreement of its members, dismisses the appeal of Patricia L. Connor-Council challenging her removal from regular Corrections Unit Manager employment with the State

Correctional Institution at Chester, Department of Corrections, and sustains the action of the State Correctional Institution at Chester, Department of Corrections in the removal of Patricia L. Connor-Council from regular Corrections Unit Manager employment, effective February 3, 2023.

State Civil Service Commission

Maria P. Donatucci
Chairwoman

Gregory M. Lane
Commissioner

Pamela M. Iovino
Commissioner

Issued: March 21, 2024