

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Shelba Bradley,

Appellant,

v.

Case No. 09-REM-04-0215

Department of Job and Family Services,

Appellee.

ORDER

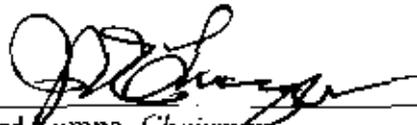
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that Appellant's removal be **AFFIRMED**, pursuant to O.R.C. §§ 124.03 and 124.34.



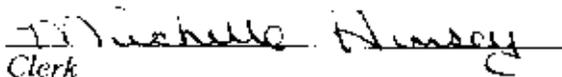
Lumpe - Aye
Tillery - Aye


J. Richard Lumpe, *Chairman*

CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitute ~~(the original)~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, January 21, 2011.


Clerk

NOTE: Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Shelba Bradley

Case No. 09-REM-04-0215

Appellant

v.

October 8, 2010

Department of Job & Family Services

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for record hearing on June 8 and 9, 2010. Present at the hearing were the Appellant, Shelba Bradley, represented by Thomas Blackburn, Attorney at Law and Appellee Department of Job and Family Services designee Shanna Bagner, EEO Manager, represented by Nicole Moss and Mahjabeen Qadir, Assistant Attorneys General.

The subject matter jurisdiction of the Board was established pursuant to sections 124.03 and 124.34 of the Ohio Revised Code.

Appellant Bradley was removed from her position of EEO Regional Program Administrator effective April 21, 2009. The pertinent part of the removal order states as follows:

The reason for this action is that you have been guilty of violation of the Employer's Disciplinary Policy, to wit: F26 Violation of ORC 124.34; F9 Violation of the ODJFS Computer and Information Systems Usage Policy; F18 Unauthorized use or abuse of State equipment, property, State paid time, or the property of another; F21 Refusal to fully cooperate, interfering with and/or providing false, incomplete, or misleading information in an investigation or inquiry; F23 Misuse of removal of or providing or discussing confidential material, records, or other official documents; F27 Any failure of good behavior that may discredit, embarrass, or interfere with the

mission of ODJFS, D5 Any act of dishonesty that may discredit, embarrass, or interfere with the mission of ODJFS.

Appellant Bradley filed a timely appeal of her removal.

STATEMENT OF THE CASE

On February 4, 2009, the Office of the Chief Inspector (OCI) of ODJFS received a complaint from labor relations alleging that Appellant Bradley, EEO Regional Program Administrator, used her agency email to send an inappropriate email to Ms. Janet Wise, Unemployment Compensation Tax Collections Supervisor. Appellee investigated the charge, reviewing Appellant Bradley's ODJFS email account, company-assigned computer hard drive and flash drive, declarations of outside employment, and ODJFS policies and procedures. In the course of the investigation, Appellee found further violations.

Appellee contends that Appellant Bradley violated various ODJFS policies and section 124.34 of the Ohio Revised Code. Appellee charge Appellant Bradley with six specific violations.

First, Appellee alleges Appellant Bradley violated ODJFS IPP.0003, Standards of Employee Conduct, when she used her ODJFS email account to send an inappropriate email to Ms. Wise. Ms. Wise is the supervisor of Ms. Clark, an employee who is a friend of Appellant Bradley. Ms. Clark had originally sent Appellant Bradley an email stating she was intimidated by Ms. Wise who had been generally acting hostile towards her. Although Appellant Bradley's response was intended to be sent to Ms. Clark, the email was instead accidentally sent to Ms. Wise. Appellee alleges that the specific language in the email, advising Ms. Clark to "watch [out]" for Ms. Wise is inappropriate and not in line with the duties and responsibilities of an ODJFS EEO Regional Program Administrator. Appellee further alleges that Appellant Bradley's involvement with Ms. Clark's grievance situation is problematic as there is a conflict of interest since Appellant Bradley and Ms. Clark are friends.

Appellant Bradley identified Appellee's Exhibit 7A as the email which she accidentally sent to Ms. Wise. In the email, Appellant Bradley states "watch her shes (sic) trying to document you..ask her for policy". Appellant Bradley testified she did not realize she had sent the email to Ms. Wise until the OCI conducted her interview on February 26, 2009. Appellant Bradley stated the purpose of the email was to advise Ms. Clark to be careful of her own actions and she did not feel that advising her of this was inappropriate. Further, Appellant Bradley testified there was no conflict with her involvement in the situation since she was informally advising Ms. Clark, adding that had the grievance been formally filed, she would not have become involved.

Ms. Bagner, EEO Manager and Appellant Bradley's supervisor, testified that after the incident, a meeting with Appellant Bradley was held to determine why she sent this type of email. Appellant Bradley became upset at the meeting and denied sending the email to Ms. Wise. She left the meeting before its conclusion in an emotional state. Ms. Bagner stated Appellant Bradley should not have been advising Ms. Clark at all due to the conflict of interest since they were friends.

Appellee also alleged that Appellant Bradley violated ORC 124.34 and ODJFS D5 when she provided advice and direction to ODJFS employees that violated ODJFS policies and procedures.

Appellant Bradley identified Appellee's Exhibit 7E as emails between Ms. Clark and herself. The emails contain a draft of a complaint of harassment or union grievance by Ms. Clark against Ms. Wise. Appellant Bradley sent an email response to Ms. Clark where she edited Ms. Clark's complaint by using strike-out marks to eliminate text and bold print to add in headings to paragraphs. She advised her to read the edited complaint and gave her advice on what she should state in the complaint. The complaint had not yet been filed by Ms. Clark at this point in time.

Appellant Bradley testified that she understood her job duties as including providing "advice" to internal and external employees with regard to civil rights questions. Appellant Bradley identified Appellee's Exhibit 7C and 7D as a partial outline of her job duties and her position description, respectively. Appellant Bradley noted that her position description states she is to "advise employees with discrimination charges or grievances." Appellant Bradley contends that her response email to Ms. Clark's unofficial complaint was to simply advise her. She stated she did not feel she had "revised" the complaint and admitted that her job

duties do not include altering or revising complaints. Appellant Bradley testified that her actions were appropriate since the complaint had not been formally filed, and since she was not technically assigned to Ms. Clark's case. Appellant Bradley further contended she had not received appropriate instruction or training on how to assist individuals with regard to civil rights complaints prior to the complaint's submission; however, Appellant Bradley failed to prove she ever communicated her confusion to management or requested assistance or training on the subject matter.

Ms. Bagner testified Appellant Bradley exceeded the scope of her job duties as an EEO officer when she revised Ms. Clark's union grievance. She further stated that Appellant Bradley was expected only to handle discrimination complaints and not union grievances, and that it is generally improper to file a complaint against a co-worker. Ms. Bagner also indicated that Appellant Bradley never asked for training regarding the policy as to revising or altering ODJFS employee complaints prior to their submission, nor did she notify her that she was doing so. Ms. Bagner testified stated she discussed with Appellant Bradley her work role and expectations generally, and that Appellant Bradley received a training manual. Ms. Bagner also went over Title VI and VII processes with Appellant Bradley, although she did not go over all policies with her because she was already a "seasoned EEO Officer."

Appellee maintains that Appellant Bradley violated ODJFS IPP.0003, the ODJFS Disciplinary Grid, when she sent an email to Ms. Clark regarding Ms. Clark's situation with Ms. Wise. This email advised Ms. Clark to get Ms. Wise in "front of witnesses" during their next interaction, and to use a voice-activated recorder. The ODJFS Disciplinary Grid policy, IPP.0003, Standards of Employee Conduct, prohibits unauthorized use of recording devices.

Appellant Bradley identified Appellee's Exhibit 7F as the email. Appellant Bradley maintains, however, that she is and was unaware of this provision of IPP.0003 and that she was simply trying to ensure that Ms. Clark was able to document the interactions, as Ms. Wise had been approaching her only in one-on-one situations.

Additionally, Appellee's Exhibit 7G documents an email which Appellant Bradley identified as an email she sent to Ms. Clark regarding Ms. Wise and advising her "IF she starts ranting and raving, start crying, start shaking, don't forget the snotty nose and run to security, tell them you feel threatened. Make sure somebody hears and see's (sic) her. Im (sic) still thinking....". Appellee contends

Appellant Bradley advised Ms. Clark to act out specific behaviors which were dishonest and misleading, which is a violation of IPP.0003 and IPP.10201.

Appellant Bradley admitted that her advice in the email is inappropriate and that she should not have given such advice. Appellant Bradley testified that she was not trying to have Ms. Clark act in a false or misleading manner but that she simply was trying to ensure the presence of witnesses the next time Ms. Wise approached Ms. Clark.

Appellee also alleged that Appellant Bradley violated ODJFS IPP.10002, IPP.0003, F27 and D5 as she embarrassed ODJFS in making false or misleading statements to a FEMA representative, and that Appellant Bradley violated ODJFS F23 when she released confidential work products to an outside party.

Appellant Bradley identified Appellee's exhibit 7H as an email she forwarded to a friend and FEMA employee, Ms. Mack. The forwarded email contained a copy of an email which Appellant Bradley had sent to Ms. Border-Collins, Chief of Labor and Civil Rights with ODJFS. The email contained Appellant Bradley's request to transfer from the Labor and Civil Rights Unit. In that email, Appellant Bradley claimed she felt like an "animal surrounded by hyenas ready to be devoured" during her investigation. Appellant Bradley made allegations that she had had "tablets tossed" at her and that ODJFS previously failed to discipline an employee who had porn on his or her computer.

On this issue, Appellant Bradley testified she was simply "venting" and did not cause embarrassment to ODJFS. She points specifically to the fact that she did not mention any person's name as evidence that she was not attempting to embarrass the agency. Appellant Bradley admitted that as to the employee with porn on his computer, ODJFS did refer the case to the Ohio State Highway Patrol for investigation, and that the employee received a written reprimand. As to the incident with the tablet, Appellant Bradley admitted the incident was addressed although she did not know the result.

Appellant Bradley testified she signed an ODJFS 7078 Code of Responsibility Agreement on July 7, 2008, wherein she agreed to "treat all case record material as confidential." She identified Appellee's Exhibit T as that document. The investigation revealed that Appellant Bradley emailed information regarding case files from her ODJFS agency email account to her personal email

account for the purposes of keeping records at home, as well as to her FEMA account. She did not make her supervisors aware of this fact. Further, she forwarded information regarding an open and pending ODJFS case to a former ODJFS employee, Ms. Pruitt. Names associated with the case were mentioned and Ms. Pruitt was blind-copied on these emails.

Appellant Bradley testified that Ms. Bagner, her supervisor, was aware of the fact that she was taking the information with her when she went on FEMA trips and that Ms. Bagner had said it was "okay", although she admits that sending the information to her personal email and working on reports at home was not part of her job responsibilities. Appellant Bradley also identified Appellee's Exhibit 7J as her email to Ms. Pruitt regarding an open ODJFS case. Appellant Bradley testified she felt it was appropriate to send the email because Ms. Pruitt had prior knowledge of the case, as she was a former ODJFS employee, and that she was not providing her with any new information on the case.

Ms. Bagner testified she told Appellant Bradley that all ODJFS work was to be completed prior to leaving on any FEMA deployments and she testified she never approved the removal of confidential material to Appellant Bradley's home email or to her FEMA email account. Further, Ms. Bagner stated that while Ms. Pruitt may have had prior knowledge of the case, she was no longer personally bound to keep that information confidential, as she was no longer an employee. Therefore, it was inappropriate for Appellant Bradley to discuss information with her.

Appellee alleged that Appellant Bradley violated ODJFS IPP.5003 and ODJFS Disciplinary Grid D5 and F8. IPP.5003 which state that employees must complete an Outside Employment Form if outside employment is obtained . F8 states that any "unauthorized display, solicitation, and/or distribution of literature" is prohibited. Appellee also alleged Appellant Bradley violated IPP.10002 because she used her agency email to conduct business relating to her outside employment at Nashel Travel.

Appellant Bradley testified she completed an outside-employment form for her outside employment with FEMA while she was employed at ODJFS in March of 2004. Appellant Bradley identified Appellee's Exhibit 7K as this form. That form defines outside employment as "any form of non-Agency employment or business relationship involving the provision of personal services by the employee. It does not include . . . charitable . . . service . . . unless such activities involve the provision of

professional services or are for compensation." Appellant Bradley was thus aware of the need to file an outside employment form if she was employed outside of ODJFS. Appellant Bradley did not file an outside employment form for her work at her travel agency, Nashel Travel, which she operated with her husband. She further failed to notify management of the business. Appellant Bradley identified Appellee's Exhibit 7O as business cards for Nashel Travel which she distributed around the ODJFS office. She further identified Appellee's Exhibit N as documents relating to Nashel Travel which were found on her agency computer.

Appellant Bradley testified that although she knew of the requirement to complete an Outside Employment form, she did not fill out a form for Nashel Travel because she did not feel it was necessary, as the business "never got off the ground". She stated she did not regard her assistance with travel trips for members of her church as outside employment. Appellant Bradley admitted to having made several commissions from the travel agency, but contends that she returned them, as she was booking travel for fellow church members, and a few fellow employees, and that it was "charity work". Appellant Bradley also admitted she used her agency computer to research, book, and assist with trips under the name of Nashel Travel.

Ms. Connolly, a retired ODJFS employee who previously worked with Appellant Bradley, testified she recalled Appellant Bradley making business cards for Nashel Travel and distributing them around the office. She further recalled that Appellant Bradley helped friends, family, and fellow church members with travel plans.

Appellee also alleged that Appellant Bradley violated ODJFS F9, Violation of ODJFS Computer and Information Systems Usage Policy, and F18, Unauthorized Use or Abuse of State Equipment, Property, State Paid Time, or the Property of Another, when she used her computer excessively for personal use.

The investigation by the OCI showed that Appellant Bradley had the following personal information on her computer, on the agency P drive, and on her agency-issued USB drive: church related documents, travel documents, family budget information, a letter requesting dismissal from jury duty, and personal photos of a wedding and travel. Appellant Bradley identified Appellee's Exhibit 7U, ODJFS's Computer Policy, which she was familiar with. The policy allows occasional usage ("of minimal duration") for personal purposes such as checking email; but the policy states that the computer may be used "only for authorized purposes." Appellant

Bradley testified she now realizes that she violated that agreement, although at the time she did not believe she was doing so. Appellant Bradley identified Appellee's Exhibit P as documents found on her agency P drive which were non-work related. She further identified Appellee's Exhibits 7Q and 7R as personal photos and a travel document found on her agency hard drive and USB drive, respectively.

Appellant Bradley testified that not all of the pictures found on the hard drive belonged to her and that she had no idea how some of them appeared on her computer. She surmised that the personal pictures must have accidentally downloaded when she attempted to put up a screensaver of a family picture, which she testified was not an uncommon practice in the office.

Lastly, Appellee alleged Appellant Bradley violated ODJFS F21, Refusal to Fully Cooperate, interfering with and/or providing false, incomplete, or misleading information in an investigation or inquiry, when she failed to comply with the investigation.

During Appellant Bradley's investigation, OCI instructed her to provide a review of her computer cookies and state telephone logs. She was given a copy of her telephone logs and computer cookies to take home with her. Appellant Bradley was given a deadline to return the findings of her review to OCI. She did not turn in the information.

Appellant Bradley identified Appellee's Exhibit 7S as the copy of her telephone logs and computer cookies. While she admitted to receiving these, she testified she was unable to turn in the report due to personal reasons and that she had requested an extension of time, but was denied. Since she had missed the deadline she felt no need to turn in the report after that time and therefore failed to do so.

Ms. Martin, the Investigator with the OCI who completed the search of Appellant Bradley's computer, confirmed that Appellant Bradley failed to turn in the report. She further stated that Appellant Bradley was given a chance to look over the logs at work, using work time, but did not do so.

FINDINGS OF FACT

After a thorough review of the testimony of the witnesses and the documents entered into evidence, I find the following facts:

1. At the time of her removal, Appellant Bradley was classified as an EEO Regional Program Administrator with ODJFS and had been employed in that capacity for approximately eight years. She had been employed with the State for approximately twenty-four years.
2. Appellant Bradley was or should have been aware of the policies and procedures of the Appellee. The policies were available on the website for all employees to access and Appellant Bradley testified she answered questions of employees regarding policies and procedures.
3. Appellant Bradley inappropriately advised a co-worker and personal friend, Ms. Clark, with regard to Ms. Clark's complaints against her supervisor, Ms. Wise. Appellant Bradley should not have been involved in Ms. Clark's complaint since there was a conflict of interest on her part and her neutrality in the situation was compromised. She sent a copy of her email to Ms. Clark erroneously to Ms. Wise.
4. Appellant Bradley, in violation of Appellee's policy, advised Ms. Clark to secretly record Ms. Wise. She also advised Ms. Clark to make a scene next time she felt she was being intimidated by Ms. Wise. Appellant Bradley also corrected and edited a complaint or grievance Ms. Clark was preparing against Ms. Wise, a fellow management employee to Appellant Bradley.
5. Appellant Bradley sent an email to a fellow FEMA worker wherein she made false statements which cast a bad light on Appellee. Appellant Bradley admitted that some of the information in her email was not true but she stated she was "venting".
6. Appellant Bradley emailed confidential information to her FEMA and personal email accounts. This was done in violation of Appellee's confidentiality agreement, which Appellant Bradley signed on July 7, 2008. She was never

given permission from management to send confidential ODJFS reports to her personal email or to her FEMA email.

7. Appellant Bradley emailed a confidential case record to a former employee, Ms. Pruitt, in violation of the confidentiality agreement.
8. Appellant Bradley did not complete an Outside Employment form when she was engaged in starting a business named "Nashel Travel". She had business cards printed, which she distributed, and she made travel arrangements for several employees of Appellee for which she received a fee. She later turned the fees into her church. Appellant Bradley had previously completed an outside employment form in March, 2004, thereby having knowledge of the requirement to do so.
9. Appellant engaged in excessive personal computer usage on her ODJFS issued computer and on her ODJFS issued USB drive. Appellant had copious amounts of personal documents on her computer hard drive, P drive, and USB drive.
10. Appellant failed to provide a report of her computer cookies and telephone logs as requested of her by the OCI.

CONCLUSIONS OF LAW

In order for Appellee's removal of Appellant Bradley to be upheld, the Appellee had the burden of proving by a preponderance of the evidence the allegations contained in the removal order. Appellee has met its burden.

The evidence has established that Appellant Bradley acted inappropriately and in violation of several ODJFS policies and procedures.

Specifically, the evidence established that Appellant Bradley sent an inappropriate email, meant to be received by her friend Ms. Clark, to Ms. Clark's supervisor Ms. Wise. Appellant Bradley told Ms. Clark to "watch [out]" for Ms. Wise. Appellant Bradley's actions are in violation of ODJFS IPP.0003, Standards of Employee Conduct, for several reasons. First, Appellant Bradley was a personal

friend of Ms. Clark, and therefore she should not have involved herself in any way with Ms. Clark's grievance. Further, Appellant Bradley's job duties clearly do not include handling union grievances. While it is true that she is to provide assistance to employees, such assistance does not extend to advising an employee how to "trap" a management employee. Appellant Bradley was to investigate claims of discrimination and as such, she was to remain neutral. Her emails to Ms. Clark certainly do not give the appearance of neutrality, instead they show a definite bias toward management. Appellant Bradley's actions cannot be construed as investigating, rather she was instigating an already escalating situation between Ms. Clark and Ms. Wise. Appellant Bradley's actions were highly unprofessional.

Appellant Bradley acted inappropriately and out of line with her job duties when she revised Ms. Clark's complaints. Not only did Appellant Bradley admit that revising a complaint is not part of her job duties, she noted she would not have become involved had the grievance been formally filed. This admission only underscores that Appellant Bradley understood her involvement in the situation was not completely appropriate in the first place. The fact that no grievance or complaint had been filed does not negate the fact that Appellant Bradley drafted or corrected a possible grievance or complaint that she could have ultimately investigated. Her actions were a clear conflict of interest and once again showed a bias toward management. Appellant Bradley should have had no involvement in Ms. Clark's situation.

When Appellant Bradley told Ms. Clark to surreptitiously record Ms. Wise, she was clearly in violation of the policy prohibiting the use of recording devices. The evidence established that the policy prohibiting such use was posted on the agency's website and was accessible to all employees. Given the fact that Appellant Bradley was a long term employee and a seasoned EEO Officer, she most certainly should have been aware of the impropriety of recording an employee without her knowledge. Once again, the incident highlights Appellant Bradley's disregard for her position and its requirement that she is to be acting in a neutral capacity and refrain from participating in a situation in which she has a clear conflict of interest.

Appellant Bradley clearly violated IPP.0003 and IPP.10201 when she advised Ms. Clark "to start crying . . . don't forget the snotty nose . . . start shaking," in order to try to document the situation the next time Ms. Wise approached her in

an allegedly intimidating manner. Appellant Bradley admitted the inappropriateness of her advice.

Appellant Bradley also violated IPP.10002, IPP.0003, F27 and D5 as she made false statements to a FEMA representative regarding ODJFS "hiding" an employee who had porn on his computer. Appellant Bradley admitted that her statements were not entirely truthful, stating that the "hidden" employee was investigated and that actions were taken against him. Further, her statement regarding tablets being thrown at her is also misleading, as she failed to mention that the employee who did so was reprimanded. While Appellant Bradley may not have meant to embarrass ODJFS, her intentions are not dispositive; it is her actions. This email was sent to a person outside of the agency and it certainly did not cast Appellee in the best light.

Appellant Bradley violated ODJFS 7078, Code of Responsibility Agreement, when she emailed confidential information to her FEMA and personal email accounts. She had not been given permission to do so and was familiar with the policy regarding confidentiality procedures. Although Appellant Bradley testified she thought she was allowed to do so, the evidence established that her supervisor, Ms. Bagner, told her to have her work done prior to going to her FEMA assignment and she did not give her permission to email the files to her home email. It appears that Appellant Bradley was not confident that her actions were appropriate, as she blind-copied herself on some of these emails. There is no logical reason for Appellant Bradley to blind-copy herself on an email other than to try to hide the fact that she did so. Appellant Bradley further violated ODJFS 7078 when she emailed confidential case information to Ms. Pruitt. While Ms. Pruitt was a former employee, and may have had some prior knowledge of the case, she was no longer privy to that information. Ms. Pruitt no longer had any responsibility to keep the information confidential, and Appellant Bradley could not ensure that she would do so.

Appellant Bradley was under a duty to complete an Outside Employment form when she began her travel company, Nashel Travel, with her husband. Appellant Bradley made a profit from her business. While she testified she returned the commissions she made from the trips, this is not dispositive. Nor is it dispositive that Appellant Bradley only booked trips for friends, church members, and fellow employees. The fact that her business had not expanded past the pool of her immediate friends and family does not indicate that Appellant Bradley was acting in a charitable manner when booking the trips. The business that she did was not in

the name of her church, it was under the name of Nashel Travel. If it were truly a charitable company, then the business would have been done under the name of the church. Instead, Appellant Bradley operated a business and collected a fee. The fact that she then chose to donate her fee does not make the work that she did under her own business' name a charity exempt from the outside employment service and was thus responsible for completing the Outside Employment Form.

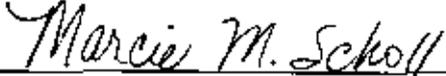
Appellant Bradley engaged in Excessive Personal Computer Usage in violation of ODJFS's Computer Policy. Appellant Bradley was clearly aware of the policy, but had many personal documents on her computer hard-drive, P drive, and USB drive. Out of all of the documents identified, Appellant Bradley only disputed a few of the pictures. Since she identified pictures, letters, travel documents, church related documents, and family budget information as personal documents on her computer, the fact that she now disputes several photos is not relevant. Appellant Bradley used her ODJFS computer for more than the "authorized purposes" and for more than a period of "minimal duration." She stated she did not know how some of the documents and pictures got on her computer, but there is only one way for that information to get on her computer and that was for someone to put it there. The evidence did not establish that anyone else used her computer and Appellee gave Appellant Bradley the opportunity to go through the list of documents on her computer and her phone records to dispute any that she felt were not of her doing. She failed to complete and turn in the list.

While it is true that Appellant Bradley asked for an extension of time to complete her review of the information and was denied that extension, that did not mean she should not have turned in the information. Appellant Bradley testified that because the deadline had passed, she no longer "felt it was necessary." If Appellant Bradley was convinced that the information on her computer and in her phone records was there erroneously and she knew she was subject to being disciplined for that information, then it is reasonable to assume that she would have welcomed the opportunity to dispute the charge against her. Instead, she did nothing and offered no response to her opportunity to rebut the charge.

In conclusion, Appellant Bradley seeks leniency for her inappropriate actions because she states she was going through an emotional stage in her life with the death of her husband and other personal issues. While one can recognize that

Appellant Bradley was certainly affected by such issues, there are avenues for an employee to address a personal crisis. Talking to one's supervisor or seeking help from the Employee Assistance Programs or requesting a leave of absence for a time period are a few of the avenues that were open to Appellant Bradley. She did not avail herself of any of those options. Instead, she continued working and exercised poor judgment in the work she did. The evidence established that she violated many policies of the Appellee and being a long term employee, Appellant Bradley should have known she was violating those policies, as most of them are just common sense. She also argued that because she was a model employee prior to this investigation, she should not be removed. While the fact that she was a model employee prior to these instances may or may not be true, she was no longer acting as a model employee. The evidence established that Appellee proved that Appellant Bradley violated several policies and that she was aware of those policies. Therefore, Appellee did not abuse its discretion in removing Appellant Bradley from her position, as Appellee felt that Appellant Bradley could no longer be trusted to act in a neutral capacity in her position and she could no longer be trusted to advise other employees regarding the rules and regulations of the department.

Therefore, since Appellee has proved by a preponderance of the evidence the allegations contained in the removal order, it is my **RECOMMENDATION** that Appellant Bradley's removal be **AFFIRMED** pursuant to sections 124.03 and 124.34 of the Ohio Revised Code.



Marcie M. Scholl
Administrative Law Judge

:mms