

February 25, 2010

TO: County Personnel Policy Board Members

SUBJECT: Personnel Policy Board Meeting
Thursday, March 4, 2010
12:30 p.m., Commissioners Hearing Room
County-City Building, Room 112

NOTE: SPECIAL MEETING TIME

A G E N D A

ITEM 1: Request to change the pay grade of the following classification:

<u>CLASS CODE</u>	<u>CLASS TITLE</u>	<u>CURRENT PAY GRADE</u>	<u>PROPOSED PAY GRADE</u>
2920	Motor Vehicle Manager	C11 (\$39,659.36 – \$50,797.76)	C13 (\$42,563.04 – \$54,523.04)

ITEM 2: Request for appeal hearing – Bill Kingery — Community Mental Health.

ITEM 3: Miscellaneous Discussion.

pc: Bill Kingery
Anne Winner
Dean Settle
Richard Nuernberger

MK
RL

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OF COUNSEL:
DONALD R. STADING

December 30, 2009

VIA HAND DELIVERY

Mr. Mark Koller
County Personnel Officer
555 South 10th St.
Lincoln, NE 68508

RE: Bill Kingery Suspension Appeal

Dear Mark:

This firm represents Bill Kingery and AFSCME Local #2468, his union. Mr. Kingery hereby appeals the suspension he received on December 10, 2009 to the Lancaster County Personnel Board, pursuant to Article 19, Section 4 of the bargaining agreement between Lancaster County and AFSCME.

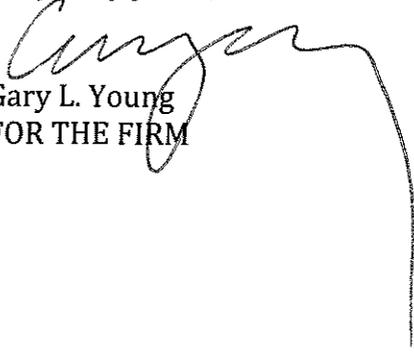
The reason for the appeal is that the actions alleged as the basis for the appeal are false. Therefore it was not reasonable for the County to rely upon the allegations to discipline Mr. Kingery and there is no just cause for the suspension.

As the next scheduled meeting of the Board is quickly approaching, we ask that the Board please schedule the hearing on this matter before the Personnel Board in its regularly scheduled meeting in February, 2010, and the Union waives the 30 day provision in Article 19 for this reason.

Thank you.

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Very truly yours,


Gary L. Young
FOR THE FIRM

CC: Bill Kingery, Kim Kaspar

COMMUNITY MENTAL
HEALTH CENTER
of Lancaster County

Dean B. Settle, M.A.
Executive Director

Sanat Roy, M.D., D.F.A.P.A.
Medical Director

2201 South 17th St ~ Lincoln, Nebraska 68502 ~ Phone: 402/441-7940 ~ Fax: 402/441-8625

December 10, 2009

Bill Kingery
2200 St. Mary's Avenue
Lincoln, NE 68502

RE: Disciplinary action and mandatory referral to EAP

Dear Mr. Kingery:

On or about November 23, 2009, you received a letter proposing to suspend you for five (5) working days based on violations of Lancaster County Personnel Rules 11.2(h)(4) and (5), the Community Mental Health Center of Lancaster County Code of Ethics and Lancaster County Personnel Policy Bulletin 2001-2, Harassment based on sex, national origin, disability, race, religion or age. A meeting regarding the proposed discipline was held on December 7, 2009. During the meeting, you, your attorneys, and your Union representatives presented information concerning the above violations. You were informed that the information would be reviewed and you would be advised of my decision.

After consideration of all of the information you presented, I have determined that you have violated Lancaster County Personnel Rules 11.2(h)(4) and (5), the Community Mental Health Center of Lancaster County Code of Ethics, and Lancaster County Personnel Policy Bulletin 2001-2, Harassment based on sex, national origin, disability, race, religion or age. However, I have also determined that there were some mitigating circumstances. Therefore, I have decided that you will be suspended for three (3) working days. Your suspension is pursuant to County Personnel Rule 11.2(d), and Article 19, Section 4 of the 2008/2011 Bargaining Agreement between AFSCME and the County. I have made my decision based on the facts set forth below.

On or about Tuesday, October 20, 2009, Nurse Janice Maginn was working the 7 p.m. to 11 p.m. shift. At one point Nurse Maginn walked over to the main office to dispose of some papers in the recycle bin. As she was leaving the office she stopped at the main door leading out to the hallway. The top of the split door was open and the bottom was closed. Nurse Maginn stopped at the door with her back to the office, and her elbows resting on the bottom portion of the door as she watched the patients. Bill Kingery approached Nurse Maginn from behind, grabbed her hips on each side with his hands and began rubbing up against Nurse Maginn with the front part of his body. Nurse Maginn did not know how to react. She opened the door and walked back into the nurse medication rooms. She reported that she felt demeaned, embarrassed and offended by Mr. Kingery's actions. Nurse Maginn reported the incident to Mental Health Technician Kim Warren. Ms. Warren indicated that Nurse Maginn was tearful during part of the conversation when Nurse Maginn was reporting the incident to her. While Nurse Maginn was reporting the incident to Ms. Warren, Dr. Daniel Leggiadro walked into the area and Nurse Maginn also reported the incident to Dr. Daniel Leggiadro. Finally, Nurse Maginn reported the incident to Alan Fulton and Mr. Fulton then reported the incident to management on October 22, 2009.

During the course of investigating the above action, other incidents of inappropriate comments and

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behavior which occurred during the last six (6) months were discovered. Mental Health Technician Ivana Jelavic was interviewed and reported that Mr. Kingery has repeatedly made inappropriate comments to her within the last two (2) months. Ms. Jelavic reports that Mr. Kingery has cupped his hands over his chest and mocked Ms. Jelavic about her breasts. Ms. Jelavic also reports receiving inappropriate comments from Mr. Kingery regarding her national origin. Ms. Jelavic immigrated to the United States from Berlin, Germany and is now a U.S. Citizen. Ms. Jelavic has indicated that Mr. Kingery has frequently made fun of her accent and calls her "Frenchie". Additionally, Mr. Kingery has made comments to Ms. Jelavic such as "Where you come from is there running water - did you live in a mud house?"

Denise Taylor was interviewed and indicated that sometime during the summer of 2009, Mr. Kingery attempted to touch her hair on several occasions in a non-sexual manner. Each time Ms. Taylor told Mr. Kingery not to touch her. Mr. Kingery ignored Ms. Taylor's requests and continued with his attempts to touch her. Finally, Ms. Taylor indicated to Mr. Kingery that if he touched her hair again she would have to defend herself. Mr. Kingery then stopped his behavior.

In addition to the above incidents, you received a one (1) day suspension on March 16, 2006, and a mandatory referral to EAP, for making inappropriate comments in violation of the Workplace Violence Prevention Policy. Furthermore, you have been repeatedly counseled regarding making inappropriate comments.

The totality of your conduct justifies and requires the imposition of a suspension without pay from your employment with Lancaster County for a period of three (3) working days. Your suspension shall begin at the start of your shift 3p.m., on Monday, December 14, 2009, and will end at the completion of your shift, 11pm, on Wednesday, December 16, 2009. Additionally, due to your unsatisfactory work performance, I am making a mandatory supervisory referral to Continuum, Lancaster County's Employee Assistance Program (EAP). This mandatory referral to EAP is pursuant to Lancaster Personnel Policy Bulletin 2000-3(G)(2). I am directing you to meet the following conditions: 1.) Attend a referral session at Continuum; 2.) Cooperate with their recommended course of action, and attend follow up sessions, if required, and; 3.) Execute a release of information form to insure proper communication with your supervisors. Failure to successfully complete the recommended course of action will be handled in accordance with standard disciplinary procedures. You are directed to contact the EAP liaison and/or Continuum within 14 days of the date of this letter.

Sincerely,



Dean Settle
Executive Director

cc: Mark Koller
Thomas Fox
Personnel File