

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603) 271-3261

Appeal of Laura Gaedtke

Docket #2008-D-007

Department of Health and Human Services

July 9, 2008

The New Hampshire Personnel Appeals Board (Wood, Johnson and Bonafide) met in public session on Wednesday, April 23, 2008, under the authority of RSA 21-I:58 and Chapters Per 100-200 of the NH Code of Administrative Rules, to hear the appeal(s) of Laura Gaedtke, a former employee of the Department of Health and Human Services. Ms. Gaedtke, who was represented at the hearing by SEA Grievance Representative Randy Choiniere, was appealing three written warnings upon which the agency ultimately relied in dismissing Ms. Gaedtke from her position as a Child Protective Service Worker III. Attorney Jennifer Jones appeared on behalf of the State.

The warnings under appeal, and the dates they were issued, are as follows:

- October 9, 2007: Failure to meet the work standard, specifically failure to complete and submit court reports required by law, failure to comply with DCYF policy regarding monthly visits with the children and their caregivers, and failure to document casework and keep her supervisors informed of case activities and decisions relating to permanency for children.

- November 29, 2007: Failure to meet the work standard, specifically failure to complete and submit court reports required by law, failure to comply with DCYF policy regarding monthly visits with the children and their caregivers, and failure to document casework and keep her supervisors informed of case activities and decisions relating to permanency for children.
- January 11, 2008: Failure to meet the work standard, specifically failure to draft and timely file court reports as required by law, and for falsifying agency records by removing and concealing copies of a court order from the DCYF mail folders.

The appellant also filed an appeal of Personnel Director Karen Hutchins' refusal to complete Step IV of the process for informal settlement of disputes described by Per 205 of the Rules of the Division of Personnel. The Board considered that request and advised the parties that in light of the fact that the Board had already accepted and agreed to hear the above-titled appeals, the Board concluded that the appeal of the Director's decision was moot. In so ruling, the Board found that the Director's decision would no longer have any impact on the cases currently on appeal to the Board.

In accordance with Per-A 207.02(b) of the Rules of the Personnel Appeals Board, the appeal was heard on offers of proof by the representatives of the parties. The record of the hearing in this matter consists of notices and orders issued by the Board, the audiotape recording of the hearing on the merits of the appeal, and documents admitted into evidence as follows:

Appellant's Exhibits¹

- 1) March 4, 2008 notice of appeal with attachments:
 - a) October 9, 2007 letter of warning
 - b) November 29, 2007 letter of warning
 - c) January 11, 2008 revised letter of warning

¹ Mr. Choiniere's April 16, 2008 letter refers to six exhibits, including relevant case notes. No exhibit 6 was offered into evidence.

- d) Email messages between Randy Choiniere and John Wallace
- 2) March 25, 2008 letter from Randy Choiniere to the Personnel Appeals Board appealing the Personnel Director's March 10, 2008 decision concerning Ms. Gaedtke's Step IV informal settlement request
 - a) March 10, 2008 letter from Karen Hutchins to Randy Choiniere
 - b) Rix v. Kinderworks Corp., 136 N.H. 458
- 3) Affidavit of Laura Gaedtke
- 4) April 16, 2008 letter from Patricia A. Frim to Randy Choiniere
- 5) Undated letter from Patricia Frim to William Ingram recommending Ms. Gaedtke for employment

The State offered no exhibits into evidence. Attorney Jones noted that the appellant had not provided copies of the exhibits to the State until the date of the hearing, and while the State would not object to the appellant's exhibits on that basis, the State did object to Exhibits 4 and 5. Attorney Jones argued that the letters from Attorney Frim were akin to an offer of proof because they addressed issues raised in the appeal. She argued that the State was unaware until the morning of the hearing what Ms. Frim's letters contained, and because Ms. Frim was not present at the hearing and available for cross-examination, the State would be unable to address issues of veracity that the State might need to raise.

The Board over-ruled the State's objection to Exhibit 5, noting that the exhibit was an undated letter of reference recommending Ms. Gaedtke for employment with the State, and did not address any of the factual allegations contained in the three written warnings. As such, the Board advised the parties that it would give the exhibit the weight to which it was entitled. With respect to Exhibit 4, the Board marked the exhibit for identification only.²

² The Appellant never moved for admission of the exhibit into the record. Nevertheless, the Board chose not to exclude it, instead giving it the weight it deserved, treating the letter as an unsworn statement that the State had not had the opportunity to review prior to the date of the hearing.

Position of the Parties:

In a preliminary statement regarding the three pending warnings, Attorney Jones indicated that Ms. Gaedtke had been employed by the Division for Children, Youth and Families as a Child Protective Service Worker III. In that capacity, Ms. Gaedtke's responsibilities included, but were not limited to:

- Overseeing the placement of children in State custody
- Representing the State in court
- Working with families who had children in State custody
- Working on behalf of the children with placement organizations and agencies
- Acting as a resource for families and placement agencies
- Meeting face to face, at least once monthly, with children in placement
- Submitting reports to the court at least five days before a scheduled hearing
- Documenting in children's case files any work done on behalf of a child as well as information obtained from external sources about the child
- Working with others, including other DCYF employees, in a team on issues such as treatment, transitioning, and permanency

Ms. Jones indicated that although the appellant had a reported neurological disorder that made it difficult for her to type notes and reports, that disability had no effect on the appellant's ability to carry out the remainder of her assignments. Ms. Jones noted that as an accommodation, the State had installed and periodically updated Dragon Naturally Speaking software on the appellant's computer and had provided the appellant training in use of the software so that she could dictate her reports and case notes into the system rather than having to type them. She said that the appellant was also allowed to obtain assistance from support staff in having her case notes and reports typed from either dictation or hand-written notes.

Ms. Jones argued that Ms. Gaedtke's disability did not affect her ability to meet face-to-face with children in her caseload on a monthly basis, to meet with team members to plan

for the transition of children in State custody, or to keep her supervisors apprised of the status of those cases.

Ms. Jones said that following the Board's decision in an earlier appeal denying Ms. Gaedtke's appeal of her initial May 2, 2007 letter of warning, the State attempted to provide additional support to the appellant in timely filing reports by directing her to work with her supervisor in planning activities related to the children in her caseload, and by recommending her use of a computer program that would allow her to make daily checks on reports due and their deadlines.

Mr. Choiniere argued that the opening paragraphs of the three written warnings were all but identical, not because the situations underlying the warnings were the same, but because the agency was trying to build a case for termination, and could only do so if it appeared that the appellant had received three written warnings for the same offense. He also argued that none of the warnings cited specific incidents or dates to support the allegations outlined in each letter's opening paragraph.

Mr. Choiniere argued that the appellant had worked for the State for twenty-two years, eighteen of which were spent working in the Division for Children and Youth. Before 2007, he argued, Ms. Gaedtke had never received any formal discipline. He argued that the timing of the warnings certainly suggested that the agency was simply looking for a way to drive Ms. Gaedtke out of the Division; otherwise, he argued, it seemed that the agency would have given her a greater opportunity to take corrective action. He also questioned why Ms. Gaedtke was not disciplined sooner if her work was really so unsatisfactory. Mr. Choiniere argued that in a number of cases, even when the Board found that an employee's behavior or work performance was unsatisfactory, the Board had granted appeals, ordering the State to remove a warning from an employees file and give that employee an opportunity to take corrective action.

October 9, 2007 Letter of Warning

Attorney Jones made the following offers of proof:

- 1) Francine Carter, Ms. Gaedtke's immediate supervisor, would testify that:
 - a) The May 2, 2007 letter of warning issued to the appellant directed her to make marked and immediate improvement, but that the appellant failed to do so.
 - b) Richard Z. was a client with severely limited cognitive function and behavioral difficulties as a result of a severe brain injury. The client had more specialized needs than many of the children in placement through DCYF. Richard Z., who was placed at Easter Seals, was in the process of "aging out of the system," as he was over the age of eighteen and nearing graduation from high school.
 - c) Children "age out" when they reach eighteen years of age, or when they graduate from high school, whichever is later. Once a child has "aged out," DCYF can no longer have a legal relationship with that individual.
 - d) Any child in the system who is going to "age out" requires extensive planning to prepare the person for adult life without the supports that DCYF had provided previously. Transitioning is a process that involves a district office team referred to as the Permanency Planning Team (PPT). The planning process usually takes place over a period of six to twelve months.
 - e) Richard Z. had special needs, having been in State custody since about the age of two. With limited function and very little family involvement, he would likely require more extensive planning for transitioning out of the system. As an adult, he also would be likely to need additional services that could be provided through other systems once a permanency plan was established.
 - f) On or about August 9, 2007, Ms. Gaedtke informed Ms. Carter that Richard Z. would be graduating from high school the following day. Ms. Carter also received a call from Easter Seals saying that Ms. Gaedtke had misrepresented to the agency that DCYF would continue to be financially liable for Richard Z's continuing care and residential placement, even though he was over the age of eighteen and had graduated from high school.

- g) Ms. Carter had only 24 hours notice that notice that Richard Z. would no longer be eligible for services after August 10, 2007, and there was virtually no plan in place for his transition. There was no report to the Court concerning his status, and no prior notice to supervisors regarding the immediacy of the problem. Without emergency action on the part of other workers and supervisors from DCYF and provider agencies, Richard Z. would have been homeless, without any plan of care.
 - h) During an investigatory meeting held August 23, 2007 between Ms. Carter and Ms. Gaedtke, Ms. Gaedtke represented that she had investigated a number of potential transitions for the client, but that nothing substantive had occurred. She was unable to produce documentation of her reported efforts on the student's behalf.
 - i) Ultimately, responsibility for ensuring that a transition plan is in place lies with the caseworker. In this case, the need for an adult guardianship might have been appropriate, but Ms. Gaedtke never brought the problem to supervisors and team members so that a plan could be formulated and a determination made whether a family member could take responsibility, or if a public guardian would need to be appointed. Family court would retain an interest in the case if a public guardian were appointed.
 - j) Ms. Gaedtke was responsible for ensuring that the planning process was initiated and completed. Because of Ms. Gaedtke's failure to provide the required services, Ms. Carter, along with a larger team including psychologists, supervisors and administrators from the division had to meet on an emergency basis to plan a transition for the client. Although a placement ultimately was made some eight months after the client had "aged out," Ms. Gaedtke's inattention and failure to apprise supervisors of the situation placed the client at significant risk.
- 2) Lorraine Bartlett would testify that:
- a) DCYF has permanency planning team meetings that are made up of an adolescent worker, a permanency worker, the assigned child protection worker, a permanency supervisor, a foster care health nurse, and any other staff person who

might be appropriate for the purpose of reviewing a youth's case plan, which must be in place for purposes of transitioning.

- b) The CPSW in charge of the case is responsible for setting up the permanency team meetings, determining which other team members might need to be involved for purposes of planning for a particular transition, and for making recommendations regarding client referrals.
- c) Although there were treatment team meetings relative to the educational program prior to Richard Z's graduation, Ms. Gaedtke's failed to convene the permanency/placement team and make placement recommendations. The treatment team would be responsible for dealing with cognitive and behavioral issues while the client was in placement under DCYF jurisdiction. The transition team would be responsible for putting a plan in place for what happens to the client after the transition to "adult living."
- d) Ms. Gaedtke was unable to articulate that she had a plan in place for Richard to move into adult living. There was no documentation that any of the referrals she claimed to have made were actually made, or that there was follow-up on those referrals prior to Richard's graduation from high school.
- e) CPSWs are responsible for documenting their case activities, and she did not. Her disability had nothing to do with whether or not she could call meetings, make referrals, or document referrals.
- f) Richard Z. was finally placed at the Moore Center.
- g) Although there was activity on Richard's case, the activity was not sufficient to create a transition plan, and none of the activities the appellant claimed to have completed were documented.

Mr. Choiniere made the following offers of proof on Ms. Gaedtke's behalf:

- 1. Ms. Gaedtke would testify that:
 - a. In 2006, when Richard Z. was about to turn eighteen years of age, a DCYF attorney went to court to extend DCYF jurisdiction over the case, so the department was fully aware that the client had reached the age of adulthood.

- b. The Court also extended jurisdiction in the summer of 2007, so the Department had more than adequate notice regarding the client's situation.
- c. Ms. Gaedtke, staff from Easter Seals, Rochester School District personnel, the client's educational surrogate parent (the child's former foster mother) were all part of the client's treatment team. The team believed that in spite of his age, Richard Z. was not ready to transition to adulthood, and would continue to need educational services.
- d. Rochester School District personnel agreed that Richard Z. would continue to need services beyond June, 2007.
- e. Ms. Gaedtke told staff at Easter Seals only that there was a possibility DCYF could continue making payments to Easter Seals for Richard's residential payment after the student "aged out."
- f. On August 9, 2007, Rochester School District informed Ms. Gaedtke that Richard Z. would be graduating from high school the following day and would no longer be eligible for educational services through the school district.
- g. Richard Z. wanted to remain in the Manchester area near his former foster mother and was resistant to placements that would take him away from the area.
- h. In her affidavit (Appellant's Exhibit 3), Ms. Gaedtke wrote, "As it pertains to the letter of warning from DHHS on October 9, 2007, I deny any suggestion that I performed poorly on the Richard Z. case."
- i. Ms. Gaedtke indicated that she did engage in activities to support the client including making application for a developmentally disabled waiver to the HHS Area Agency in Strafford County, but the client was not considered eligible. She says she arranged for adult mental health and developmental services in Manchester, that she contacted the Brain Injury Foundation of New Hampshire in early 2007, that she worked with both Vocational Rehabilitation and the Child and Family Services Apartment Program in June and July 2007, and that she looked into the Job Corps.

Having carefully considered the evidence, arguments and offers of proof, the Board found that the appellant failed to meet the work standard, and her conduct warranted the issuance of a written warning under the provisions of (former) Per 1001.03 (a)(1).

Ms. Gaedtke knew that after Richard Z. turned eighteen, the DCYF could only maintain its relationship with him until he graduated from high school. Ms. Gaedtke was fully aware of his cognitive and behavioral challenges, and that he would need continuing supports from other organizations and/or community services upon graduation from high school; otherwise he would be homeless and unable to support or care for himself. Although others on the treatment team and in the Division were aware of the situation, Ms. Gaedtke had primary responsibility for convening the team that would conduct the planning and make appropriate referrals and arrangements to transition the client into an appropriate setting once he was no longer a recipient of DCYF services.

As the State detailed in its offers of proof, treatment teams and permanency teams have different roles. According to Ms. Bartlett's offer of proof, the client had a treatment team because he was in an intensive group care facility as a result of his cognitive and behavioral issues. The treatment team would be responsible for dealing with issues arising in that placement. Permanency, on the other hand, would address what steps must be taken in order to transition the student into an adult living situation. There was no documentation to indicate that Ms. Gaedtke had put any plan in place for Richard Z, no documentation that any of the aforementioned referrals were made, and no evidence that she had engaged in any follow-up.

Ms. Gaedtke indicated in her affidavit (Appellant's Exhibit 3) that none of the other treatment team members' records from their meetings in June or July 2007 refer to an imminent end to the provision of educational services, and that the announcement that Rochester would stop delivering services on such short notice was completely unexpected. That, however, does not excuse Ms. Gaedtke for failing to engage in any organized or significant planning efforts on behalf of the client beginning in 2006, when

the Division had to go to court to have its jurisdiction over the client extended, or for Ms. Gaedtke's failure to convene the team that would address the client's need to transition into a placement that would meet his residential and treatment needs once he was beyond the Division's jurisdiction.

Ms. Gaedtke claimed that there was disagreement on the treatment team about what would be best for the student. In the Board's opinion, the fact that there were problems with the case made it all the more imperative for Ms. Gaedtke to keep her supervisor apprised of the difficulties that the case presented and the deadlines that were looming. Given Ms. Gaedtke's work history and length of employment with the Division, her failure to undertake any documented transition planning activities before August 9, 2007, is simply unacceptable.

Ms. Gaedtke indicated that she had worked with one of the Division's attorneys on the issue of jurisdiction in 2006 and 2007, and had discussed the case with her supervisor in 2005. As such, she argued, the Division could not claim it had no notice of Richard Z.'s situation. The Board does not agree. In her role as the Child Protective Service Worker assigned to the case, it was Ms. Gaedtke's responsibility to take the lead in keeping her supervisor up-to-date on the status of the case, and to ensure that the planning process was moving forward. Unless she advised her supervisors to the contrary, their reasonable expectation would be that Ms. Gaedtke was carrying out her responsibilities and planning for the student's transition.

Based on the evidence, arguments and offers of proof, the Board found that Ms. Gaedtke's work performance was unsatisfactory, and her work with regard to Richard Z. represented a significant failure to meet the work standard. Furthermore, the Board found that Ms. Gaedtke refused to accept any responsibility for the resulting emergency, choosing instead to blame the lack of a transition plan on her supervisor, the school district, the Division's attorney, Easter Seals, the treatment team, and even the client, because he wanted to remain in Manchester.

November 29, 2007 letter of warning

Attorney Jones made the following offers of proof:

- 1) Francine Carter, Ms. Gaedtke's supervisor at the time of the warning, would testify that:
 - a) Ms. Gaedtke received notice at the beginning of the school year in August 2006 that Rene H., one of the students in her caseload, would be unable to remain at Pine Haven, a residential and educational placement, after the end of the school year when the client had completed 8th grade. Pine Haven staff informed Ms. Gaedtke that they expected him to transfer to a different placement by the close of the school year in 2007.
 - b) Rene H. had been the victim of sexual abuse as a younger child and had a number of psycho-social and behavioral issues stemming from the abuse that could have made him inappropriate at the time for a public school environment or foster care setting.
 - c) Upon receiving notice from Pine Haven, Ms. Gaedtke had approximately nine months to find an appropriate residential and educational placement and create a transition plan to move the child into a new residential placement at end of the school year.
 - d) When Ms. Gaedtke met with her supervisor to discuss the status of her caseload, she indicated that things were progressing in the Rene H. case. She did not inform her supervisor that there were difficulties finding an appropriate in-state placement, or that she had failed to call a Permanency Planning Team meeting to address those issues. Although she mentioned the possibility of placing the student at the Stetson School in Massachusetts, she failed to inform her supervisor that she actually was under direct order by the Probate Court to investigate that particular placement.
 - e) By May 2007, Ms. Gaedtke still had not arranged for the student's placement. As a result, the Probate Court ordered her to investigate and facilitate his placement at Stetson.

- f) There was no documented activity relative to that placement possibility until late July 2007, after the school year had already ended at Pine Haven. The student was interviewed but not accepted by the program in Massachusetts.
 - g) On August 17, 2007, on the recommendation of the student's Guardian Ad Litem, the Court ordered DCYF to pursue a placement for the student out of state at Hermitage Hall in Tennessee, because DCYF had no transition plan in place.
 - h) In August 2007, twelve months after Ms. Gaedtke had notice of the need for transition and permanency planning for Rene H, Medicaid representatives and DCYF state-level staff and stakeholders, including the treatment team, had to begin emergency planning.
 - i) Ultimately the student was placed at Riverside School in Massachusetts, but he missed a approximately a month of school and all the appropriate transitioning, creating serious behavioral issues.
 - j) The child was not served properly because the planning process did not take place in 2006 as it should have. The transition that occurred in 2007 from Pine View to Riverside was stressful on the student and staff, and could have been avoided if Ms. Gaedtke had carried out her responsibilities beginning in August 2006, rather than waiting for the emergency to arise in 2007.
- 2) Lorraine Bartlett, the Area Administrator would testify that:
- a) The Child Protective Service Worker is required to keep the court informed of the child's status, and must submit status reports to the Court five days before a hearing. Ms. Gaedtke's reports routinely were untimely.
 - b) Court hearings were held more often than normal in this case because the court was not seeing information to indicate that action was being taken for an appropriate placement, and concerns had been raised repeatedly about the Division's inaction by the student's Guardian Ad. Litem.
- 3) Thom O'Connor, who would have been a member of the Permanency Planning Team for this student, does not recall any PPT meetings called by Ms. Gaedtke in regards to this student between September 2006 and June 2007.

Mr. Choiniere made the following offers of proof on the appellant's behalf.

- 1) The Guardian Ad Litem assigned to Rene H., Patricia Frim, would testify that:
 - a. Ms. Gaedtke was not solely responsible for the division's failure to make appropriate or timely transition plans for Rene H; it was a problem with the system as a whole.
 - b. Ms. Frim had trouble receiving return calls from Ms. Gaedtke, but later concluded that Ms. Gaedtke only called when she had something to report.
 - c. When she submitted a Motion to Probate Court on April 4, 2006 to have a new caseworker assigned to Rene H.'s case, the Division defended Ms. Gaedtke and the judge assigned to the case left her on as the caseworker.
- 2) Ms. Gaedtke would testify that:
 - a. She was told that she could only look at New Hampshire placements, and there were no appropriate New Hampshire placement available.
 - b. The April 2007 order for investigation of a placement at the Stetson School in Massachusetts was contrary to the Division's position that it did not want the child placed out of state.
 - c. Ms. Gaedtke told Thom O'Connor, a supervisor, that the GAL wanted the student placed out of state.
 - d. The GAL made a Motion for the Court to order an out of state placement, and the Division's attorney, Dennis May, was unable to persuade the Court otherwise.
 - e. Before April 2007, Ms. Gaedtke had taken a number of steps to prepare for moving the student to a different facility. They included making referrals to several therapeutic foster care services including Lutheran Social Services, Easter Seals, Casey Family Services, and Easter Seals Boys Group Home. The Casey program did not find him eligible. Lutheran Social Services and Easter Seals kept the referrals active, but did not have appropriate foster families to meet the student's needs, and there was no space available in the Easter Seals Boys Group Home.
 - f. One of the reasons it was difficult finding a placement for the student was because he demonstrated aggressive physical behavior and sexualized

behavior, which were among the reasons he was rejected by the program in Massachusetts.

- g. It would have been unreasonable to begin planning educational services until a residential plan was established, as the school district in which the child was placed would be responsible for financing the placement, even if the public school system itself could not accept the child into its own school programs.
- h. Ms. Gaedtke's earlier letter of warning required her to schedule PPT meetings for all the children in her caseload within 90 days of her receipt of the warning. She should not have been criticized for not scheduling a meeting in this case as she still had 60 days left in that 90 day period.

Having carefully considered the evidence, arguments and offers of proof, the Board found that the appellant failed to meet the work standard, and her conduct warranted the issuance of a written warning under the provisions of (former) Per 1001.03 (a)(1).

Inasmuch as the Division and the child's Guardian Ad Litem both believed that the child could not be placed safely or appropriately in a public school setting, it was obvious that any placement would need both a residential and educational component. The various offers of proof, including the GAL's April 16, 2008 letter to Mr. Choiniere (Appellant's Exhibit 4) support the State's assertion that Ms. Gaedtke did not take the necessary steps or complete the required documentation to show that she had made any real progress in support of this student's transition prior to the end of the school year in 2007.

Ms. Gaedtke's defense in this instance includes her repeated assertions that the Division did not support out of state placements. The Board is hard pressed to understand how that would relieve Ms. Gaedtke of her obligations to investigate options and plan a transition, or, at the very least, to investigate all the options and report back to her own supervisor that she had been unable to find a placement or create a plan that would meet the Division's requirements. Apart from Ms. Gaedtke's assertion that she took the

appropriate steps in a timely fashion, there is no documentation or evidence to support that position.

The evidence reflects that the Probate Court had taken a closer look at this case than the Court would in most cases because of inactivity on the Division's part in finding an appropriate residential and educational placement for this student. Even when ordered by the Court to pursue certain placements, Ms. Gaedtke failed to apprise her supervisor of the seriousness of the problem. Although Ms. Gaedtke argues that she should not be held "solely responsible," the fact remains that she was responsible at the very least for convening the Permanency Planning Team, and she failed to do so. In discussions with her supervisor, she misrepresented the status of the case, including her failure to advise her supervisor that it was the Probate Court that had required her to investigate placement at the Stetson School. Once the GAL began actively advocating for an out of state placement, Ms. Gaedtke appears to have decided it was the attorney's responsibility, not hers, to advocate on the Division's behalf. According to her offers of proof, she reasoned that if DCYF staff received copies of the various court orders, she had no further obligation to address the situation directly with her supervisor.

Ms. Gaedtke indicated that she could not recall when she might have convened permanency meetings. Thom O'Connor, however, did not recall Ms. Gaedtke calling for any permanency team meetings between September 2006 and June 2007, when Rene H. would no longer be eligible for services from Pine Haven.

As a result of Ms. Gaedtke's failure to initiate and follow through on appropriate transition planning, the Division once again had to undertake emergency planning for this student's transition. The student missed approximately a month of school and the transition was more difficult for him than it could have been otherwise.

January 11, 2008

Attorney Jones made the following offers of proof:

1. Francine Carter, Ms. Gaedtke's supervisor, would testify that:
 - a. In cases of guardianship, Child Protective Service Workers are required to file reports every six months with the Probate Court with regard to the general welfare of children in the custody of the Division.
 - b. Ms. Gaedtke was required to file a report regarding two children in the C.M. family on November 8, 2007 but failed to do so.
 - c. In a December 19, 2007 notice from the Strafford County Probate Court, Ms. Gaedtke was found to be in default for failing to file the required reports, and the Court issued her fines in the amount of \$25.00 for each of the two children.
 - d. A staff person in Ms. Gaedtke's office reported that she had placed copies of the order and the notice of fines in mail folders for Ms. Gaedtke and four other staff persons in the office. The staff member, Ms. Bickerstaffe, reported to her supervisor that she had observed Ms. Gaedtke removing a copy of the order and notice of fines from her own mail folder. Ms. Bickerstaffe also reported that after seeing Ms. Gaedtke at the mail folders, Ms. Bickerstaffe searched the other staff persons' mail folders and discovered that their copies of the order and notice of fines had been removed from their mail folders.
 - e. During an investigative meeting on January 3, 2008, Ms. Gaedtke admitted that she had not filed the reports in Probate Court as directed, had not kept her supervisor informed of the status of the case, and had been issued fines in other cases in the past. Ms. Gaedtke denied removing mail from anyone else's mail folder.

Mr. Choiniere made the following offers of proof:

1. Ms. Gaedtke would testify that:
 - a. Ms. Gaedtke admitted that she failed to timely file in Strafford County Probate Court regarding the two children from the C.M. family.

- b. Ms. Gaedtke admitted that she was fined for having failed to file the 6-Month Report.
- c. Ms. Gaedtke admitted that she had received similar notices and fines in the past, and had simply paid the fines herself.
- d. Ms. Gaedtke admitted that she made mistakes in this case, but denied removing copies of the notice from anyone else's file.

Having carefully considered the evidence, arguments and offers of proof, the Board found that the appellant failed to meet the work standard, and her conduct³ warranted the issuance of a written warning under the provisions of (former) Per 1001.03 (a)(1).

As a Child Protective Service Worker, Ms. Gaedtke is responsible for managing her caseload, documenting case activities, keeping case files up-to-date, submitting regular, timely court reports, and keeping her supervisors apprised of both the status of her cases and the decisions of the court relative to those cases. The appellant admits that she was not submitting documents to the court in a timely fashion, and the evidence reflects that she was not keeping her supervisors apprised of the status of the cases or her interactions with the Court. As Ms. Gaedtke admits, this was not an isolated incident. The courts had found her in default in other cases and had fined her. She had simply paid the fines herself.

³ The Board makes no specific finding with respect to the allegation that Ms. Gaedtke removed mail from other employees' mail folders. If that were the sole basis for the written warning, the Board would convene a full evidentiary hearing to address that issue. However, the warning also alleges that Ms. Gaedtke failed to meet the work standard by failing to timely file court reports, failing to maintain appropriate documentation, and failing to keep supervisors apprised of the status of a case. The Board limited its findings to those allegations.

In accordance with Per 1002.03 of the NH Code of Administrative Rules:

“In determining the appropriate form of discipline under Per 1002.04 through 1002.08, an appointing authority may consider factors including, but not limited to:

- (a) The nature and severity of the conduct or offense in relation to the employee’s position classification, responsibilities, and accountabilities, and the functions of the agency; and
- (b) The employee’s past record of performance and discipline, including whether or not the employee has been disciplined in the past for the same or a similar offense.”

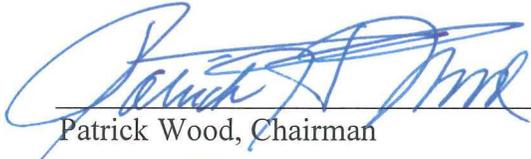
The class specification for the classification of Child Protective Service Worker III as published on the State’s web site describes the basic purpose of a CPSW III as follows, “To perform protective service casework in investigating and recommending action on reports of alleged child abuse/neglect and to develop and implement case plans to insure compliance with state and federal mandates.”

The record reflects that Ms. Gaedtke failed to adequately perform and/or document those activities necessary to carry out the basic purpose of her position. More importantly, in each case when problems arose or could be anticipated, Ms. Gaedtke failed to keep her supervisors informed. Had Ms. Gaedtke provided the appropriate casework, completed the necessary case documentation, and kept her supervisors informed of difficulties in any one of these cases, she might have avoided disciplinary action. Having failed to do so, however, the Board found that the warnings were an appropriate level of discipline.

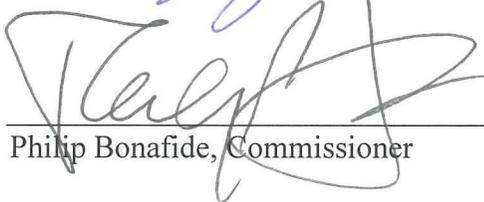
Per 1002.04 of the NH Code of Administrative Rules describes the written warning as, “...the least severe form of discipline used by an appointing authority in order to correct an employee’s unsatisfactory work performance or conduct,” and appointing authorities are allowed to issue written warnings to employees for offenses such as “failure to meet any work standard.”

For all the above reasons, the Board voted unanimously to deny Ms. Gaedtke's appeal and to uphold the written warnings issued to her on October 9, 2007, November 29, 2007 and January 11, 2008.

THE NH PERSONNEL APPEALS BOARD


Patrick Wood, Chairman


Robert Johnson, Commissioner


Philip Bonafide, Commissioner

cc: Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301
Attorney Jennifer Jones, Department of Health and Human Services, 129 Pleasant St., Concord, NH 03301
Randy Choiniere, SEA Grievance Representative, State Employees Association, 105 N. State St., Concord NH 03302-3303