



to Administration for the Chief Financial Officer to review. According to Ms. Adams, Ms. Garrett refused to scan the documents, saying that she was too busy preparing a monthly report, whereupon Ms. Adams returned to her office, closed the door, and turned on a “sound machine” in anticipation of a confrontation with Ms. Garrett. When Ms. Garrett later went to Ms. Adams’ office, knocked on the door, and offered to password protect the documents as requested, Ms. Adams did not open the door, and told Ms. Garrett that she no longer needed her assistance. Ms. Adams alleged that, at that point, Ms. Garrett became irate, and began “yelling, ranting, and raving” at her through the closed door. At the hearing, Ms. Adams testified that she could not hear what Ms. Garrett said to her during the incident because she had increased the volume on her sound machine. (Respondent’s Exhibits 1, 10; Testimony of Adrienne Adams).

4. After receiving Ms. Adams’ complaint, Ms. Campbell contacted Bryan Stephens, the Board’s Interim Executive Director. At Mr. Stephens’ direction, Ms. Campbell commenced an investigation into the incident. During the course of this investigation, Ms. Campbell obtained written complaints from six employees, two of whom were directly supervised by Ms. Garrett. Ms. Campbell conveyed the findings of her investigation to Mr. Stephens. Ms. Campbell did not interview Ms. Garrett concerning the allegations. (Testimony of Brittney Campbell; Testimony of Bryan Stephens).

5. Based on the findings of Ms. Campbell’s investigation, and the allegations contained in Ms. Adams’ complaint, Mr. Stephens decided to demote Ms. Garrett and to remove her from a supervisory capacity. In a meeting with Ms. Garrett on January 28, 2016, Mr. Stephens and Ms. Campbell notified Ms. Garrett that, effective February 15, 2016, she would be demoted to Administrative Assistant III, and given a 15% reduction in pay. Mr. Stephens provided Ms. Garrett with a written “Notice of Proposed Adverse Action” during this meeting. This Notice provided that Ms. Garrett was being demoted for “misconduct, negligence, and conduct reflecting discredit on the [Mothers Making a Change (MMAC)]/CRC programs” based on her conduct during the above-described December 1, 2015 incident (“Count One”). Additionally, the Notice provided that the demotion was based on the following:

On December 3, 2015, December 22, 2015, . . . January 20, 2016, January 21, 2016, and January 25, 2016, I have received 6 separate staff complaints from different departments. An HR investigation was conducted and on all complaints showed a consistent trend of extremely unprofessional, inappropriate, intimidating and threatening behavior. All 6 staff felt bullied and that if their concerns were communicated there would be retaliation and fear of losing their jobs. Due to your disciplinary history, this is eviden[ce] of misconduct, negligence, and conduct reflecting on the MMAC/CRC programs. This is a direct violation of policy #4089 Standards of Conduct. (“Count Two”)

(Respondent’s Exhibit 2; Testimony of Bryan Stephens).

6. Ms. Garrett was not provided copies of the written complaints or given any details concerning the substance of the complaints referenced in Count Two beyond the limited description provided in the Notice of Proposed Adverse Action at any time prior to the evidentiary hearing. (Respondent’s Exhibits 2, 3; Testimony of Lucinda Garrett; Testimony of Bryan Stephens).

7. After Ms. Garrett objected to her demotion in writing, Mr. Stephens notified her that she would be given an opportunity to meet with him and Jamie Allison, Director of Compliance to “express any additional concerns about the proposed adverse action” in letter dated February 5, 2016. The letter further provided that Ms. Garrett’s demotion (but not her reduction in pay) would be effective immediately based on the Board’s determination that her conduct evidenced an “Emergency Situation” under SPB Rule 478-1-.26. This meeting was held on February 9, 2016. (Respondent’s Exhibits 3, 4; Testimony of Bryan Stephens).

8. In a letter dated February 12, 2016, Mr. Stephens notified Ms. Garrett that the Board had reaffirmed its original decision to demote her from a supervisory position, but that she would receive a 10%, rather than a 15%, reduction in pay. The effective date of the reduction in pay was changed to March 1, 2016. This letter further advised Ms. Garrett of her right to request a hearing with the Office of State Administrative Hearings pursuant to State Personnel Board Rule 478-1-.27. The letter provided no further details concerning the six complaints giving rise to Ms. Garrett’s demotion. (Respondent’s Exhibit 5).

9. At the evidentiary hearing, the Board introduced the testimony of Jennifer Glaze, Program Coordinator at Cobb Recovery Center. Ms. Glaze was not under Ms. Garrett’s supervision at Cobb Recovery Center; both she and Ms. Garrett reported to Stacy Hull. Ms. Glaze testified that, in general, Ms. Garrett created an atmosphere of “intimidation” and “bullying” at Cobb Recovery Center. She also recalled an incident in which Ms. Garrett allegedly provided insufficient documentation to the clinical team when referring a psychotic client to the Cobb Recovery Center. Ms. Glaze filed a written complaint giving a general account of Ms. Garrett’s history at Cobb Recovery Center with the Board on January 21, 2016. This complaint was not provided to Ms. Garrett prior to the hearing. Further, the specific allegations Ms. Glaze described in her complaint and in her testimony were not included in the notices of adverse action provided to Ms. Garrett, or otherwise disclosed to Ms. Garrett, prior to the evidentiary hearing. (Respondent’s Exhibits 2, 3, 4, 5, 7; Testimony of Jennifer Glaze; Testimony of Bryan Stephens).

10. Courtney Pollard, RN, Cobb Recovery Center, testified that she witnessed three incidents purportedly evidencing misconduct on the part of Ms. Garrett. Ms. Pollard was not under Ms. Garrett’s supervision; both she and Ms. Garrett reported to Stacy Hull. According to Ms. Pollard, the first incident involved Ms. Garrett complaining after Ms. Pollard performed a nursing assessment for two clients in advance of intake assessors performing their assessment, which contradicted the Center’s customary practice. The second incident involved Ms. Garrett disagreeing with Ms. Pollard over whether a client required identification for intake. The third incident concerned a January 20, 2016 Residential Team meeting during which Ms. Garrett and Ms. Pollard disagreed over whether the Cobb Recovery Center could require that a client go to the hospital for further examination, rather than admit them, when the client indicated that she required “detox.” Ms. Pollard opined generally that Ms. Garrett improperly inserted herself into clinical and/or medical decisions. Ms. Pollard described the foregoing incidents in a written complaint submitted to the Board on or about January 20, 2016. This complaint was not provided to Ms. Garrett prior to the hearing. Further, the allegations described in Ms. Pollard’s complaint and in her testimony, were not included in the notices of adverse action or otherwise

disclosed to Ms. Garrett prior to the hearing. (Respondent's Exhibits 2, 3, 4, 5, 8; Testimony of Courtney Pollard; Testimony of Bryan Stephens).

11. Kim Williams, Program Coordinator and Intake Assessment Supervisor at Cobb Recovery Center, submitted a written complaint regarding Ms. Garrett on January 20, 2016. Ms. Williams also cited Ms. Garrett's conduct during the January 20, 2016 Residential Team meeting in her complaint. She also made various allegations concerning Ms. Garrett being loud on the telephone, making inappropriate use of work time, and taking two-hour lunch breaks with Stacy Hull. At the hearing, Ms. Williams testified about an incident in which Ms. Garrett yelled at her for taking a client into the Medical Records Room. Ms. Williams' complaint was not provided to Ms. Garrett prior to the evidentiary hearing. Further, none of the allegations described in Ms. Williams' complaint, or in her testimony, were disclosed to Ms. Garrett in the notices of adverse action. (Respondent's Exhibits 2, 3, 4, 5, 9; Testimony of Bryan Stephens; Testimony of Kim Williams).

12. The complainants whom Ms. Garrett directly supervised did not provide testimony at the hearing on this matter.

13. Ms. Garrett was required to attend training on "managing emotions under pressure" in 2006, after the Board's Human Resources department received several complaints from employees about how Ms. Garrett "addressed them in the workplace." Other than this mandated training, and excepting the adverse action at issue in this proceeding, Ms. Garrett's personnel file contains no other instances of disciplinary action. Jim Harner, the Board's HR Director from 2004 to 2014, testified that he received some complaints about Ms. Garrett after she attended training in 2006 (one of which was introduced into evidence) but none that warranted strict disciplinary action. (Respondent's Exhibit 6; Testimony of Lucinda Garrett; Testimony of Jim Harner).

14. Ms. Garrett asserted that the Board failed to adhere to proper procedure in taking adverse action against her employment. Specifically, Ms. Garrett objected to the Board's failure to interview her during its investigation, the lack of any mediation or dispute resolution process, the Board's failure to discuss its findings with her supervisor, and the Board's failure to give her specific information concerning the six complaints cited in the adverse action notice. She further disputed the Board's assertion that she engaged in any misconduct with regard to Count One of the Notice, and attributed the incident to a personal conflict between herself and Ms. Adams. (Testimony of Lucinda Garrett).

### **III. Conclusions of Law**

1. Under Georgia law, "[c]lassified employees . . . may be dismissed from employment or otherwise adversely affected as to compensation or employment status only if such action is taken in accordance with the rules and regulations of the State Personnel Board governing adverse actions and appeals for classified employees." O.C.G.A. § 45-20-8(a). The procedure for adverse action against a classified employee's employment must include, at a minimum, providing the classified employee with "reasons for the action and an opportunity to file an appeal and request a hearing which may be held before either the [State Personnel Board] or an administrative law judge." O.C.G.A. § 45-20-8(b).

2. SPB Rule 26 defines “adverse action” as “a disciplinary action taken by an [employer] which results in the suspension without pay, demotion, reduction in salary, or dismissal of a permanent employee.” Ga. Comp. R. & Regs. 478-1-.26(1). Pursuant to SPB Rule 26, employers may take adverse action against a classified employee for

- (a) negligence or inefficiency in performing assigned duties;
- (b) inability or unfitness to perform assigned duties;
- (c) insubordination;
- (d) misconduct;
- (e) conduct reflecting discredit on the department;
- (f) commission of a felony or other crime involving moral turpitude;
- (g) chronic tardiness or absenteeism; or
- (h) failure to report for or remain at work without justifiable cause.

Ga. Comp. R. & Regs. 478-1-.26(3)(a)-(h).<sup>2</sup> In the present case, the Board demoted Ms. Garrett and reduced her pay for alleged “misconduct,” “inefficiency in performing assigned duties,” and “conduct reflecting discredit on the MMAC/CRC.”

3. Pursuant to State Personnel Board (SPB) Rule 26, an employee against whom adverse action is proposed must be provided with written notice at least fifteen (15) days prior to the effective date of the adverse action and an opportunity to respond to the charges before a responsible official of the employer, who shall issue a notice of determination of final action in writing to the employee. Ga. Comp. R. & Regs. 478-1-.26(5), (6). The notice of proposed adverse action “must include . . . [t]he specific charges or reasons for the proposed action.” Ga. Comp. R. & Regs. 478-1-.26(5). Additionally, the notice of determination of final action must include “[t]he specific charges for which the final action is taken.” Ga. Comp. R. & Regs. 478-1-.26(7).

4. In the present case, the Board complied with notice requirements prescribed by SPB Rules only with respect to Count One of the Notice of Proposed Adverse Action: the December 1, 2015 incident described in Ms. Adams’ written complaint. However, the Board provided no meaningful notice to Ms. Garrett whatsoever with regard to Count Two. The Board’s notice simply states that it had received six complaints concerning Ms. Garrett, without identifying the complainants or describing the substance of the complaints. Accordingly, the Board failed to notify Ms. Garrett of the “*specific charges or reasons*” for its adverse action, as required by SPB Rules. Ga. Comp. R. & Regs. 478-1-.26(5), (7) (emphasis added).

5. The Board’s failure to provide Ms. Garrett with meaningful notice constitutes a deprivation of her fundamental right to due process, and caused her substantial harm. Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 546 (1985) (“The essential requirements of due process . . . are notice and an opportunity to respond.”). Due process is satisfied only where “meaningful notice” is provided, that is, where the notice allows a party “to adequately prepare to litigate the issues at the hearing.” Christensen v. Apfel, 1999 U.S. Dist. LEXIS 23268, \*8-9 (M.D. Fla. Oct. 14, 1999); see also Mathews v. Eldridge, 424 U.S. 319, 333 (1976); Harris v. Callahan, 11 F. Supp. 2d 880, 884 (E.D. Tex. 1998) (“Notice is “meaningful” where it provides the recipient an

---

<sup>2</sup> “The employee retains classified status in the lower job upon demotion as a result of adverse action.” Ga. Comp. R. & Regs. 478-1-.26(4)(c)2.

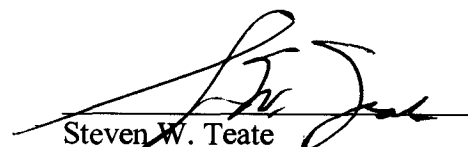
explanation of what will be covered at the hearing.”) (citing Goldberg v. Kelly, 397 U.S. 254 (1970). In the absence of specific information regarding the complaints, Ms. Garrett was deprived of an adequate opportunity to respond to the allegations. Due process mandates that the review of this tribunal be limited to only those allegations of which Ms. Garrett had meaningful notice. See, e.g., Lankford v. Idaho, 500 U.S. 110, 126 (1991); Mullane v. Central Hanover Bank & Trust Co., 339 U.S. 306, 314 (1950) (notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections").

6. Count One of the Board’s Notice of Proposed Action—the December 1, 2015 incident reported by Ms. Adams—does not evidence “misconduct,” “conduct reflecting discredit,” or “negligence or inefficiency in performing assigned duties” such that the Board’s adverse action against Ms. Garrett was warranted. The evidence introduced at the hearing suggests that Ms. Garrett raised her voice when speaking to Ms. Adams, who was behind a closed door and had activated a sound machine. Ms. Adams could not hear what Ms. Garrett said to her and there is no competent evidence on record to support that Ms. Garrett said or did anything that would rise to the level of “misconduct” during the incident. The Board’s response to this minor incident—immediate demotion and reduction in pay—was disproportionate, especially considering that Ms. Garrett has been the subject of disciplinary action only once previously in her approximately twenty-five years with the Board. The appropriateness of the Board’s action is further undermined by the fact that Ms. Garrett was not even interviewed during the investigation into the incident.

#### IV. Decision

Based on the foregoing Findings of Fact and Conclusions of Law, the Board’s decision to demote Ms. Garrett and reduce her pay per notice issued February 12, 2016 is **REVERSED**.

**SO ORDERED**, this 13<sup>th</sup> day of April 2016.

  
Steven W. Teate  
Administrative Law Judge

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS  
STATE OF GEORGIA**

LUCINDA GARRETT,	:	
Petitioner,	:	
	:	
v.	:	Docket No.: OSAH-SPB-DEM-1634698-33-Teate
	:	
COBB/DOUGLAS COMMUNITY SERVICE BOARD,	:	Agency Reference No.: 1634698
Respondent.	:	

**NOTICE OF INITIAL DECISION**

This is the Initial Decision of the Administrative Law Judge (Judge) in the case. This decision is reviewable by the State Personnel Board (SPB). If a party disagrees with this decision, the party may file a motion for reconsideration, a motion for rehearing, or a motion to vacate or modify a default order with the OSAH Judge. A party may also seek review of this decision by filing an Application for Review with the State Personnel Board.

**FILING A MOTION WITH THE JUDGE AT OSAH**

The motion must be filed in writing within ten (10) days of the entry, i.e., the issuance date, of this decision, but shall not operate as a stay of enforcement of the Initial Decision unless so ordered by the Administrative Law Judge. Motions must include the case docket number, be served simultaneously upon all parties of record, either by personal delivery or first class mail, with proper postage affixed, and be filed with the OSAH clerk at:

Clerk  
Office of State Administrative Hearings  
Attn.: Kevin Westray, [kwestray@osah.ga.gov](mailto:kwestray@osah.ga.gov)  
225 Peachtree Street, NE, South Tower, Suite 400  
Atlanta, Georgia 30303-1534

**APPLICATION FOR REVIEW BY THE BOARD**

An Application for Review must be filed within thirty (30) days from the date the Initial Decision was issued. O.C.G.A. § 45-20-9 (e)(i). The Application for Review should be filed with:

Executive Secretary  
State Personnel Board  
Suite 502, West Tower  
200 Piedmont Avenue, SE  
Atlanta, Georgia 30334

If neither party files an Application for Review within 30 days from the date this Initial Decision was issued or in the absence of an order by the board within such time for review on its own motion, the Initial Decision shall become the Final Decision of the Board without further proceedings or notice. O.C.G.A. § 45-20-9 (e) (1) and SPB Rule 478-1-.20.304.K. Any party who has exhausted all administrative remedies available before the Board and who is aggrieved by a final decision or order may seek judicial review within thirty (30) days in the superior court of the county of the place of employment of the employee. O.C.G.A. § 45-20-9 (h) (i), SPB Rule 478-1-.20.500.