

BEFORE THE PERSONNEL RESOURCES BOARD

STATE OF WASHINGTON

TABO MACK,

Appellant,

vs.

DEPARTMENT OF SOCIAL AND HEALTH
SERVICES,

Respondent.

CASE NO. R-DEMO-08-001

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER OF THE BOARD

I. INTRODUCTION

1.1 **Hearing.** This matter came before the Personnel Resources Board, LAURA ANDERSON, Chair, and JOSEPH PINZONE, Member. The hearing was held on July 22, July 23, August 20, and August 21, 2008, in the Personnel Resources Board hearing room in Olympia, Washington. Closing arguments were submitted in writing on September 19, 2008.

1.2 **Appearances.** Appellant Tabo Mack was present and was represented by Kevin Johnson, Attorney at Law. Janetta Sheehan, Assistant Attorney General, represented Respondent Department of Social and Health Services.

1.3 **Nature of Appeal.** This is an appeal from a demotion for engaging in inappropriate communications and behaviors toward female staff, including subordinates.

II. FINDINGS OF FACT

2.1 Appellant Tabo Mack is a permanent employee for Respondent Department of Social and Health Services (DSHS). Appellant and Respondent are subject to Chapter 41.06 RCW and the rules promulgated thereunder, Title 357 WAC. Appellant filed a timely appeal with the Personnel Resources Board on December 26, 2007.

2.2 Appellant began his employment with DSHS in 1991. In June 2000, he was promoted to a Social Worker 4 supervisory position. He worked as a supervisor in the Bremerton office from

June 2000 until May 2002 when he moved to the Tacoma office. In September 2004 he was placed in an acting appointment as a Washington Management Service employee.

2.3 In 2001, Appellant was alleged to have engaged in a verbal confrontation with a subordinate. No misconduct was found, but Appellant was given a counseling memo and was told that the appropriateness of his behavior was a concern. He was warned that supervisors are set to a high standard and are to be role models for subordinates.

2.4 During his employment with DSHS, Appellant has received training covering sexual harassment and supervisory skills. In addition, he was made aware of DSHS's administrative policy prohibiting harassment and the policy addressing the standards of ethical conduct for employees.

2.5 DSHS Administrative Policy No. 18.66, Discrimination and Harassment Prevention, states, in part:

1. What is the purpose of this policy?

This policy identifies and prohibits behaviors that are inconsistent with a safe, harassment-free work environment.

. . .

7. What conduct is prohibited under this policy?

. . .

B. Harassment

Harassment, including sexual harassment, is prohibited by federal and state laws. This policy prohibits harassment of any kind . . . Prohibited harassment includes verbal or physical conduct that threatens, intimidates, coerces or taunts another person . . . and that reasonably interferes with the employee's ability to do his or her job.

Examples of harassment include, but are not limited to:

1. Verbal: Inappropriate, unwarranted and/or unwelcome comments . . .

. . . .

3. Physical: Any unwelcome, unwanted physical contact, including but not limited to, touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling

C. Sexual Harassment

Sexual harassment in any form is prohibited under this policy. Sexual harassment is a form of discrimination and is unlawful under both state and federal law.

1. Sexual harassment includes unsolicited and unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature . . .

- Interferes with an employee's work performance or creates an intimidating, hostile or otherwise offensive environment.

Examples of conduct that may constitute sexual harassment include, but are not limited to:

- Verbal: Sexual innuendoes, suggestive comments, jokes of a sexual nature . . .
- Non-verbal: . . . suggestive or insulting sounds; leering, staring, whistling, obscene gestures . . .
- Physical: Unwelcome, unwanted physical contact, including but not limited to touching, patting, brushing up against, hugging, fondling . . .

2. Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome, that is personally offensive, which lowers morale and therefore interferes with work effectiveness.

. . .

9. What are the roles and responsibilities of supervisors, managers . . . in administering the policy?

Managers and supervisors shall model appropriate behavior

2.6 DSHS Administrative Policy No. 18.64, Standards of Ethical Conduct for Employees, states, in part:

Employees are required to:

. . .

e. Create a work environment that is free from all forms of discrimination and sexual/workplace harassment. This includes but is not limited to:

- i. Following and abiding by DSHS policies regarding nondiscrimination, sexual harassment and client rights;

- . . .
- ii. Creating an environment free from intimidation, retaliation, hostility or unreasonable interference with an individuals' work performance.

2.7 Both the Bremerton and the Tacoma offices are part of DSHS Region 5. The perception among many of the non-management Region 5 staff was that certain members of the Region 5 management team, including Appellant, were a close knit group. Numerous witnesses at the hearing before the Board credibly testified that they did not bring complaints to management because they were either afraid of retaliation, afraid of losing their job, or felt that no action would be taken. For example:

- Erin Horton credibly testified that it was well known that management was an enmeshed group. She stated that she had heard stories of retaliation and therefore, she did report concerns to management.
- Yan In credibly testified that she did not feel she could go to members of management because Appellant was friends with them. At the time, Ms. In was a temporary employee and she was afraid to bring complaints forward for fear that she would lose her job.
- Juanita Daniels credibly testified that she did not tell anyone in management about her concerns because she felt that she would be ignored. Ms. Daniels stated that a personal relationship between Appellant and management was evident.
- Tonia King credibly testified that she understood that Appellant was a part of the management group. Ms. King was a fairly new employee and she felt that if she reported Appellant's behavior, there could be repercussions or she could be labeled as a trouble maker.
- Deborah Iverson credibly testified that she thought that Appellant was part of the management structure and that he had a strong friendship with members of management.
- Diane Ouimet credibly testified that she believed that Appellant was part of a tight knit management group. She did not report Appellant's behavior to management because she did not think they would do anything about it.
- Virginia (Ginny) Newell credibly testified that she was concerned about retaliation if she reported Appellant's behavior. She had previously reported a concern to management and management had called her and asked her questions about the complaint. Subsequently, she was removed from the office which she feels was in retaliation for raising the complaint.

- 1 • Kathy Yormak-Heinz credibly testified that she understood that Appellant was part of the management team and she felt that management was not supportive of staff.
- 2 • Bruce Witham credibly testified that management was a tightly knit group and that if
- 3 issues were reported about Appellant, management would protect Appellant. Mr. Witham
- 4 stated that management was not supportive of employees.
- 5 • Gina Aure was a temporary employee. She credibly testified that she did not report
- 6 Appellant's behavior because she did not want to rock the boat.
- 7 • Stacy Graff stated that she thought it was common knowledge that Appellant acted
- 8 inappropriately. She credibly testified that management was a tight knit group and if a
- 9 person complained, they would be targeted. She was concerned that if she told
- 10 management, she would lose her job.

11 2.8 Ms. Yan In began employment with DSHS in April 2000 in the Tacoma office. Her official
12 work station was the Tacoma office until August 16, 2001, when she began working in the
13 Bremerton office. In the Bremerton office, she was employed in a temporary position supervised
14 by Appellant. Ms. In credibly testified that about two months after she began working under
15 Appellant, he began directing personal attention toward her. Appellant's behaviors continued
16 throughout her employment in the Bremerton Office. Appellant's behaviors included calling her
17 familiar names such as "Darling" and "Honey", looking at her provocatively, and touching her
18 inappropriately. Ms. In credibly testified that she did not report Appellant's behavior because she
19 was a temporary employee and she was afraid she would be fired. However, she did tell a co-
20 worker, Virginia (Ginny) Newell, that she was being harassed by Appellant. She did not tell Ms.
21 Newell that the harassment was sexual.

22
23 2.9 In March 2002, Ms. Newell raised concerns about Appellant and about his treatment of
24 Ms. In to Vicky Gawlick, Region 5 Regional Administrator for Home and Community Services,
25 and Kim Song, Region 5 Deputy Regional Administrator. Although Ms. Song called Ms. Newell
26 to discuss her concerns, no further action was taken to address the issues.

27
28 2.10 Ms. In transferred to the Tacoma office on February 1, 2005, where she was first
29 supervised by Bruce Witham. Appellant also worked in the Tacoma office where he did quality

1 assurance reviews on Ms. In's work but he was not her supervisor. Ms. In testified that in the
2 Tacoma office, Appellant continued to harass her. When Ms. In felt that she could no longer
3 tolerate Appellant's behavior, she documented her complaints in a letter dated March 16, 2007, to
4 Arnold-Robins William [sic]. Ms. Robin Arnold Williams was the Secretary of DSHS. Ms. In did
5 not send her letter, but she shared it with Erin Horton, her supervisor at the time. Ms. Horton
6 advised Ms. In to contact her union representative which Ms. In did.

7
8 2.11 Ms. Horton credibly testified that on approximately March 22, 2007, she brought Ms. In's
9 letter to the attention of Regional Administrator Vicky Gawlick. However, Ms. Gawlick was
10 removed from her position on approximately March 23, 2007.

11
12 2.12 On March 26, 2007, Patricia Lashway stepped into Ms. Gawlick's position. After Ms.
13 Lashway became the Regional Administrator, she was contacted by Amy Achilles, Appellant's
14 union representative. Ms. Lashway met with Ms. In, Ms. Achilles and Ms. Horton on April 6,
15 2007. During the meeting, they gave Ms. Lashway a copy of Ms. In's March 16, 2007, letter.

16
17 2.13 Ms. Lashway followed up by contacting Myron Toyoma, Manager of the Investigations
18 and Reasonable Accommodations Unit (subsequently changed to the Investigators' Unit). Ms.
19 Lashway met with Mr. Toyoma on April 12, 2007, to discuss the allegations in Ms. In's letter.
20 Ms. Horton then sent an email to Glen Christopherson, DSHS Human Resource Division
21 Director, asking for an investigation.

22
23 2.14 On April 18, 2007, an investigation was initiated by Regina Hook of the Investigations and
24 Reasonable Accommodations Unit. Eddie Ortiz assisted Ms. Hook with the investigation. Ms.
25 Hook and Mr. Ortiz spoke to 24 individuals. In addition, they met with Appellant and his attorney
26 to receive Appellant's response.

27
28 2.15 On September 28, 2007, Ms. Hook sent the completed investigation report to Terry
29 Marker, Assistant Director for the Home and Community Services Division. The report included

1 summaries of statements from witnesses who complained about inappropriate behavior by
2 Appellant as well as those who did not. The complaints about Appellant's behaviors included
3 inappropriate comments such as commenting on female staff's appearances, asking female staff
4 out, offering them money for sex, and making comments about what he could do with his tongue.
5 Appellant's behavior also included looking at female staff in various sexually provocative ways
6 and inappropriately touching female staff's legs, rubbing against them, and invading their
7 personnel space.

8
9 2.16 In his testimony before the Board, Mr. Ortiz explained that the report did not include a
10 conclusion. However, Mr. Ortiz indicated that he found the women's complaints credible.

11
12 2.17 Mr. Marker reviewed the report and discussed the report with the investigator and with
13 human resources staff. He did not draw a conclusion as to whether misconduct occurred, but he
14 believed that the women with the complaints were credible.

15
16 2.18 The Board heard the testimony of 29 witnesses over a period of four days. Mr. Marker's
17 disciplinary letter to Appellant alleged numerous incidents of misconduct committed over a period
18 of several years. After reviewing all of the testimony and exhibits, we find the weight of the
19 credible evidence supports that Appellant, more likely than not, engaged in misconduct towards
20 female staff. We find the testimony of Ms. In, Ms. Quimet, Ms. Horton, Ms. Daniels, Ms.
21 Yormak-Heinz, Ms. Iverson, Ms. Miller, Ms. Aura, and Ms. Newell consistent, believable and
22 credible. Furthermore, we find no reason for them to fabricate their stories or to be untruthful in
23 describing the behaviors they experienced from Appellant. In so far as Appellant's witnesses
24 contradicted their statements, we find Respondent's witnesses more credible. The preponderance
25 of credible evidence establishes that they experienced an ongoing pattern of inappropriate
26 behavior from Appellant, including the following:

- 27 • Appellant was Yan In's supervisor in the Bremerton office and they worked in the Tacoma
28 office at the same time. Appellant made inappropriate comments and gestures toward Ms.
29 In such as calling her "darling", winking at her and looking her up and down in a sexual

1 manner, making sexual gestures with his tongue, and rubbing up against her in a sexual
2 manner.

- 3 • Appellant worked with Diane Quimet in the Tacoma office. Appellant grabbed Ms.
4 Quimet's upper thigh while they were in the elevator. When she told him to stop and never
5 touch her again, Appellant jumped back and acted like he had done nothing wrong. After
6 this incident, Appellant never approached or spoke to Ms. Quimet again unless it was
7 absolutely necessary.
- 8 • Appellant worked with Tonia King in the Tacoma office. Ms. King testified that the
9 investigative report regarding her statement was wrong. Instead, Ms. King testified that
10 she overheard Appellant making inappropriate comments to Stacy Fleming. Appellant did
11 not make the comments getting his tongue around something directly to Ms. King.
12 However, Ms. King was concerned that the comment she overheard was not appropriate
13 for the workplace, but she did not report the comment to management.
- 14 • Erin Horton worked under Appellant's supervision in the Tacoma office for about nine
15 months. Ms. Horton testified that Appellant began directing personal attention to her
16 about three months after she came under his supervision. Ms. Horton testified that two to
17 three times a week, Appellant would make inappropriate comments and gestures of a
18 sexual nature such as commenting that he could do a lot with his tongue and making
19 licking motions with his tongue. Ms. Horton indicated that Appellant engaged in these
20 behaviors out of the sight of other people and always when they were alone.
- 21 • Appellant worked with Juanita Daniels in the Tacoma office. Ms. Daniels testified that as
22 time progressed, Appellant began paying personal attention to her. During one incident,
23 Appellant was standing behind Ms. Daniels looking over her shoulder. When Ms. Daniels
24 asked Appellant if he was looking at her computer, he said no, he was looking at
25 something else. Ms. Daniels felt that Appellant was looking down her shirt. In addition,
26 Ms. Daniels testified that Appellant would walk by and brush against her and that she felt
27 he was staring at her which made her feel uncomfortable. Ms. Daniels indicated that
28 Appellant engaged in these behaviors two to three times a week and always when they
29 were alone.
- Kathy Yormak-Heinz worked under Appellant's supervision for about one year in the
Tacoma office. Ms. Yormak-Heinz described Appellant's behavior toward her as
flirtatious. She testified that he would look her up and down and give her the "eye".
- Appellant worked with Deborah Iverson in the Tacoma office. Ms. Iverson testified that
Appellant would always stand too close to her, touching her side with his. She observed
him doing this to other people as well. She felt it was part of Appellant's flirty, playful
persona.
- Appellant worked with Connie Miller in the Tacoma office. Ms. Miller testified that
Appellant would invade her space by leaning in toward her desk while they talked. She felt

1 that Appellant would get too close so she would move away. During her testimony, she
2 described Appellant's behavior as "creepy".

- 3 • Appellant worked with Gina Aure in the same office building in Tacoma. Ms. Aure
4 testified that at first, Appellant just seemed friendly but then his comments began to be
5 more sexually suggestive. Ms. Aure described Appellant as flirtatious and overly friendly
6 and indicated that he would show up in her office for no reason. During her testimony she
7 stated that Appellant was "coming on to her".
- 8 • Virginia (Ginny) Newell worked under Appellant's supervision in the Bremerton office for
9 about one year. She testified that Appellant did not respect the personal boundaries of
10 others. While Ms. Newell did not feel that Appellant's treatment of her was sexual
11 harassment, she did feel that he treated her unfairly and when she approached him about
12 her concerns, she felt that he retaliated against her. In addition, Ms. Newell observed
13 Appellant's treatment of others and was aware of his unfair and intimidating behavior
14 directed specifically toward Yan In.

15 2.19 On October 30, 2007, Mr. Marker issued a pre-disciplinary letter to Appellant. Mr.
16 Marker allowed Appellant an opportunity to respond to the charges made by ten of the witnesses
17 and to provide any input into possible disciplinary action. On November 19, 2007, Appellant and
18 his attorney met with Mr. Marker for a pre-disciplinary meeting.

19 2.20 Mr. Marker testified that during the meeting, Appellant provided nothing significant. Mr.
20 Marker found Appellant's responses unusual because when there is an allegation, there is usually some
21 thread of truth around the event. But, in this case, Appellant categorically denied all of the allegations
22 and had no memory of any of the events connected to the allegations. Instead Appellant talked about
23 events with others, but none of those events connected to the allegations. During the meeting,
24 Appellant and his attorney claimed that the allegations were part of a conspiracy against Region 5
25 management. They also questioned the quality of the investigation.

26 2.21 Mr. Marker testified that he heard nothing during the meeting to change his belief that
27 Appellant had engaged in the alleged activities. Mr. Marker determined that Appellant had committed
28 misconduct when he made inappropriate comments, gestures and unwanted physical contact of a
29 sexual nature toward female staff. On the other hand, Mr. Marker felt that Appellant was smart, did

1 good assessments, had been with the agency for a period of time, was trained and was work ready. As
2 a result, he determined that demotion was the appropriate discipline to prevent a repeat of Appellant's
3 conduct. The demotion also removed Appellant from the Tacoma office, away from any of the
4 witnesses who complained about his behavior, and put him in a position with no supervisory
5 responsibilities.

6
7 2.22 By letter dated December 12, 2007, Mr. Marker notified Appellant of his demotion from a
8 WMS Band 2 position to a Social Worker 3, effective January 2, 2008.

9 10 **III. ARGUMENTS OF THE PARTIES**

11 3.1 In summary, Respondent asserts that the evidence presented at the hearing overwhelmingly
12 supports the charge that Appellant engaged in inappropriate conduct toward female staff. Respondent
13 contends that the victims of Appellant's harassment were credible and that they showed genuine
14 emotions, anger, frustration and embarrassment during their testimony which supports their credibility.
15 Respondent argues that the evidence and testimony established that Appellant's conduct was sexual in
16 nature, unwanted and offensive and that he used his position and connection to members of the
17 management team to intimidate the victims. Respondent asserts that Appellant provided no concrete
18 reason why the victims would make up the charges against him. Instead, Appellant attempted to deflect
19 away attention from his conduct and attack the victims by alleging they were poor workers or they
20 wore revealing clothes or they could not be trusted. Respondent also asserts that there is no evidence
21 to show that Appellant was the victim of a conspiracy. Respondent contends that it was not until one
22 victim came forward that others, during the investigation, told what had happened to them.
23 Respondent further contends that the investigation was not deficient. Respondent argues the
24 investigation was thorough and the report included the pertinent facts including a summary of
25 Appellant's response to the charges. Finally, Respondent asserts that the demotion was a fair and
26 measured discipline in light of the impact Appellant's actions had on the agency. Respondent further
27 asserts that demotion is consistent with the discipline upheld in similar cases by the Personnel Appeals
28 Board (precursor to this Board). Respondent argues that in this case, the demotion, together with
29 moving Appellant to another location, was appropriate for a WMS employee who failed to live up to

standards of conduct expected and engaged in the longevity and breadth of misconduct proven in this case.

3.2 In summary, Appellant argues that the allegations were inconsistent and untrue, that the investigation report was not thorough, and that the testimony of the alleged victims was not credible. Appellant contends that he has no past history of engaging in conduct in violation of DSHS's sexual harassment policy and denies that he interacted with staff in the manner alleged by the victims. Rather, Appellant asserts that he was in a long term relationship, was focused on his work, is always professional and appropriate in his interactions with others, follows policy and procedure to the letter, and is a "Company Man". Appellant suggests that it is improbable that he could have engaged in the alleged behavior for about six years and no one noticed or reported it until 2007. Appellant claims that the management group was not tight knit and that even if that were the case, there were other managers or avenues available for staff to use to report alleged misconduct. Appellant contends that he is credible, hard working, and takes his job seriously, and that there is no way he would approach women like the alleged victims claim he did. Appellant asserts that because he did not engage in misconduct, he did not violate DSHS policy. Appellant argues that he is an excellent employee and he goes above and beyond his duty to assure that his job is done correctly. Appellant vehemently denies that he did anything inappropriate to any female staff.

IV. CONCLUSIONS OF LAW

4.1 The Personnel Resources Board has jurisdiction over the parties and the subject matter.

4.2 In a hearing on appeal from a disciplinary action, Respondent has the burden of supporting the charges upon which the action was initiated by proving by a preponderance of the credible evidence that Appellant committed the offenses set forth in the disciplinary letter and that the sanction was appropriate under the facts and circumstances. WAC 357-52-110.

4.3 Respondent has met its burden of proof. The testimony supports that Appellant was a good employee who did quality work. However, Appellant's work product is not at issue in this appeal.

1 Rather, the issue is whether Appellant violated DSHS policies and engaged in harassing behavior
2 toward female staff.

3
4 4.4 Respondent has proven by a preponderance of the credible testimony and evidence that
5 Appellant engaged in an ongoing pattern of making inappropriate comments, gestures and unwanted
6 physical contact of a sexual nature toward female staff. Respondent has proven that Appellant's
7 behavior violated agency policies.

8
9 4.5 Furthermore, this Board and its predecessor, the Personnel Appeals Board, have previously
10 ruled on disciplinary actions for WMS employees. For example, in Mayhew v. Dept. of Corrections,
11 PRB Case No. R-DEMO-06-002 (2006), the Board upheld the sanction of demotion and
12 concluded that the appellant, who was a WMS employee with 17 years of experience and no history
13 of corrective or disciplinary actions, should have been aware of his obligation to comply with the
14 department's Code of Ethics and policies. In Gutierrez v. Dept. of Social and Health Services, PRB
15 Case No. R-DEMO-08-220 (2008), we upheld the demotion of a WMS employee who was aware
16 of the agency's ethics policies and was aware of his duty to comply with the policies yet he failed to be
17 a positive role model, intimidated a subordinate and caused her to be afraid she would be fired. In
18 Ahearn v. Dept. of Corrections, PAB Case No. DEMO-02-0015 (2003), the Personnel Appeals Board
19 upheld the sanction of demotion and concluded that a WMS employee is held to a higher standard of
20 conduct and professionalism and has a duty to act as a role model.

21
22 4.6 In this case, Appellant failed to abide by the standard of conduct expected of a WMS employee
23 failed to engage in professional behavior toward female staff, and failed to fulfill his duty to act as a role
24 model for others.

25
26 4.7 Appellant challenged the investigation results used by the appointing authority to determine
27 misconduct. We find that Respondent conducted a fair and thorough investigation into Ms. In's
28 allegations. During that investigation, similar, independent examples of Appellant's alleged misconduct
29 were provided by other staff. Those allegations provided further collaboration of the type of

1 misconduct experienced by Ms. In. However, in determining the level of discipline, the appointing
2 authority did not rely solely on the written investigation report. Rather he talked with the investigators
3 and met with Appellant and his attorney and considered all pertinent information, including Appellant's
4 history with the agency and his work performance. Nothing in the record supports Appellant's claim
5 that the investigation was flawed.

6
7 4.8 Appellant argued that if he had engaged in the alleged misconduct, it most likely would have
8 been observed by others. We reject that argument. Tonia King observed Appellant's inappropriate
9 comments to Stacy Fleming. In addition, the consistent, believable and credible testimony of the
10 women subjected to Appellant's behavior establishes that more likely than not, Appellant engaged in
11 misconduct most often while he and the women were alone.

12
13 4.9 In assessing the level of discipline, we have considered the totality of the credible
14 evidence. We heard substantial testimony from numerous witnesses, some who were in
15 Appellant's chain of command, some who merely worked in the same building as Appellant, and
16 some who no longer worked with Appellant or no longer worked for the agency. The testimony
17 and evidence supports a non-supportive workplace due in part to the perceived close knit
18 management group that Appellant was considered to be a part of. In such circumstances, it is not
19 unusual for victims of harassment to be reluctant or afraid to come forward. The fact that
20 allegations came forward from others only because of the investigation into Ms. In's allegations
21 does not negate the seriousness of Appellant's misbehavior. Furthermore, while staff was
22 distrustful of management, nothing in the record supports a deliberate conspiracy or collusion
23 against Appellant. Rather, the record clearly establishes that Appellant engaged in an ongoing
24 pattern of inappropriate behavior of a sexual nature.

25
26 4.10 In determining whether a sanction imposed is appropriate, consideration must be given to
27 the facts and circumstances, including the seriousness and circumstances of the offenses. The
28 penalty should not be disturbed unless it is too severe. The sanction imposed should be sufficient
29 to prevent recurrence, to deter others from similar misconduct, and to maintain the integrity of the

1 program. An action does not necessarily fail if one cause is not sustained unless the entire action
2 depends on the unproven charge. Holladay v. Dep't of Veterans Affairs, PAB No. D91-084
3 (1992).

4
5 4.11 In this case, the level of discipline is appropriate and consistent with discipline affirmed by
6 the Personnel Appeals Board, predecessor to this Board. See, for example, Bucher v. Dept. of
7 Corrections, PAB Case No. DEMO-02-0002 (2003); Spence v. Dept. of Corrections, PAB Case
8 No. DEMO-01-0027 (2003); Hall v. Dept. of Corrections, PAB Case No. DEMO-01-0014
9 (2002); Bloshenko v. Dept. of Social and Health Services, PAB Case No. DISM-00-0080 (2002).
10 In addition, the sanction of demotion is not too severe. In this case, demotion to a non-
11 supervisory position should be sufficient to prevent recurrence, to deter others from similar
12 misconduct and to maintain the integrity of the program.

13
14 4.12 Under the totality of the proven facts and circumstances, the disciplinary sanction of
15 demotion is appropriate. The appeal should be denied.

16
17 **V. ORDER**

18 NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal of Tabo Mack is denied.

19 DATED this ____ day of _____, 2008.

20 WASHINGTON PERSONNEL RESOURCES BOARD

21
22
23 _____
JOSEPH PINZONE, Vice Chair

24
25 _____
LAURA ANDERSON, Member