



STATECIVILSERVICE

Shelly Sebastian
versus
Louisiana State Police
Retirement System

Byron P. Decoteau, Jr., Director

Post Office Box 94111

Baton Rouge, LA 70804-9111

225.342.8274

Appeals Division, 225.342.8070

scsinfo@la.gov

civilservice.la.gov

State of Louisiana
Civil Service Commission
Docket No. S-18539

Notice to Agency of Possible Defects

To: Louisiana State Police
Retirement System
Through its counsel of record
Linda Law Clark
732 North Blvd.
Baton Rouge, LA 70802

Date mailed: June 21, 2019

Appellant, in her appeal, stated that certain allegations contained within her disciplinary letter dated March 26, 2019 lack the factual detail and specificity necessary to fully inform her of the conduct she is charged with and to enable her to prepare a defense. Additionally, in her appeal, Appellant also alleges that her pre-deprivation notices (pre-deprivation letters dated March 11, 2019 and March 22, 2019) likewise did not provide her the factual detail and specificity necessary to allow her an opportunity to properly respond to all of the allegations made against her. Similarly, Appellant, in her appeal, alleges that all of the attachments referenced in her pre-deprivation notices and the disciplinary letter were not attached as stated in such letters. In response to these defenses raised by Appellant, I hereby submit this notice.

Civil Service Rule 12.7 states:

When an appointing authority proposes to discipline or remove a permanent employee, the employee must be given oral or written notice of the proposed action, the factual basis for and a description of the evidence supporting the proposed action, and a reasonable opportunity to respond.

Civil Service 12.8 states:

When an appointing authority decides to discipline or remove a permanent employee, the employee must be given written notice of the action being taken before the time the action becomes effective. The written notice must:

- (a) state what action is being taken and the date and time the action will become effective;*
- (b) describe in detail the conduct for which the action is being taken including, where pertinent, dates, times, places, and names of persons directly involved in or affected by such conduct (unless their identities are protected by law, in which case, identification may be made as permitted by law);*
- (c) contain the following notice: "You have the right to appeal this action to the State Civil Service Commission within 30 calendar days following the date you receive this notice. The appeal procedure is contained in Chapter 13 of the Civil Service Rules, which is available from the Department of State Civil Service or your Human Resource office."*

Civil Service Rules 12.7 and 12.8 require that the pre-deprivation and disciplinary letters contain sufficient specific details so that the employee may be able to properly defend against such charges. Therefore, I will address Ms. Sebastian's disciplinary letter and her pre-deprivation notice charge by charge as to whether or not it appears that the agency provided sufficient specific facts as to such charges. In this notice, I will only reference the disciplinary letter as the pre-deprivation letters contain the same charges as referenced in the disciplinary letter dated March 26, 2019.

At the outset, I hereby request that the Agency respond to the appellant's allegations that all of the attachments referenced in her pre-deprivation letters and in her disciplinary letter were not attached to such letters.

As to allegation number one contained in Ms. Sebastian's disciplinary letter, which is contained in the first full paragraph on page two of the disciplinary letter which begins, "a) On April 9, 2014", this charge does not specify what "files" are referenced, the specific due dates of the "filing" and/or when the referenced "files" were eventually filed, if at all. Additionally, this charge is approximately five years old and appears to be stale. Therefore, it appears that there are insufficient details contained in allegation number one and that it is such an old charge that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number two contained in Ms. Sebastian's disciplinary letter, which is contained in the second full paragraph on page two of the disciplinary letter which begins, "b) On July 31, 2014", this charge does not appear to be a charge. This allegation appears to be in support of other allegations contained within the disciplinary letter and this alleged charge does not provide specific facts nor does it provide specific dates. Additionally, appellant in her appeal states that she did not receive a copy of LSPRS's Policy and Procedure Manual (i.e. Exhibit A to disciplinary letter) with her disciplinary letter. Additionally, this charge is approximately five years old and appears to be stale. Therefore, it appears that there are insufficient details contained in allegation number two and that it is such an old charge that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number three contained in Ms. Sebastian's disciplinary letter, which is contained in the third full paragraph on page two of the disciplinary letter which begins, "c) On November 3, 2014," this charge does not specify how the annual statements were split between appellant, Ms. Gann and Ms. Facundus (i.e. evenly, etc.). Additionally, this charge is approximately four and a half years old and appears to be stale. Therefore, it appears that there are insufficient details contained in allegation number three and that it is such an old charge that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number four contained in Ms. Sebastian's disciplinary letter, which is contained in the fourth full paragraph on page two of the disciplinary letter which begins, "d) On December 16, 2014", it appears that this charge was sufficiently pled so as to comply with Civil Service Rules 12.7 and 12.8.

As to allegation number five contained in Ms. Sebastian's disciplinary letter, which is contained in the fifth full paragraph on page two of the disciplinary letter which begins, "e) On February 27, 2015", this charge is too general and vague. In particular, this charge does not specify exactly what clutter appellant had on her desk on February 27, 2015 and in November of 2018. Additionally, this charge does not give the specific date or dates in November of 2018 that appellant had several boxes of new shoes, a painting and other clutter on her desk. Although Exhibit K is a photo of items on appellant's desk, it is unclear what the "many other items" are exactly. Therefore, it appears that there are insufficient details contained in allegation number five such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number six contained in Ms. Sebastian's disciplinary letter, which is contained in the sixth full paragraph on page two of the disciplinary letter which begins, "f) On September 18, 2015", this charge has two parts. Initially, in the first part of this charge, it states that Ms. Gann was trying to locate the system's actuarial report dated

June 30, 2014. However, this part of the charge goes on to state that Ms. Gann located reports (i.e. plural) in a stack of filing dating back almost one year. It is unclear how many other reports were located and it is not specified what those reports were exactly. The second part of this charge states that there were dozens of returned mail envelopes. However, this part of the charge does not specify or identify exactly which envelopes were returned nor does it specify exactly what material or information was enclosed in the returned envelopes. Therefore, it appears that there are insufficient details contained in allegation number six such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number seven contained in Ms. Sebastian's disciplinary letter, which begins in the seventh paragraph on bottom of page two and ends at the top of page three of the disciplinary letter which charge begins, "g) On December 15, 2017", it appears that this charge was sufficiently pled so as to comply with Civil Service Rules 12.7 and 12.8.

As to allegation number eight contained in Ms. Sebastian's disciplinary letter, which is contained in the first full paragraph on page three of the disciplinary letter which begins, "h) Kimberly Gann had to", this charge is vague. This charge fails to specify exactly why it was appellant's duty to prepare the minutes for the October 24, 2018 Board meeting (i.e. was this an on-going and continuous duty of appellant or was this an order given on a specific date?, etc.). Therefore, it appears that there are insufficient details contained in allegation number eight such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number nine contained in Ms. Sebastian's disciplinary letter, which is contained in the second full paragraph on page three of the disciplinary letter which begins, "i) On November 14, 2018", it appears that this charge was sufficiently pled so as to comply with Civil Service Rules 12.7 and 12.8.

As to allegation number ten contained in Ms. Sebastian's disciplinary letter, which is contained in the first full paragraph on page four of the disciplinary letter which begins, "a) On October 23, 2014", this charge is vague as it does not specify the reason for the argument and it does not state who caused the argument to occur. Therefore, it appears that there are insufficient details contained in allegation number ten such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number eleven contained in Ms. Sebastian's disciplinary letter, which is contained in the second full paragraph on page four of the disciplinary letter which begins, "b) On December 16, 2014", it appears that this charge was sufficiently pled so as to comply with Civil Service Rules 12.7 and 12.8.

As to allegation number twelve contained in Ms. Sebastian's disciplinary letter, which is contained in the third full paragraph on page four of the disciplinary letter which begins, "c) Due to your continued conflict", it appears that this is not a charge, but rather that this allegation appears to support other allegations contained within appellant's disciplinary letter. Please specify if this is a charge. If so, please state how and why it is a charge.

As to allegation number thirteen contained in Ms. Sebastian's disciplinary letter, which is contained in the fourth full paragraph on page four of the disciplinary letter which begins, "d) On July 28, 2016", this charge is vague as it does not specify the corrections referenced in this charge. Furthermore, as to the sentence, "And I would like to inject at this point ...", there are no specific details provided in relation to this part of the charge. Therefore, it appears that there are insufficient details contained in allegation number thirteen such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number fourteen contained in Ms. Sebastian's disciplinary letter, which is contained in the fifth full paragraph on page four of the disciplinary letter which

begins, "e) On August 29, 2016", it appears that this is not a charge, but rather that this allegation appears to support other allegations contained within appellant's disciplinary letter. Please specify if this is a charge. If so, please state how and why it is a charge.

As to allegation number fifteen contained in Ms. Sebastian's disciplinary letter, which is contained in the first full paragraph on page five of the disciplinary letter which begins, "f) On August 8, 2017", this charge fails to specify the dates and specific times that appellant was late for work (i.e. time appellant was supposed to be at work and the actual time when she showed up for work with the dates for all such instances). Otherwise, it appears that this is not a charge, but rather that this allegation appears to support other allegations contained within appellant's disciplinary letter. Please specify if this is a charge. If so, please state how and why it is a charge.

As to allegation number sixteen contained in Ms. Sebastian's disciplinary letter, which is contained in the second full paragraph on page five of the disciplinary letter which begins, "g) On August 29, 2018", it appears that this is not a charge, but rather that this allegation appears to support other allegations contained within appellant's disciplinary letter. Please specify if this is a charge. If so, please state how and why it is a charge.

As to allegation number seventeen contained in Ms. Sebastian's disciplinary letter, which is contained in the third full paragraph on page five of the disciplinary letter which begins, "h) In October 2018", this charge fails to specify the dates and specific times as well as exactly what appellant failed to do and/or erroneously did in connection with this charge. Therefore, it appears that there are insufficient details contained in allegation number seventeen such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number eighteen contained in Ms. Sebastian's disciplinary letter, which is contained in the fourth full paragraph on page five of the disciplinary letter which begins, "i) On November 5, 2018", this charge fails to provide specific details about exactly what were appellant's complaints, exactly what names appellant called Ms. Gann, etc.. Therefore, it appears that there are insufficient details contained in allegation number eighteen such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number nineteen contained in Ms. Sebastian's disciplinary letter, which is contained in the first full paragraph on page six of the disciplinary letter which begins, "a) On April 9, 2014", this charge fails to provide specific dates and times; and specific facts as to exactly what appellant did or failed to do as to Ms. Gann in connection with this charge. Therefore, it appears that there are insufficient details contained in allegation number nineteen such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number twenty contained in Ms. Sebastian's disciplinary letter, which is contained in the second full paragraph on page six of the disciplinary letter which begins, "b) On October 23, 2014", this charge fails to provide specific facts as to exactly what appellant did or failed to do as to Ms. Gann and/or Mr. Felps in connection with this charge. Therefore, it appears that there are insufficient details contained in allegation number twenty such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number twenty one contained in Ms. Sebastian's disciplinary letter, which is contained in the third full paragraph on page six of the disciplinary letter which begins, "c) On December 16, 2014", this charge fails to specify exactly how appellant "attempted to engage Ms. Gann in a heated exchange" in connection with this charge. Therefore, it appears that there are insufficient details contained in allegation number twenty one such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number twenty two contained in Ms. Sebastian's disciplinary letter, which is contained in the fourth full paragraph on page six of the disciplinary letter which begins, "d) After Performance Evaluation Sessions", this charge fails to specify how

appellant "became antagonistic toward Kimberly Gann" in connection with this charge. This charge also fails to specify how appellant attempted to engage Mr. Felps in derogatory conversations about Ms. Gann. Therefore, it appears that there are insufficient details contained in allegation number twenty two such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number twenty three contained in Ms. Sebastian's disciplinary letter, which is contained in the fifth full paragraph on page six of the disciplinary letter which begins, "e) From September 14, 2017 through October 13, 2017", this charge fails to provide specific dates and times; and specific facts as to exactly what appellant did or failed to do in connection with this charge. Therefore, it appears that there are insufficient details contained in allegation number twenty three such that Ms. Sebastian would not be able to prepare a defense to such charge.

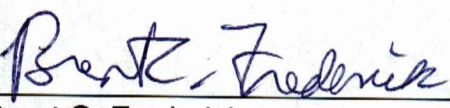
As to allegation number twenty four contained in Ms. Sebastian's disciplinary letter, which is contained in the first full paragraph on page seven of the disciplinary letter which begins, "f) On November 7, 2018", this charge does not specify how appellant became insubordinate and verbally abusive toward her supervisor Kimberly Gann in connection with this charge. This charge also fails to specify exactly how appellant was very antagonistic toward Ms. Gann. Therefore, it appears that there are insufficient details contained in allegation number twenty four such that Ms. Sebastian would not be able to prepare a defense to such charge.

As to allegation number twenty five contained in Ms. Sebastian's disciplinary letter, which is contained in the second full paragraph on page seven of the disciplinary letter which begins, "g) On November 13, 2018", it appears that this charge was sufficiently pled so as to comply with Civil Service Rules 12.7 and 12.8.

As to allegation number twenty six contained in Ms. Sebastian's disciplinary letter, which is contained beginning in the bottom full paragraph on page seven of the disciplinary letter and includes subsections "a)" through "e)" on pages eight through ten, it appears that this charge was sufficiently pled so as to comply with Civil Service Rules 12.7 and 12.8.

As to allegation number twenty seven contained in Ms. Sebastian's disciplinary letter, which is contained in the bottom full paragraph on page ten of the disciplinary letter which begins, "**V. Failure to Comply with LSPRS Drug Policy**", it appears that this charge was sufficiently pled so as to comply with Civil Service Rules 12.7 and 12.8.

Therefore, the Louisiana State Police Retirement System is hereby given fifteen (15) calendar days from the date of this notice to show cause in writing why I should not strike certain allegations from Ms. Sebastian's disciplinary letter dated March 26, 2019 and from her pre-deprivation notices, due to the defects referenced above.


Brent C. Frederick
Civil Service Commission Referee

cc: Tammeral Hills
Kimberly Gann
Pending file

NOTICE: All Civil Service Rule(s) referenced above can be viewed at the
Department of State Civil Service website: www.civilservice.la.gov