



Commissioner
Adelaide Horn

July 8, 2009

Mr. Donnell Smith

- prosecuted

Notice of Possible Disciplinary Action:

Dear Mr. Smith,

I have received an allegation that on June 6, 2009, you physically abused, ~~emotionally/verbally abused~~ and neglected Individual #1172 who resided at Lubbock State-Supported Living Center (Lu.S.S.L.C.). The allegations read: It is alleged that Donnell Smith emotionally/verbally abused Individual #1172 by mocking him while sitting on him on 6/6/09. It is alleged that Donnell Smith neglected Individual #1172 on 6/6/09 by failing to immediately implement CPR and call for medical assistance when Individual #1172 became unresponsive. It is alleged that Donnell Smith physically abused Individual #1172 on 6/6/09 by sitting on him and lying on top of him to hold him down one or more times, thereby implementing improper restraints, and/or by choking him. These allegations were investigated by the Texas Department of Family and Protective Services, Adult Protective Services by Gail Jackson, APS Supervisor I, who confirmed physical abuse (class 1), emotional/verbal abuse and neglect by you against individual #1172. These allegations are still under investigation by the Lubbock Police Department and the Office of Inspector General.

It should be noted that Individual #1172 was not to be restrained for any reason, even in the case of an emergency. This was per his Positive Behavior Support Plan on which all staff had been trained. Additionally, you have received training in the Prevention and Management of Aggressive Behavior (PMAB) most recently on December 18, 2008.

The evidence in support of this finding includes the following statements:

Craig Stevenson, Direct Support Staff, stated in part: Around 9 am, you asked if Individual #1172 was still agitated. You then followed him back into the bedroom. When you got to the bedroom, Individual #1172 was agitated and you were telling him to calm down, but he was being aggressive, trying to push you out of the way so that he could leave the room. You then got him in a standing baskethold and went down to the bed, with you holding him down on his side. After 5-10 minutes, Individual #1172 stopped being aggressive and Mr. Stevenson looked up at his face. He noted that he looked like he was choking and so told you to stop, that you were choking Individual #1172. He stated that Individual #1172's face was turning blue and that there was a towel around his neck and it looked like you were holding onto it. You then stood up and stated that he was still going to be agitated.

Jessica Santos, Direct Support Staff, stated in part: At approximately 10:45 am you walked into Individual #1172's room to assist her and told her to get another set of clothes. You then signed on to take over Individual #1172's supervision at 11:05 am. When she returned to the room, she stated that you then put Individual #1172 in a bear hug, picked him up and slammed him on the bed and lay on top of him (to hold him down) while she put on his underwear, shorts, socks and shoes. She stated that his head hit the mattress first at the head of the bed. She stated that you were lying on his chest to stomach area. After she finished dressing him, she stated that you got up and grabbed the gray shirt and put it on him. He stood up and tried to take the shirt off, but you held it down which caused the shirt to tear on one of the shoulders. She left the room to get another shirt. When she returned to the room Individual #1172 was

asleep on the mat on the floor and was not wearing the gray shirt. She stated that you then walked out of the room without speaking to her. Seconds later, you returned with another staff member, Abrisha Henderson. You then gave Individual #1172 A hard tap on his shoulder with your hand. When he tried to get up, you wrapped your arms under his arms and picked him up with you facing each other. Individual #1172 barely moved his feet as you walked at your normal pace. You then shoved him onto his bed and his feet caught the edge of the bed. You had to catch yourself to prevent falling on him. You got your arms out from underneath him and then laid on him. She states that you laid on him for more than three minutes. When you got off of Individual #1172, he never moved again. She stated that at that point she said that he looked dead and you put a shirt on him, picked him up and put him on the mat with his feet dragging. You then left the room. You returned with the oxygen tank and took time to get the mask out. You assisted with CPR after Amaya Harper instructed you to do so.

Amaya Harper, Home Team Leader, stated in part: She assigned Jessica Santos to supervise Individual #1172, and you were shadowing her to provide assistance. She stated that at approximately 11:55 am, Abrisha Henderson came to the office and asked her to check on Individual #1172 because he was unresponsive. She said that then they reached the back, Individual #1172 was lying on a mat with you kneeling on the other side, checking for a pulse. She then told you to start CPR. Ms. Harper stated that after nursing staff arrived and took over CPR she asked you what had happened and you told her that Individual #1172 had been agitated and started jumping on the bed, causing him to hit his head and fall to the ground and stop breathing.

Abrisha Henderson, Direct Support Staff, stated in part: While in the room next to Individual #1172's, she heard a noise and went to check on it. When she entered she saw Individual #1172 Lying on the floor with you kneeling by him. She stated that his color looked dark grayish blue. She stated that you looked like you were in shock or in a panic.

You made multiple statements to Lubbock State Supported Living Center Personnel, DFPS Investigators and Police Investigators. Your story appeared to change with each interview. In your original statement to Lu.S.S.L.C. personnel, you stated that Individual #1172 jerked away when you attempting to put a shirt on him and that he appeared to hit his head/neck area on the wall next to his bed. You stated that he looked ok and that he told you he was ok. You stated that you finished dressing him, then noticed that he was pale and appeared to be resting or asleep. You attempted to revive him, which was unsuccessful, so CPR was started until the nurses arrived.

In a statement that you made to the DFPS Investigator, you stated that you attempted to calm Individual #1172 Down by verbally discussing it with him and when that was unsuccessful, you did lie across the midsection of his body, with your body perpendicular to his. You stated that at first he was hitting you on the back. You stated that you had used this technique in the past to calm him down. You stated that he pulled away from you as you were attempting to put a shirt on him and that he fell back on the bed, hitting his head on the wall. You also admitted to laying across him again, while Abrisha Henderson put his shoes on him. You stated that while you were laying on his chest, he appeared to go to sleep and started making a snoring sound.

In a statement made to the Police Investigator, you denied putting your hands on Individual #1172. You did state that at one point during the morning, you knew that he was going to come at you, so you grabbed a blanket. When he swung at you, you wrapped the blanket around him which caused him to fall to the floor. You then put him on a mat while he continued to struggle. While he was lying on his back, you laid your body horizontally over his stomach. In this statement you also admitted that while he was laying on the bed, you sat on him stating that it was, 'like sitting on his lap with my butt on him... singing a song and mocking him.' You admitted to grabbing him and putting him on the bed and laying on him, from his ribs down. You stated that you noticed that he was limp, but still snoring. When you pulling his shirt down, he fell back. That is when you noticed that his pulse was vague. You left to go get the oxygen tank.

In a later interview with DFPS Investigators, you stated that Individual #1172 was attempting to attack Jessica Santos, and that is when you wrapped a blanket around him, put him on the floor and lay on him perpendicular to his torso. At that point, you also admitted to sitting on his lap, mocking him.

Physical abuse is defined in the Texas Administrative Code as (1) an act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served; (2) an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served; or (3) the use of chemical or bodily restraints on a person served not in compliance with federal and state laws and regulations.

Neglect is defined in the Texas Administrative Code as a negligent act or omission by any individual responsible for providing services to a person served, which caused or may have caused physical or emotional injury or death to a person served or which placed a person served at risk of physical or emotional injury or death. Neglect includes, but is not limited to, the failure to: (1) establish or carry out an appropriate individual program plan or treatment plan for a person served, if such failure results in a specific incident or allegation involving a person served; (2) provide adequate nutrition, clothing, or health care to a specific person served in a residential or inpatient program; or (3) provide a safe environment for a specific person served, including failure to maintain adequate numbers of appropriately trained staff, if such failure results in a specific incident or allegation involving a person served.

Verbal/emotional abuse is defined in the Texas Administrative code as any act or use of verbal or other communication, including gestures to: (1) curse, vilify, or degrade a person served; or (2) threaten a person served with physical or emotional harm. In order for the definition to be met, the act or communication must: (1) result in observable distress or harm to the person served; or (2) be of such a serious nature that a reasonable person would consider it harmful or causing distress.

The credible evidence shows that on June 6, 2009, you lay on top of Individual #1172 more than once, and also sat on him. These actions constituted improper restraints and do meet the definition of physical abuse. The allegation of physical abuse (class 1) has been confirmed.

The credible evidence shows that on June 6, 2009, you mocked Individual #1172 by imitating sounds he was making while you sat on Individual #1172. This was tantamount to ridiculing or degrading the person served. The allegation of emotional/verbal abuse has been confirmed.

The credible evidence shows that on June 6, 2009, you neglected Individual #1172 by failing to immediately start CPR and call for medical assistance when he became unresponsive. The allegation of neglect has been confirmed.

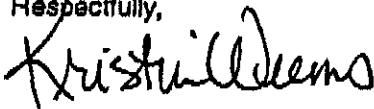
These allegations, if true, are grounds for a disciplinary action. The disciplinary action for a confirmation of neglect, as described in Title 40 Texas Administrative Code, Part 1, Chapter 7, Subchapter K, Section 7.512, includes suspension without pay for up to 10 days, demotion, or dismissal from employment. Further, abuse of an individual who lives at a State-Supported Living Center violates HHS work rules 1, 2, and 28, which state that, HHS employees:

- must be familiar with and follow all HHS policies and procedures relating to job performance and work rules;
- must perform their job duties, meet HHS standards for job performance, and follow job-related instructions from HHS supervisors; and
- must not act in a manner that interferes with the proper performance of duties, office operations, or HHS agency and program goals and objectives, or act in a manner that violates HHS agency or program rules, regulations or policies. (See HHS Human Resources Manual, Chapter 4, Employee Conduct).

Abuse and Neglect of an individual who lives at a State-Supported Living Center also violates Lubbock State-Supported Living Center policy, Client Management 01 – "Investigation of Client Abuse/Neglect/Exploitation." DADS Operational Handbook, Part E, Section 11000, requires that any confirmation of abuse or neglect by a State-Supported Living Center employee will result in dismissal, and HHS Human Resources Manual, Chapter 11, Subchapter B, provides that disciplinary actions resulting in dismissal for cause are generally initiated because of major offenses, including, but not limited to: patient/client abuse or neglect.


Before I decide what action, if any, would be appropriate in this matter, I want to give you the opportunity to provide me with any information which you feel is relevant to these allegations or which might mitigate the circumstances. You may present this information to me personally, either orally or in writing, or both, in my office at 2:00 pm on July 9, 2009.

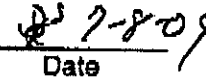
Respectfully,



Kristin Weems
Director

I have received a copy of this Notice of Possible Adverse Personnel Action.


Donnell Smith


Date

cc: Incident Management File
Personnel File



COMMISSIONER
Adelaide Horn
Kendrick Busby
February 8, 2006
Page 1 of 3

February 8, 2006

Kendrick Busby
Fannin Villa
Brenham, State School

Dear Mr. Kendrick Busby:

This letter is in response to the allegations set forth in my letter to you dated February 7, 2006, in which you were asked to give a verbal or written rebuttal on February 8, 2006.

On February 8, 2006, you presented a verbal rebuttal to myself, Alex Colvin, Fannin Villa Residence Director, Andrea Miller, Assistant Superintendent of Programs, and Robert Ham, Superintendent of Brenham State School. You had your wife Sherry Busby present to serve as a witness. You presented the following verbal statement as your rebuttal.

❖ I do not have any additional information to give and I did not do this to

After hearing your rebuttal and your responses to my letter dated February 7, 2006, I have made the following determinations.

- It has been determined that on December 5, 2005 you were assigned as the 1:1 monitor for resident
- It has been determined that between approximately 5:55 a.m. and 6:30 a.m. on the morning on December 5, 2005, while in the bedroom and the bathroom at Fannin Home D at the Brenham State School, you hit, kick and/or otherwise struck resident resulting in that resident receiving three fractured ribs, a lacerated liver and bruising to the abdominal area.
- It has been determined that resident was witnessed to be unsteady and was "carried" to the bathroom by you and Mr. Johnny Young.
- It has been determined that the following staff, Sheila Aldridge, Mirenda Andrews and Katherine Lovings witnessed you "carrying" resident into the bathroom with Mr. Johnny Young assisting you.
- It has been determined that you were left alone with resident in the bathroom of Fannin Villa Home D while Mr. Johnny Young went to get the nurse.
- It has been determined that resident old Investigator Susan Dehart and staff Pamela Rhoades that "Kendrick hit in the back. back hurt".
- It has been determined that resident told Investigator Susan Dehart that this incident happened in the bathroom on the bench after shower.
- It has been determined by Susan Dehart, Investigator for Department of Family and Protective Services (DFPS), that abuse occurred with resident. It is also determined through her investigation a finding of Class I Abuse was confirmed.
- The Department of Family and Protective Services as well as the Superintendent have determined that your conduct in this incident constitutes Class I abuse.



COMMISSIONER
Adelaide Horn
Kendrick Busby
February 8, 2006
Page 2 of 3

Class I abuse is defined to include "physical abuse which caused or may have caused serious physical injury." 40 Texas Administrative Code Section 7.512 (a)(1)(A).

- An act or failure to act performed knowingly, recklessly, or intentionally including incitement to act, which caused or may have caused physical injury or death to a person served.
- An act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served; or
- The use of chemical or bodily restraints on a person served not in compliance with federal and state laws and regulations, including;
- Chapter 405, Subchapter F of this title (concerning Voluntary and Involuntary Behavioral Interventions in Mental Health Programs); and
- Chapter 405, Subchapter H of this title (concerning Behavior Management – Facilities Serving Persons with Mental Retardation). 40 Texas Administrative Code Section 7.504 (b)(1)(A).

I have further based my determination on the following:

- On July 5, 2004, you signed a Brenham State School Zero Tolerance Policy. This policy states:
"Any employee confirmed/substantiated of "Class I" resident abuse by the Texas Department of Family and Protective Services or the Texas Department of Human Services and Brenham State School's Facility Review which results in a "serious injury" to an individual served will be terminated from employment."
Your signature to this memo signified your understanding that confirmed/substantiated Class I abuse, which results in a "serious injury", would result in your termination from Brenham State School.

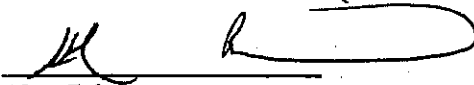
I have determined that these allegations are true and constitute grounds for dismissal under the Health and Human Services Commission policy Chapter 11, disciplinary actions, which states "disciplinary actions resulting in dismissal for cause are generally initiated because of patient/resident abuse or neglect". I have also determined based on Brenham State School's Zero Tolerance Work Behavior Policy that your actions in these incidents constitute grounds for dismissal from employment with Brenham State School.

Therefore, you are terminated from employment with Brenham State School effective 1:08pm
February 8, 2006. (Time)

Attached is a copy of the HHS policy Chapter 13 "Grievances".

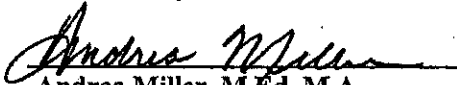


COMMISSIONER
Adelaide Horn
Kendrick Busby
February 8, 2006
Page 3 of 3



Alex Colvin
Residence Director
Fannin Villa


Witnessed by:



Andrea Miller, M.Ed, M.A.
Assistant Superintendent of Programs

cc: Andrea Miller
Robert Ham
Employee Personnel File

I have received a copy of this Notice of Termination.



Kendrick Busby
February 8, 2006
Date



COMMISSIONER
Adelaide Horn

March 20, 2008

Pamela Neal

Mental Retardation Assistant I
Woodhollow Unit
Austin State School

Subject: Notice of Possible Disciplinary Action

Dear Ms. Neal:

The following allegations regarding your conduct have come to my attention. The basis of this notice is alleged physical abuse. It is alleged that you committed Class I physical abuse towards individual

Specifically, it is alleged that on January 18, 2008 at 786 S. Meadow Circle, you pulled [redacted] off the couch, drug him across the floor, and charged him causing him to fall and hit his head, [redacted] received a carpet burn/abrasion to his lower back and upper buttocks and an injury to the middle of his forehead.

Olivia Hunt, Mental Retardation Assistant, states that on January 18, 2008 at 6:00 p.m. Nicole asked her to take [redacted] to see the nurse. Ms. Hunt states that [redacted] started "screaming and finally walked out of the room." She states the nurse was "coming towards the room and pulled her to the ground." She states she and you helped release her. She states the nurse left and [redacted] "began to calm down and then started to attack staff and two clients." She states she gave verbal prompts to calm [redacted] down and you got him to sit down." She states that [redacted] started kicking at (you) while sitting down but his feet never came into contact with (you)." Ms. Hunt states that you "grabbed [redacted] by the ankles onto the floor and then grabbed his hands and drug him from the couch to the nurses' office." She states she "asked (you) to stop and (you) finally let go." She states [redacted] got up and started to attack Nicole." She states you "charged him, causing him to hit his head on the edge of the wall." She states [redacted] got up and went to his room. Ms. Hunt states she then checked his back and asked "everyone to please tell the truth about everything." She states that you, Ruth and Nicole were present and the incident happened right after dinner. Ms. Hunt states that "Ruth asked her and Nicole to lie and started making up things and saying you don't have to say what happened."

Nicole Fancot, Mental Retardation Assistant, states that on January 18, 2008, at "about 5:30 or 6:00" [redacted] was "having a behavior problem." She states the nurse was asked to look at his knee. She states she asked Olivia to get [redacted] so the nurse could look at him but when the nurse looked at his knee [redacted] pulled her down by grabbing her leg. Ms. Fancot states she helped the nurse up and shortly after the nurse left [redacted] ran into the living room started turning furniture over and attacked staff and clients. She states "eventually [redacted] went to sit on the couch and (you) intervened." She states "while [redacted] was kicking at (you) he did not kick (you) so (you) pulled [redacted] off the couch by his leg and dragged him by the nurse's office and then when [redacted] I tried to get up (you) attached [redacted] and made him hit his head

Pamela Neal

March 17, 2008

Page 2 of 3

on the wall close to the nurse's office." Ms. Fancot states that "same night Ruth told her and Olivia to not tell everything that happened." She states that Ruth, you, Olivia and she were there during the incident."

Ruth Saylee, Mental Retardation Assistant, states that on January 18, 2008, she "showered when [redacted] was having behaviors and did not see (you) abuse [redacted]". She states "Nicole came to the shower to tell her that [redacted] as having behaviors..." She states she "did not hear what was going on because she was in the back and did not see (you) drag [redacted] or cause him to hit his head."

In regards to this allegation, you stated that on January 18, 2008 you were assigned to Group 1. You state the Nurse came to pass med and Olivia asked the nurse to look at [redacted] knee." You state that "[redacted] grabbed the nurse and took her down on the floor." You state the "staff released nurse from [redacted] who came in the front living room screaming loud." You state you do "not know what upset [redacted] but staff asked [redacted] to calm down." You stated "started hitting, kicking, pushing clients and staff, throwing his shoes at clients, moving furniture from living room into the dining room." You state "staff were moving clients out of the way and that clients were getting loud and acting out. You state you "went to help redirect because he was out of control." You state you were "helping by escorting [redacted] out of the living room away from clients when [redacted] fell down between the doorway screaming and kicking." You state you "helped [redacted] up and you and Olivia notice a red mark on his forehead." You state you "notified nurse, OD and campus coordinator." You state staff in the area at the time was "Nicole, Olivia, Ruth and you." You state "at no time did (you) physically touch [redacted] or drag [redacted] across the floor causing a mark on his forehead."

The Protective and Regulatory Services Investigator, Anita Overton, investigated this incident and it was reviewed by the Austin State School Review Authority. It is their determination that you actions in this instance constituted Class I Physical Abuse towards individual,

The Superintendent of Austin State School has concurred with the findings of Class I Physical Abuse in this incident.

Physical abuse is defined as "an act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served; an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served; ..."

This allegation, if true, may constitute grounds for disciplinary action under the HHSC Human Resources Manual, Chapter 11, Disciplinary Actions, which states, Certain employee actions and behaviors most likely will result in dismissal from employment, and include the following offenses: confirmed client abuse or neglect.

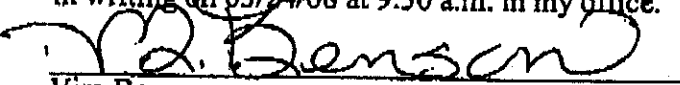
The Department of Aging and Disability Services (DADS) Office of Management Support and Oversight of State Schools issued Policy Directive 07-008 on July 24, 2007 which addresses Dismissal for Abuse or Neglect and states that: "...any DFPS finding that confirms Class I or Class II Abuse will result in dismissal. In addition, any confirmation of neglect that resulted in any degree of physical harm to a state school resident by a state school employee will result in dismissal. No exceptions to these policies will be tolerated.

Pamela Neal

March 17, 2008

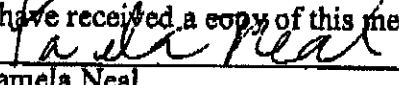
Page 3 of 3

Before a decision is made about what action, if any, is appropriate regarding this matter, I would like for you to provide me with any information which you feel is relevant to this situation or which might mitigate the circumstances. Please provide this information to me either orally or in writing on 03/24/08 at 9:30 a.m. in my office.

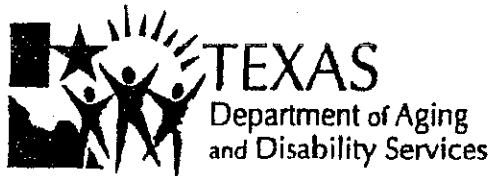

Vira Benson
Woodhollow Unit Director

03/20/08
Date

I have received a copy of this memo on this date.


Pamela Neal
cc: Department File
Jennifer Mears

3/20/08
Date



Corpus Christi State School
P.O. Box 9297
Corpus Christi, TX
78469-9297
(361) 888-5301

Nathan Howard
Atlantic Unit
Date: 10/27/08

Dear: Mr. Howard,

I have received an allegation that on August 15, 2008, you physically abused a resident of this school. This allegation was investigated by the Texas Department of Family and Protective Services, Adult Protective Services, which confirmed Class 1 physical abuse by you against consumer #436. The evidence in support of this finding includes the following.

- Ms. Linda Lopez indicated that she had come to Kingfish 2 after being called and told that the resident had fallen. When she arrived she observed consumer #436 sting on the recliner in the living room with some redness to the left side of his face. She and the nurse, Jennifer Deleon asked consumer #436 what had happened and he replied "A big guy" hit him with a belt. Ms. Lopez asked for all male staff to come to the living room. When Mr. Howard came up, consumer #436 pointed at Mr. Howard and said "belt".
- Ms. Deleon indicated in her statement she was on Kingfish 2 and heard screaming from the back. She identified the person screaming as consumer #436. She further indicated that, he was screaming that the big guy hit him on his mouth and face with a belt. Ms. Deleon stated that when assessing consumer #436 it did appear that his injuries were consistent with getting hit in the face with a belt.
- Maria Gomez indicated that she was assisting the investigator during his interview with consumer #436. During the interview, consumer #436 needed to be changed. When she lifted up his shirt, he said "ouch". When she looked at him she noticed a mark on his left side that looked like a belt mark with a pattern. This same type of mark was on consumer #436 neck. Consumer #436 again stated "the boy", but did not say what happened.
- A second interview with you indicated that you reported that you had seen the photograph of the injury to consumer #436 abdomen and that you "could see that the pattern could be similar to the pattern on my belt".



Physical abuse is defined in Title 40 Texas Administrative Code, Part 1, Rule 7.504 as "an act or failure to act performed knowingly, recklessly, or intentionally, . . . which caused or may have caused physical injury or death to a person served; . . . an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served . . ." By hitting I with a belt this would fall in that definition.

This allegation, if true, is grounds for disciplinary action. The disciplinary action for a confirmation of Class 1 physical abuse, as described in 40 Texas Administrative Code, Part 1, Chapter 7, Subchapter K, Section 7.512, includes suspension without pay for up to 10 days, demotion, or dismissal from employment. Further, abuse of a state school resident violates HHS work rules 1, 2, and 28, which state that HHS employees:

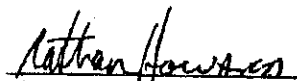
- must be familiar with and follow all HHS policies and procedures relating to job performance and work rules;
- must perform their job duties, meet HHS standards for job performance, and follow job-related instructions from HHS supervisors; and
- must not act in a manner that interferes with the proper performance of duties, office operations, or HHS agency and program goals and objectives, or act in a manner that violates HHS agency or program rules, regulations or policies. (See HHS Human Resources Manual, Chapter 4, Employee Conduct).

Abuse of a state school resident also violates Corpus Christi State School policy, Client Management 01 – "Investigation of Client Abuse/Neglect/Exploitation." DADS Operational Handbook, Part E, Section 11000, requires that any confirmation of abuse by a state school employee will result in dismissal, and HHS Human Resources Manual, Chapter 11, subchapter B, provides that disciplinary actions resulting in dismissal for cause are generally initiated because of major offenses, including, but not limited to: patient/client abuse or neglect.

Before I decide what action, if any, would be appropriate in this matter, I want to give you the opportunity to provide me with any information which you feel is relevant to this allegation or which might mitigate the circumstances. You may present this information to me personally, either orally or in writing, or both, in my office at 2:00 p.m. on October 28, 2008.


Everett Bush
Atlantic Unit Director


Meredith Grantham
Assistant Superintendent of Programs



Signature acknowledges receipt of letter and rebuttal procedures

May 17, 2001

Chloma lheanacho

Westridge 10/6 Trainer

Ms. lheanacho,

I have received an allegation concerning you and your job performance. It is outlined below:

March 29, 2001, James Barnett, 6/2 Residential Supervisor for Hillcrest at building 519, and Carolyn Medcafe, 6/2 Trainer, were assigned to work in HC. At approximately 7:00 a.m. Mr. Barnett woke Resident #1643 and told him to go to the bathroom to prepare for his morning shower. When Resident #1643 took his clothes off, Mr. Barnett noted that he had several dark, purple bruises on one arm and both buttocks. Mr. Barnett also noted some red marks on the resident's face. Mr. Barnett called Ms. Medcafe to the men's bathroom to witness the marks. Mr. Barnett found no documentation of the injuries, thus contacted Teresa Chi, 6/2 RN for Westridge, and initiated an injury report. Dr. Seibel examined Resident #1643 at 10:50 AM on 03/29/01. Dr. Seibel determined that the injuries were "Serious". On 03/29/01 a Critical Incident Meeting was held and consisted of Kathleen Moore, Director of Nursing, Cheryl Cunningham, Director of SQRA, Steve Shotts, Facility Investigator, Nancy Condon, Director of Residential Services and Jim Sibley, Superintendent. According to Kathleen Moore, the injury most probably occurred during the night based on the color of the bruises. An allegation of abuse was called in to the Department of Regulatory and Protective Services (DPRS) and the Denton Police Department. On 03/29/01 pictures of the wounds were taken by Rod Byrd, Residential Coverage Administrator, by Victoria Dewaters, DPRS Investigator and by Police Officers with the Denton Police Department.

On March 28, 2001 Richard Kenyon, 2/10 Residential Supervisor, and Ann Bridgeman, 2/10 Trainer, worked the 2:00 p.m. to 10:00 p.m. shift at Hillcrest. Mr. Kenyon reported being in Resident's #1643's bedroom between 6:00 and 6:30 p.m. that evening while resident #1643 was in the process of putting on clean clothes after taking a shower. Mr. Kenyon indicated he did not see any injuries on Resident #1643 at that time. At 9:30 p.m. that evening, Mr. Kenyon documented on a Problem Behavior Report for Resident #1643 that the resident engaged in "Non-stop talking, threatened to hit Ann, telling staff to shut-up, refusing to sit down, (continually) playing with the radio." Mr. Kenyon completed a second Problem Behavior Report at 9:50 p.m. stating the Resident #1643 was "Demanding food, tell(ing) staff to shut up, running all over the home, stealing food and eating syrup, and threatening to run off."

March and April 28/10/01
On May 28, 2001, it is alleged that you were assigned to work the 10:00 p.m. to 6:00 a.m. shift at Hillcrest. Mr. Kenyon and Ms. Bridgeman informed you of the behavior problems Resident #1643 was exhibiting during their 2/10 shift. According to the information found in the logbook and provided by you, Resident #1643 was awake until 3:00 a.m. (morning of March 29th). During the DPRS investigation, you reported that resident #1643 talked a lot, at one pointed told someone "I hate you", threatened to run off, threatened to hit you, attempted to steal food, and messed with the TV and radio." However, you did not document any of these behavior problems in the behavior progress notes for that night.

According to Leslie "Les" Fondren, 10/6 ARS, who reported being in Hillcrest between 1:00 AM and 1:30 AM to drop off Client Census reports, he observed Resident #1643 awake "wanting to dance, turn(ing) on the radio, etc. He just wouldn't sit and relax and get ready to go to bed." Later that morning, Mr. Fondren was sent by Sam Dawodu, 10/6 RS for Bldg. 523 and the Relief Unit Supervisor to "swap homes" with you. Mr. Fondren and Mr. Dawodu were concerned that Resident #1643 was still up and very active and that you might have difficulty handling him. After Mr. Fondren informed you of the exchange, you called Mr. Dawodu after which Mr. Fondren was sent back to 520A.

It is alleged that when DPRS Investigator, Victoria Dewaters, showed you photographs of Resident #1643's injuries, you stated that the bruises on his buttock look "like he was flogged with a cane". Furthermore, Ms. Bridgeman reports that, when she was unloading the dishwasher on the afternoon of March 29th, 2001, Resident #1634 suddenly asked her if you were going to work that evening. Ms. Bridgeman told Resident #1634 that she didn't know. According to Ms. Bridgeman, Resident #1634 told her that you hit him. It is alleged that Ms. Bridgeman asked him what you hit him with and he responded "a stick". Ms. Bridgeman then asked the resident where you got the stick and he stated from the laundry room.

The Denton Police Department assigned the investigation of this incident to Investigative Officer Dave Stewart #83. On April 4, 2001, Officer Stewart was at Denton State School to interview anyone who might have information about the incident. He spoke to Resident #1643. It is alleged that Officer Stewart asked Resident #1634 whether he knew you. The resident responded "She don't like me anymore." It is alleged that the officer then asked the resident why he thought you didn't like him anymore and he responded "She don't work here anymore." It is alleged that the officer then asked the resident if you had ever hit him with anything and the resident responded "a stick." It is alleged that Officer Stewart asked Resident #1634 how big the stick was and that the resident responded by holding up his hands about two feet apart. It is alleged that the officer then asked the resident what the stick looked like and he responded "a blue stick".

On April 4, 2001 I went to 19A and began looking for a blue stick. I explained to Mr. Kenyon and Ms. Bridgeman that I was looking for a stick, which Resident #1634 had described and said, was in the home. Ms. Bridgeman immediately went to the linen closet and retrieved what appeared to be the broken handle of a broom painted blue. The stick appeared to be between two and three feet long. The stick was located in the corner behind the closet door and was turned over to Detective Stewart on April 4th, 2001.

It is alleged that Unusual Incident Report #415 was initiated as a result of these allegations. It is also alleged that these incidents were reported to DPRS and Victoria Dewaters, Investigator, completed an investigation. You, Cynthia Parker, ARS for 519; W. Roxanne Weston, Home Manager for 519; James Barnett, 6/2 RS for 519; Carolyn Medcafe, 6/2 Trainer for 519; Catherine Ann Bridgeman, 2/10 Trainer for 519; Richard Kenyon, 2/10 RS for 519; Sam Dawodu, 10/6 RS for Bldg. 523; and Leslie Fondren, 10/6 ARS for 520A provided APS Facility Investigations Statements. Furthermore, David Stewart, an Investigator for the Denton Police Department submitted an Investigative Report, Case Number 01025864, dated April 12, 2001.

It is alleged that upon completion of his investigation, Ms. Dewaters determined that the allegation of Class I abuse as described in TXMHMR Commissioners Rule, Chapter 417, Subchapter K, was confirmed. The Acting Superintendent concurred with this determination.

The Rules Governing Client Abuse and Neglect in TXMHMR Facilities, Chapter 417, Subchapter K, states in Section 417.512(c)(2)(A) that disciplinary action for Class I Abuse shall be as follows:

"The employee/agent is dismissed."

"Disciplinary action shall be based on criteria including but not limited to:
(A) the seriousness of the abuse, neglect; and/or exploitation;
(B) the circumstances surrounding the event;
(C) the employee's work record;
(D) repeat violations and
(E) if a second violation, the amount of time between violations."

These incidents, if true, may constitute grounds for disciplinary action under TDMHMR Human Resource Operating Instructions 16-Adverse Personnel Actions. Before I decide what action, if any, would be appropriate in this matter, I would like to have you provide me with any information which you feel is relevant to this allegation or which might mitigate the circumstances. You may present this information to me personally, either orally or in writing, or both, in my office at 3:30 p.m. on May 18, 2001.

Sincerely,


Judy Carhart
Westridge Unit Director

Date

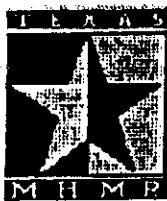
Acknowledged:

Chioma Iheanacho
Westridge 10/6 Trainer

Date

Cc: Supervisor's File
Unit File
HRS File
SQRA File

Chioma was provided with the opportunity to read and sign this letter. Ms. Iheanacho has been provided with the original copy of this letter.
Susan Bantland
QMRP 5/17/01



**Texas Department of Mental Health and Mental Retardation
Denton State School**

P.O. Box 348, Denton, TX 76202-0348 (940) 891-0342 Fax (940) 591-1300

**Jim Sibley
Superintendent**

April 30, 2002

Glenn Reed

Specialized Trainer, CF 5023

RE: Confirmation of Abuse UIR # 02-458

Dear Mr. Reed:

I have received an allegation concerning you and your job performance. It is outlined below:

- It is alleged that on 4/11/02, at 9:10 pm., you sexually abused resident #3916 while he was on the bathing table at home 5023. Witnesses include Kinza Smoots, Trainer; Gracy George, ARS; Bettye Deadmon, Trainer; Brenda Spurgeon, LVN; and Clive Blackwell, RS.
- It is also alleged that on 4/17/02, 4/18/02, 4/19/02, 4/22/02, 4/23/02, 4/24/02, 4/25/02, and 4/26/02, you failed to contact me as instructed by Joann Stevens, Administrative Assistant. It is alleged that Ms. Stevens instructed you to call me on a daily basis regarding the status of the abuse/neglect investigation and to provide me with an update on your current residential status.

It is alleged that the incident was reported to DPRS and Shane Truitt, Investigator completed an investigation.

It is alleged that upon completion of his investigation, Shane Truitt, determined that the allegation of Class I Abuse as described in TXMHMR Commissioners Rule, Chapter 417, Subchapter K, was confirmed. The Superintendent, Jim Sibley, concurred with this determination.

The Rules Governing Client Abuse and Neglect in TXMHMR Facilities, Chapter 417, Subchapter K, states in Section 417.512(2)(A) that disciplinary action for Class I Abuse shall be as follows:

"The employee/agent is dismissed."

Disciplinary action against an employee is based on criteria including, but not limited to:

- (A) the seriousness of the abuse, neglect and/or exploitation;
- (B) The circumstances surrounding the incident;
- (C) The employee's work record;
- (D) Repeat violations and the length of time between violations."


Furthermore, upon review of your work record it shall be noted that:

1. On January 29, 2002, you were placed on a First Level Reminder for not following appropriate lifting procedures.
2. On November 30, 2001 you were presented with an annual evaluation that indicated "needs improvement" in numerous job tasks. The overall rating noted on the evaluation was a two (2), needs improvement. You refused to acknowledge receipt of the evaluation.
3. On December 21, 2001 you were counseled about not arriving to your work destination within a reasonable amount of time.
4. In December of 2001, you were counseled and were moved to a different work location after an investigation found that you had engaged in inappropriate verbal interactions of a sexual nature with a co-worker.
5. In August 24, 2001, you were placed on Formal PPP Action for attendance issues.

These incidents, if true, may constitute grounds for disciplinary action under TDMHMR Human Resource Operating Instructions §16-Adverse Personnel Actions which states "An employee may be dismissed for cause who: is found to have committed client abuse or neglect as defined in Texas Administrative Chapter 417, Subchapter K, Abuse, Neglect, and Exploitation in TDMHMR Facilities, or is absent from duty for three consecutive workdays without authorization."

Before I decide what action, if any, would be appropriate in this matter, I would like to have you provide me with any information which you feel is relevant to this allegation or which might mitigate the circumstances. You may present this information to me personally, either orally or in writing, or both, in my office at 2:00pm on 5/04/02.

Sincerely,

 4/30/02
Patrick Mercer Date
CF Unit Director

Acknowledged:

 X
Glenn Reed Date 4/30/02
CF 5023, Specialized Trainer

cc: Supervisor's File
Department File
Personnel File

JAN-04-2010 15:33 From:2545621098

Page:3/22

COMMISSIONER
Adelaide Horn

November 20, 2008

CERTIFIED MAIL

Charles Mitchell

Dear Mr. Mitchell:

A Department of Family and Protective Services (DFPS) investigation has been completed on the incident of 11/08/08. It was alleged that on November 08, 2008 at 9:30 p.m., on the 2-10:30 shift that you allowed two other peers to assault client #32682 while in his bedroom.

This allegation of physical abuse as described in the Texas Administrative Code, Title 25, Chapter 404, Subchapter A, was CONFIRMED.

The confirmation was based on a review of all evidence, which included statements from:

Richard Gutierrez	Mike Bell	Charles Mitchell	Tameka Hailey
Daniel Gayton	Louis Thornton	Jeffrey Square	Kerry Bennett
Glenn Hartley	Dwayne Allen	Roberto Lozano	Montreal Browner
Gerald Mills	Cedric Betts	Demetria Harris	Kantress Carter
Connie Carter	Jessica Donaldson	Debra Thompson	Retha Simms
Randy Burns	Barbara Lucas	Reggie Dorsey	Lamont Pace
Matthew McGinley			

Class I Client abuse means (a) any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served. (b) an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served, or (c) the use of chemical or bodily restraints on a person served not in compliance with federal and state laws and regulations. If client abuse is confirmed, the employee shall be placed on suspension for up to ten (10) days, demoted or dismissed from employment.

These findings are very serious and under the HHS-HR manual constitute grounds for adverse personnel action.

Before determining what action, if any, will be taken, I would like to hear any rebuttal you might have that could mitigate these findings. You may present this information to me either orally, in writing, or both on November 25, 2008, 11:30 a.m. in the Whiterock Unit Office.

Sincerely,

Polly Bumpurs
Whiterock Unit Director



COMMISSIONER
Adelaide Horn

January 22, 2009

Ms. San Juanita Navarro

Notice of Possible Disciplinary Action for Physical Abuse

Abuse, neglect, and exploitation of any person served by an employee of the Richmond State School is prohibited by 40 Texas Administrative Code § 7.504(a). 40 Texas Administrative Code § 7.504(b)(1)(A), defines Physical Abuse as:

- (i) an act or failure to act, performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served;
- (ii) an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served; or
- (iii) the use of chemical or bodily restraints on a person served not in compliance with federal and state laws and regulations.

40 Texas Administrative Code § 7.512 (c) requires the Superintendent of the Richmond State School to take prompt and proper disciplinary action when an allegation of Abuse of a person served by a State School employee is confirmed. 40 Texas Administrative Code § 7.512(a) classifies Abuse as either Class I, Class II or Class III, as follows:

- (1) Class I Abuse - if the allegation involves:
 - (A) physical abuse which caused or may have caused serious physical injury; or
 - (B) sexual abuse.
- (2) Class II Abuse - if the allegation involves:
 - (A) physical abuse which caused or may have caused non-serious physical injury; or (B) exploitation.
- (3) Class III Abuse - if the allegation involves verbal / emotional abuse.

On July 24, 2007 the Office of Management Support and Oversight of State Schools issued Policy Directive 07-008 which states that any Department of Family Protective Services (DFPS) investigation that confirms Class I or Class II Abuse will result in dismissal of the employee. In addition, any confirmation of neglect that resulted in any degree of physical harm to a state school resident by a state school employee will result in dismissal. No exceptions to these policies will be tolerated.

The Department of Family Protective Services (DFPS) investigated an incident of Class I - Sexual Abuse which allegedly occurred on 11/28/08. You were named as an alleged perpetrator in an allegation of sexual abuse related to Consumer # 2668 who lives in the Pees Home. Specifically it is alleged that on that date, you sexually abused this consumer by allowing him to fondle and/or touch your breasts or body parts, touch his penis area and suck his left shoulder which caused a mark on the left side of his shoulder. DFPS investigator Cassandra Russell subsequently conducted an investigation and substantiated the allegation against you as Class I Sexual Abuse under case # 28967330.

I have received an allegation that you sexually abused Consumer # 2668 on 11/28/08. This allegation was investigated by DFPS which confirmed Class I Sexual Abuse by you against this consumer. This confirmation of abuse was based on a review of all evidence, including the information provided by a number of individuals. Evidence in support of this finding includes the following:



COMMISSIONER
Adelaide Horn

- 11/29/08 (11:14 a.m.) - Consumer # 2668 stated that this was not the first time that you touched him. He said that the first time was about two weeks after he first arrived at the school. He stated that you asked him to follow you and he did. He stated both of you went to a back bedroom and you started to take your socks and shoes off. He stated you pushed your pants and underwear down and your shirt and bra up. He stated you tried to get him to touch you but he said no. He stated that you did try to touch him by trying to pull down his shorts and touched his private area, but he said no. He stated that you also sucked on his shoulder and left a mark. He allowed the investigator to take a photograph of the mark. When asked by the investigator why he didn't tell anyone, he indicated that you told him you would deny everything. He stated that this time, a staff walked in on them (Sherry) and that you hurried to put your clothes back on.
- 12/2/08 (4:25 p.m.) - You stated that you were making rounds on 11/28/08 between 9:00 p.m. and 10:00 p.m. and that Consumer # 2668 wanted a cigarette which you could not give him. You stated that the consumer was insisting and that Sherry came to the door to ask what you were doing. You stated that Consumer # 2668 did not respond and that the room was dark and the consumer was sitting on the bed. You stated that another consumer #2203 was asleep and that you had gone to check on him because he sleeps with his clothes and shoes on. You stated that you were tucking your clothing because of loose clothes due to a diet. You stated that you told Ms. Nix you were only talking and denied that you did anything you were being accused of. You stated you felt this was retaliation on Ms. Nix' part.
- 12/10/08 (1:30 p.m.) - Sherrie Nix (staff) stated that she was looking for Consumer # 2668 during the evening on 11/28/08 when he didn't return from the bathroom. She stated she found the consumer sitting on his bed with his hands up in a dark room. She stated that the consumer indicated he was just sitting when asked what he was doing. When he walked in the room, she saw you standing in front of the consumer straightening up your shirt and pulling it down. When Ms. Nix went outside to smoke a cigarette, the consumer followed her outside. According to Ms. Nix, the consumer stated he would let "them" know you pursued him if asked. Ms. Nix stated you came outside and the consumer went in. She stated you told her you were afraid of the consumer and advised you to tell someone. Ms. Nix stated that you told her you had discussed changing homes with Dorothy Tarver (QMRP) but nothing had been done. Ms. Nix indicated that she received a call from you via your cell phone later (Saturday) asking her if Ms. Nix had reported you and what had been said. Ms. Nix stated you asked if it had been reported that the consumer held you against your will. Ms. Nix stated she told you that she had reported what she suspected when she was in the room when you and the consumer were there, including seeing you pull your shirt down and adjusting it.
- 12/10/08 (3:00 p.m.) - Dorothy Tarver stated that you had previously told her that staff indicated you were too close to Consumer # 2668 when he first came to the unit on Pecos. Ms. Tarver also stated that Consumer # 2668 did not want to talk with her about the alleged incident.
- 12/11/08 (1:33 p.m.) - Marlo Simmons (Unit Director) stated that it had been reported to him by Ms. Nix that she walked into the room where you and the consumer were. It was reported to Mr. Simmons that the lights were off and that Ms. Nix saw you fixing your clothes. Ms. Simmons stated that staff members on Pecos reported to him following the allegation that the relationship between you and the consumer "seemed weird."
- 12/11/08 (2:15 p.m.) - Ms. Earls (supervisor of Pecos on 2-10 shift) stated that you have not indicated that you're afraid of Consumer # 2668 to her at any time. She stated that she has



COMMISSIONER
Adelaide Horn

observed you playing games with the consumer and could not see how you could be afraid of him. Ms. Earls also stated that she has not observed any tension between you and Ms. Nix.

Superintendent, Al Barrera, concurs in the findings of DFPS Investigation. Therefore, you now have a confirmation of Class I - Sexual Abuse of a person served.

Before I decide what disciplinary action to take, please provide me with any information that you feel is relevant in this matter. You may present your information either orally, in writing, or both, to me on 01/23/09 at 2:00pm at my office.

Your Due Process Rights for possible disciplinary actions are outlined in Chapter 11D - Human Resources Manual, Texas Health and Human Services Commission. **YOUR FAILURE TO APPEAR AT THIS MEETING WILL NOT PREVENT DISCIPLINARY ACTION FROM BEING TAKEN AGAINST YOU IN THIS MATTER.**

A handwritten signature in black ink, appearing to read "Mario Simmons". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mario Simmons
Unit Director

cc: Al Barrera, Superintendent
Jane Purcell, Assistant Superintendent of Programs
Gwen Martin, Director of Residential Services
Master Personnel File



COMMISSIONER
Adelaide Horn

June 18, 2007

Brigitte Camelbeek
Active Treatment Provider
Pecan Home

RE: Notice of Possible Adverse Personnel Action

Ms. Camelbeek:

I have received allegations concerning your employment at the San Angelo State School, as outlined below:

It is alleged that while working on 505A Leander (Pecan Home) on May 1, 2007 during the 6-2 shift you followed to his room after he grabbed your breasts. It is alleged that you hit causing a serious injury to his left eye, specifically a laceration to the upper left eyelid and subconjunctival and retinal hemorrhage to the left eye.

In the witness statement you gave during the facility's investigation of this incident, you stated that on May 1, 2007 at around 12:30pm you were walking down the hall with Todd Helton (ATP) when grabbed your breast as he passed you in the hall. Todd redirected him but then got behind you and grabbed you from around your back and held on to your breasts. You struggled with but could not get loose. You fell onto the floor with on top of you. Todd Helton got off of you and you and Mr. Helton took 1 to his room.

Todd Helton alleges that on May 1, 2007 he saw grab you from behind. Mr. Helton helped get off of you and redirected him towards his room. Mr. Helton then saw you follow into his room and come back out a few seconds later.

Blanca Gully (ATP) alleges that she saw grab you from behind and that a male staff assisted you with and redirect him to his room. She alleges that she saw you follow into his room. She alleges that when she returned from monitoring the bathroom, she saw you had come out of 's room.

Ted Caldera (ATP) alleges that he found in his room with his left eye swollen and a cut above the same eye. Mr. Caldera took to the restroom so that Mr. Caldera could see his eye. He asked if he fell and 1 said that someone hit him.

1 (Person Served) alleges that he witnessed a 6-2 staff member hit with a closed hand, while in his room. stated he was coming out of his room and, from where he was standing in the hall, saw you hitting 1 on his left eye with your right hand.

Nurse's progress records completed by Leland Hamner RN, at 3:15pm on May 1, 2007, indicate that left eye lid was almost swollen shut.

Dr. Rappe (Staff Physician) reports the injury would be consistent with blunt force trauma like an elbow, fist, etc.

This incident was reported to the Department of Family and Protective Services on May 1, 2007. DFPS investigated and issued a report on May 15, 2007 finding the allegation against you was inconclusive. This matter was re-opened pursuant to 40 TAC Part 1 Chapter 7 Subchapter K, Rule 7.510(e) at the direction of the Superintendent and investigated by Mary Holmes Campus Investigator, Vicki Dunn Program Auditor and Roy Smith Client Rights Officer. Based on the evidence gathered and presented to the Superintendent, the Superintendent has concluded there is a preponderance of credible evidence that Class I Physical Abuse did occur. Accordingly, the Superintendent



COMMISSIONER
Adelaide Horn

confirmed Class I physical Abuse by you against consumer of Class I Physical Abuse is described in 40 TAC, Part 1, Chapter 7, Subchapter K, and requires dismissal from employment. Adverse personnel action for a confirmation

This allegation is especially serious because you are currently on a DML for a work rule violation by not exhibiting courtesy and respect in all interactions with the consumers we serve.

This above allegation, if true, constitutes grounds for adverse personnel action. Before I decide what action, if any, would be appropriate in this matter, I would like to have you provide me with information which you feel is relevant to this allegation or which might mitigate the circumstances. You may present this information to me personally, either orally or in writing, or both in the office of Melinda Gentry, unit 1 Director on Wednesday June 20, 2007 at 1:45pm.

Sincerely, *Ernest Williams* HM

Ernest Williams
505A Leander St., Home Manager

Approved:

Melinda Gentry
Melinda Gentry
Unit 1 Director

Acknowledgement of Receipt:

Brigitte Camelbeek 6/18/07
Brigitte Camelbeek, ATP Date



Commissioner
Adelaide Horn

June 16, 2008

Anna Ybarra

Re: Notice of Possible Adverse Personnel Action

Ms. Ybarra:

I have received an allegation concerning your employment at the San Angelo State School, as outlined below:

It is alleged that you physically abused (person served) on May 19, 2008 at approximately 9:00pm while working on 510 A when you hit her several times in the head with your fist while in her bedroom with her.

Kelli Tally (ATP) alleges that on 5/19/08 at approximately 8:30pm while bringing her walker she observed you holding [redacted] up and blood on her shirt. Ms. Tally further alleges that about 15 minutes later while she and you were waiting on paper work that she asked you what happened and you indicated you punched [redacted] in the head. Ms. Tally also indicates that while she was at the ER with [redacted] she asked her what had happened and that [redacted] made a fist and gestured and stated that you had hit her five or six times.

Jessica Moore (ATP) alleges that on 5/19/08 that she heard you yell for help so when she arrived and opened the door to [redacted] room she saw blood on her shirt and blood on your arm. Ms. Moore indicates she asked you what happened and you stated "you better cover me and [redacted] is going to need stitches". Ms. Moore further alleges that she asked you again later what happened and you stated that you hit [redacted] because she wouldn't calm down. Ms. Moore also alleges that you asked her to tell that you were calling for help and when you turned around [redacted] was walking with out her helmet on and then tripped and you tried to catch her but she fell and hit her head.

Ms. Moore stated that while at the ER that she and Kelli Tally asked [redacted] what happened and that she stated you hit her and demonstrated this with a closed fist. Ms. Moore further states that also indicated when asked that you hit her five or six times.

Jennifer Swink (ATP) alleges that one day after this incident you called her and asked her what Jessica Moore's phone number was and if she knew what Ms. Moore put in her witness statement.

Nurses progress record for [redacted] dated 5/19/08 at 8:40pm states that [redacted] had a laceration approximately 5 cm long by 1/2 cm and was being taken to the ER for treatment and that [redacted] was very agitated and had to have an injection to calm her down.


This allegation was investigated by the Texas Department of Family and Protective Services, and that agency confirmed Class I Physical Abuse by you against [redacted]. Abuse is defined in 40 TAC, Part 1, Chapter 7, Subchapter K, rule 7.504(b)(1) as an act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused physical injury or death to a person served; an act of inappropriate or excessive force or corporal punishment, regardless of whether the act results in a physical injury to a person served; or the use of chemical or bodily restraints on a person served not in compliance with federal and state laws and regulations.

Abuse of a person served also violates HHS work rules 1, 2, and 28, which state that HHS employees must be familiar with and follow all HHS policies and procedures relating to job performance and work rules; must perform their job duties, meet HHS standards for job performance, and follow job-related instructions from HHS employees; and must not act in a manner that interferes with the proper performance of duties, or HHS agency and program goals and objectives, or act in a manner that violates HHS agency or program rules, regulations or policies. See HHSC HR Manual, Chapter 4, Employee Conduct.

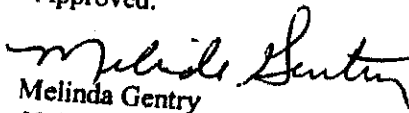
Adverse personnel action for a confirmation of Class I abuse is described in 40 TAC, Part 1, Chapter 7, Subchapter K, rule 7.512(a)(1), of the Texas Administrative Code, and San Angelo State School Policy/Procedure, Abuse, Neglect, and Exploitation of Persons Served, which require dismissal from employment. See also HHSC HR Manual, Chapter 11, Disciplinary Actions.

The above allegation, if true, will result in your dismissal. Before I decide whether that action would be appropriate in this matter, I would like to have you provide me with any information which you feel is relevant to this allegation or which might mitigate the circumstances. You may present this information to me personally, either orally or in writing, or both, in the office of Deanna McCoulskey, on June 17, 2008 at 2:00pm.

Sincerely,


Joan Castro
510 A Home Manager

Approved:


Melinda Gentry
Unit 1 Director

Acknowledgement of Receipt:

Cc: Personnel File


Anna Ybarra, ATP Date



Commissioner
Adelaide Horn

October 23, 2007

Vito Machado

Active Treatment Specialist
516 East/West McKnight Blvd.

Mr. Machado:

I have received the following allegations concerning your employment at the San Angelo State School:

- (1) In July of 2007 you inserted a hair brush into the anus of (consumer served).
- (2) On numerous occasions, starting in December of 2006, you would slap and hit on his head with an Attends (adult diaper) when you were changing Attends.
- (3) You have shaken to wake him up.
- (4) On or about August 18, 2007, you flopped (consumer served) breast up and down and pushed up and down on her stomach as if performing CPR.
- (5) You have touched areas of body, including her breasts and vaginal area, in a sexual manner.
- (6) On at least one occasion during the past few months, you antagonized I by telling her that she was pregnant and was going to have a Black baby, and that another consumer on the home was the father of the baby.
- (7) You have hit with a long plastic "stay" and have shaken her to wake her up.
- (8) On or about August 14, 2007, you pushed up and down on (consumer served) stomach, as if performing CPR, as he yelled at you to stop and leave him alone. You have also hit on his arms.
- (9) During the week of August 12, 2007, you were very rough with (consumer served) while cleaning him.
- (10) In July of 2007 you hit (consumer served).
- (11) On numerous occasions, you have swatted consumers in the face with Attends and frightened them.

Allegations Regarding

One witness states that in July of 2007 the witness was in the laundry room, which is close to Mr. Washington's room. The witness heard I yell "get out of here" and call you a "nigger." The witness states that it was obvious from the sound of I voice that he was upset. The witness went into I s room to check on him, and opened the door without knocking. You had a hair brush and you were putting it into anus. The witness states that, when asked why you were hurting I you said "I'm not hurting him, you dumb ass, I'm trying to get BM out of his bottom." You said that

I had BM stuck in his bottom. You then looked at the witness and said "What, what, stop looking at me like that."

The same witness states that, starting around Christmas time, when you would help the witness change I Attends you would slap and hit in the head with his Attends, and would say to "come on, you want some of me" and call him "stupid nigger" and "dirty black boy." would yell and get upset and you would laugh and say you were joking.

Another witness states that, between October of 2006 and January of 2007, during bed checks you would put your hands on the bed around I head and shake the bed to wake him up. The witness states that you did this every time you conducted bed checks with the witness.

Allegations regarding

One witness states that on August 18, 2007, you were flopping I s breast and saying "floppy breasts." The witness states that earlier that morning you were pushing up and down on stomach as if performing CPR. When the witness asked you why you were doing that, you said that you were "just playing." The witness told you not to do that any more.

The same witness states that you went into I s room when she was yelling and screaming and upset her worse by telling her that she was pregnant and was going to have a Black baby, and that I was the baby's father. I told the witness that she didn't want you in her room.

Another witness states that I has said that you had scared her.

Another witness states that, between October of 2006 and January of 2007, during bed checks you would put your hands on the bed around I head and shake the bed to wake her up. The witness states that you did this every time you conducted bed checks with the witness.

On October 4, 2007, Nick Dacy, DADS Regulatory, spoke with I stated that she was touched inappropriately by you. She stated that you had touched her "boobies" (breast). I was asked if this touching was of a sexual nature or if it was just touching, she replied, "It sure was" (meaning that the touching was of a sexual nature). then stated that you hit her, when asked what she was hit with she stated, "With the long thing." This was identified as a long plastic stay for a sling lift. She was shown one of these stays and she nodded. She then stated, "He does bad things." I was asked if she was touched places, she nodded "Yes". Mr. Dacy touched various places on his body and I said yes to the breast and crotch area. When asked if he touched her there she replied "He sure does." This statement was witnessed by Shirley Brewer, LVN.

Allegations Regarding

One witness states that on or about August 14, 2007, I was yelling. The witness went into I room without knocking and saw you pushing up and down on I stomach and laughing. While you were doing this, I was yelling for you to stop, get out of there, and leave him alone. When the witness came into the room and asked why you were doing that to I you said that you were "just playing," and that



Commissioner
Adelaide Horn

liked it. The witness told you not to do it any more. The witness also states that you have been very rough with [redacted] while changing him, and that when confronted about it you said that the witness babies [redacted] too much.

Another witness states that, when getting [redacted] up, you would rush him in getting up, so you could change him. You would hit [redacted] on his arms, in a playful manner, but the witness could tell that [redacted] did not like this. [redacted] would holler "get out of here, leave me alone."

Allegations Regarding

One witness states that you were very rough with [redacted] and that you would bounce [redacted] up and down on his bed. The witness states that on or about August 15, 2007, you were cleaning BM off [redacted] penis and bottom and you were being very rough. The witness could tell that [redacted] was very upset. The witness quoted you as saying "I had to get the BM off" and "What, what, stop looking at me like that, I didn't hurt him."

Another witness states that when you were moving [redacted] with the draw sheets, you would be really rough and would move him so abruptly that [redacted] would almost hit his head when being moved up in his bed.

Allegations Regarding

One witness states that [redacted] reported to the 6-2 shift that you had hit him.

Nick Dacy, DADS Regulatory, interviewed [redacted] told Mr. Dacy that you hit him in the head and chest with your fist. He also said that you hit him with a diaper. This statement was witnessed by Shirley Brewer, LVN.

This incident was reported to the Department of Family and Protective Services (DFPS) on August 20, 2007. DFPS investigated and issued a report on September 17, 2007, finding the allegations against you were inconclusive. This matter was re-opened pursuant to 40 TAC Part 1 Chapter 7 Subchapter K, Rule 7.510 (e) at the direction of the Superintendent and investigated by Nick Dacy, DADS Regulatory, Mary Holmes, Campus Investigator, and Roy Smith, Client Rights Officer. Based on the evidence gathered and presented to the Superintendent, the Superintendent has concluded there is a preponderance of credible evidence that Class II Physical Abuse, Class III Emotional/Verbal Abuse, and Class I Sexual Abuse did occur. Accordingly, the Superintendent confirmed Class II Physical Abuse, Class III Emotional/Verbal Abuse, and Class I Sexual Abuse by you against consumer [redacted] Class II Physical Abuse and Class 1 Sexual Abuse by you against consumer [redacted] Class II Physical Abuse by you against consumer [redacted] 1, Class II Physical Abuse by you against consumers [redacted] dverse personnel action for the confirmations above is described in 40 TAC, Part I, Chapter 7, Subchapter K.

Moreover, these actions by you, if true, are major offenses under Chapter 11, HHSC HR

Manual, as follows: (1) making unauthorized physical contact with a client; (2) workplace violence, including physical assault or threats to physically assault another; (3) confirmed client abuse; and (4) gross misconduct.

The above allegations, if true, constitute grounds for dismissal from employment. Before I decide whether that action would be appropriate, I would like to have you provide me with any information which you feel is relevant to this allegation or which might mitigate the circumstances. You may present this information to me personally, either orally or in writing, or both, in Sarah Roeder's office on October 24, 2007 at 2:45pm.

Sincerely,

Jill Anne Root / HM

Jill Root
Home Manager

Deanna McCoulskey
Deanna McCoulskey
Unit III Manager

Acknowledgement of Receipt: _____

Vito Machado

Date

Approved:

Robert Segura
Robert Segura
Unit III Director

cc: Human Resource File

refused to sign the acknowledgement

Sarah Roeder

10-23-07

SAN ANTONIO STATE SCHOOL
INTERDEPARTMENTAL MEMORANDUM

TO: Jante Cheeves, Service Assistant II, Home 672

FROM: Greg Vela, Unit II Director

Greg Vela

SUBJECT: Separation from Employment

DATE: January 5, 2004

I received an allegation that on November 19, 2003 you physically abused consumer and then instructed three Service Assistant I's, during the course of an investigation, to write false statements to indicate the injury to was sustained by another consumer's aggression

The Texas Department of Protective and Regulatory Services (TDPRS) confirmed the physical abuse as Class I Abuse in their report dated December 12, 2003.

Frank Solis, Service Assistant I, 672, in his written statement to Texas Department of Protective and Regulatory Service on December 2, 2003 and to the San Antonio State School (SASS) Facility Investigator, Richard Hackett on November 22, 2003 he stated that on November 19, 2003 you came up to him and said that you lightly pushed consumer and he hit his head on something. He stated he bathed and then took him to the nurse. Mr. Solis stated that before writing his first statement that you came up to him and the other two staff telling them what to write on their statements. He stated you told them to indicate on their statements to the Residential Coordinators what they were doing when consumer hit Mr. Solis stated that he wrote the false statement because of what he had observed from you in the form of retaliation to others.

In a written statement to TDPRS Investigator on December 1, 2003 Inger Hardaway, Service Assistant I, 672, stated on November 19, 2003 she was in the leisure room along with Frank Solis and Lakara Stanton, Service Assistant I, 674 when you came into the room and said that you needed them to all write a statement saying that consumer hit the lip. Ms. Hardaway stated you then stated that you informed her that he had pushed and he fell and hit his lip against the TV in his bedroom. Ms. Hardaway in a written statement to Richard Hackett, SASS Investigator on November 25, 2003 stated that did not hit on the lip. She also stated that if you find out that Frank Solis told the truth that there was going to be some trouble. Ms. Hardaway stated she wrote the first false statement because she was in fear of retaliation by you.

Lakara Stanton, Service Assistant I, 674, in her written statement to both TDPRS Investigator on December 11, 2003 and SASS Facility Investigator on November 19, 2003 stated she was pulled from 674 to 672 and assigned to a consumer on enhanced supervision. She stated that she was in the leisure room most of the day and she had not witnessed anything. She stated she was told by you to write a statement for the residential coordinator stating that hit in the face. She remembered was in the leisure room for about 30 minutes and he was in and out of the leisure room. She remembers "digging" and coming in and sitting down but the Spec(you) told him to go out. She assumed you were going to change She stated that she originally gave a false

statement to the Residential Coordinators because she felt her job was at stake if she did not do what you instructed her to do.

According to the "Client Injury/Incident Report" for dated November 19, 2003 at 7:15 p.m. sustained cuts and lacerations to his upper and lower lips. On page 2 of the report the injury is documented as serious. The section of the report entitled "Description of Incident" was completed by you and states " was hit by #692() in the mouth for no apparent reason". This section of the report indicates that Ms. Staton, Mr. Solis and Ms. Hardaway were witnesses to the incident.

In observation notes on 11-17-03 you wrote, " hit #145 in the mouth for no apparent reason. He walked into activity room and just hit him in the mouth. BMP not followed due to no blindfold been found. He was sent to his room."

In observation notes on 11-19-03 you wrote " was sitting down on the couch in activity room when #692 walked in and hit him in the mouth for no apparent reason."

The above allegation, if true, constitutes a violation of the Texas Administrative Code Chapter 417, subchapter K, 417.504, Prohibition and Definitions of Abuse, Neglect and Exploitation. Abuse is defined as any act or failure to act performed knowingly, recklessly, or intentionally, including incitement to act, which caused or may have caused serious or non-serious physical injury to a person served. Texas Administrative Code Chapter 417, subchapter K, also states that an employee who commits Class I abuse is dismissed. Additionally, if true, this constitutes a violation of subchapter K, 417.505, Reporting Responsibilities of All TDMHMR Employees, (c) An employee found to have made a false statement of fact during an investigation is also subject to disciplinary action.

These allegations, if true, is in violation of the written standard of performance in your job description, Essential Tasks and Standards section 1g, which states that the employee "interact with the people who live at San Antonio State School in an ongoing, respectful manner, as evidenced by observations and the absence of allegations of abuse and neglect." Human Resource Operating Instruction, Section 16- Adverse Personnel Actions, subsection C- Reasons for Dismissal for Cause, which states that an employee may be dismissed for cause who fails to meet the written standards of job performance.

The above allegations, if true, constitute grounds for dismissal for cause in accordance with Human Resource Operating Instruction, Section 16- Adverse Personnel Actions, subsection C- Reasons for Dismissal for Cause, who has made false statement of material fact concerning a matter under investigation for the purpose of obtaining a personal benefit.

On December 29, 2003 I met with you to inform you of the above allegations. I instructed you to meet with me on Tuesday, December 30, 2003 to present your rebuttal to these allegations. On December 30, 2003 you left me a voicemail indicating you could not meet due to your uncle needed you to admit him to the hospital. You also called me later that day and confirmed the same reason for not attending the rebuttal as scheduled. We agreed at that time to reset the rebuttal meeting for Wednesday, December 31, 2003 at 11 a.m. On December 31, 2003 you notified Gracie Silva, Unit II Secretary and left me a

voicemail indicating you would not be able to attend the rebuttal meeting that day because of your need to attend to your uncle. You also indicated verbally to me that you would be resigning either that day or Friday, January 2, 2004. As of today January 5, 2004 you have not resigned nor contacted me regarding rescheduling a rebuttal meeting. However, you were observed on campus at the DC Atrium and in building 669 on this date.

I have determined that the allegations are true and have decided to dismiss you from employment with the San Antonio State School due to committing Class I Abuse, making false statement of material fact during and investigation for the purpose of personal benefit and failure to following your Job Description standard 1g to interact in a respectful manner with people who live at the San Antonio State School. Additionally, due to the nature of the circumstances of your dismissal you are not allowed to make contact in any way with anyone employed with the San Antonio State School while they are on state school property. You may contact Human Resource Directors, Homer Mungia or Wilbur Williams for any official business you may need to take care of. You are prohibited from being on the San Antonio State School property including the Developmental Center. If you violate these instructions the San Antonio Police Department will be notified and charges of trespassing will be filed against you.

Since you are a non-probationary employee, you may appeal this decision, if you choose through the provisions of the Human Resource Operating Instructions Section 18, Employee Grievances, which I have attached a copy for your convenience. Any questions you have in this regard should be directed to the Human Resource Department.

CC: Assistant Superintendent for Programs
Positive Performance Program Coordinator