

Hamilton County Juvenile Court Report of Administrative Review Conference

**Re: Dr. Shelly Jebens
Recommendation of Removal**

Date of Conference: Thursday, December 22, 2016

An Administrative Review Conference was conducted on the above date at the Hamilton County Juvenile Court located at 800 Broadway, Cincinnati, Ohio 45202 in the 11th floor conference room regarding the Recommendation of Removal. The following individuals were in attendance: Dr. Shelly Jebens, Clinical Director of BHS/Clinical Psychologist; George M. Reul, Jr., legal representative for Dr. Jebens; Carla Guenther, Chief Magistrate; Laura Wickett, Executive Director of Human Resources and Cheryl A. Keller, Director of Human Resources for the Hamilton County Board of County Commissioners.

The Recommendation for Removal alleges Class III infractions that include dishonesty, failure of good behavior and malfeasance in that Dr. Shelly Jebens: (1) altered the content of an "Initial Competency Evaluation Report" and a "Competency Evaluation – Initial Treatment Plan" submitted by contract psychologist Dr. Joy McGhee, without prior discussion with Dr. McGhee; (2) failed to transparently disclose to the involved parties what had happened once this was discovered by the Hamilton County Prosecutor's Office and Dr. McGhee; (3) misrepresented the facts about the altered documents to Dr. McGhee, to the Court's Chief Magistrate and to the Court's Director of Human Resources; (4) undermined the integrity of the judiciary and its operation; (5) failed to protect and preserve public trust; and (6) failed to adhere to standards of integrity that are essential to the operations of the Court.

The conference was convened at 2:31 p.m. The Administrator Review Conference Facilitator reminded participants that the purpose of the conference was to verify if the alleged misconduct did actually occur and whether such conduct was a violation of policy or procedure and not to weigh in on the appropriateness of the level of discipline recommended.

Carla Guenther, Chief Magistrate, presented information on behalf of the Court and summarized the infractions. A detailed presentation was given and the following exhibits were provided:

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| Exhibit A | Original Evaluations |
| Exhibit B | Altered Evaluations |
| Exhibit C | JCMS Screen Shot – JAR Evaluation – Date & Time Modified |
| Exhibit D | E-mail Message from Dr. Jebens to Probation Officer Naomi Simmons with TIF Image of JAR Evaluation |
| Exhibit E | Texts between Dr. Jebens and Dr. McGhee – September 22, 2016 |
| Exhibit F | E-mail from Dr. Jebens to Dr. McGhee along with attached, altered JAR evaluations - September 22, 2016 |
| Exhibit G | Emails between Assistant Prosecuting Attorney Allison Oswald and Dr. McGhee – November 14, 2016 – November 22, 2016 |
| Exhibit H | Text messages between Dr. McGhee and Dr. Jebens – November 21, 2016 |
| Exhibit I | E-mail from Linda Wenstrup to Dr. Jebens – November 21, 2016 |

Exhibit J	Letter from Dr. McGhee to Judge Hendon
Exhibit K	Texts between Dr. Jebens and Dr. McGhee – November 28, 2016
Exhibit L	Texts between Dr. Jebens and Marla Laib – November 28, 2016-December 1, 2016
Exhibit M	Tests between Dr. Jebens and Dr. McGhee – November 29, 2016
Exhibit N	Summary of Events document provided by Dr. Jebens to Carla Guenther and Laura Wickett – December 1, 2016
Exhibit O	Hamilton County Juvenile Court Personnel Policy 6.0: Ethics of Public Employment
Exhibit P	Original Evaluations with tracking to reflect changes that resulted in the Altered Evaluations

Key points of the Court's presentation include:

- Dr. Jebens revised the finding on a competency report and submitted the report to JCMS (the Court's record management system). It was changed from Incompetent to competent with accommodations. The revised report was used in the competency hearing.
- According to system time stamps, Dr. Jebens submitted the revised competency report prior to sending it to Dr. McGhee, the clinician who provided the evaluation. This is in violation of Dr. Jebens' stated protocols and does not comply with American Psychological Association's "Ethical Principles of Psychologists and Code of Conduct" which includes "Specialty Guidelines for Forensic Psychology".
- In Exhibit N, Dr. Jebens misrepresents the timeline of the order of events regarding the competency evaluation.
- Dr. Jebens was not transparent in dealing with the issue. She tried to get Dr. McGhee to stipulate to the report. Dr. Jebens also asked Dr. McGhee not to contact the Judge on this case.
- Because of Dr. Jebens' actions, this case has been continued and JAR remains in detention.
- There are grave consequences for the Court. There is a loss of credibility causing the Prosecutor's Office, Public Defender and Court to question past, present and future evaluations.

At the conclusion of the Court's presentation, Mr. George M. Reul, Jr. who is representing Dr. Jebens, asked for a recess. This was granted.

Mr. Reul provided "key points" on behalf of Dr. Jebens:

- Dr. Jebens informed Dr. McGhee that she made changes to the report.
- They fundamentally disagree that Dr. Jebens was trying to cover up anything – she talked to her boss, Marla Laib, as soon as she became aware of the issue.
- Dr. Jebens has no prior discipline so they believe termination is too drastic.
- Dr. Jebens is concerned this is retaliation for her refusing to issue reports that the Court wants.
- Her reports were treated differently than Dr. Kathleen Hart. Dr. Hart is a part-time psychologist who reports to Dr. Jebens. Dr. Jebens has become more involved in reviewing reports.

Dr. Jebens also provided direct testimony. She indicated that part of her job was to review reports and provide feedback when they don't meet ORC or psychological standards. If a report meets the requirements, she sends the report to JCMS. If the report does not meet requirements, it can be handled in three different ways based on a protocol that Dr. Jebens developed. The three ways are described below:

- If there is time, Dr. Jebens contacts the clinician to discuss concerns. She asks them to make changes and send in a new report.
- If there is some time but not a lot, Dr. Jebens contacts the clinician to discuss concerns. Through conversation they agree on changes. Dr. Jebens makes the agreed upon changes and submits the report and provides a copy of the revised report to the clinician.
- If time is very short, Dr. Jebens revises the report. She sends it to the clinician, they discuss and agree. She already has the report done and after consultation she submits the revised report.

Mr. Reul indicated that there was certainly a lack of effective communication between Dr. Jebens and Dr. McGhee and that as a result Dr. Jebens is a victim of circumstance. Dr. Jebens told Dr. McGhee to "check your email, I've made revisions". In Mr. Reul's opinion, if Dr. McGhee had done that, we would not be here today.

Mr. Reul also indicated that he disagrees with the premise that she wasn't transparent. She followed the chain of command and followed the advice of her supervisor. There was no deception.

Mr. Reul stated that the recommendation for termination is motivated by something else.

Mr. Reul and Dr. Jebens provided no exhibits during their presentation.

Conclusion

There is no dispute that Dr. Jebens changed the JAR competency reports provided by Dr. McGhee from Incompetent to competent with accommodations.

Based on testimony and a review of time stamps related to the documents, Dr. Jebens did not follow her own protocol regarding competency reports that do not meet standards. Protocol would have required her to provide Dr. McGhee with a copy of the changes to the report and to discuss them prior to submission to JCMS. While Dr. Jebens indicates that Dr. McGhee's failure to respond to her text and emails indicated that she agreed with the changes, I am not persuaded that she had Dr. McGhee's concurrence on the changes. In a text message from Dr. Jebens to her supervisor, Marla Lalb, she states "I apologized for the entire situation and explained moving forward that I will not send the report unless she was able to review and discuss feedback."

Prior to discussing the next allegation, it is important to understand what transparency means. Transparent communication is open and honest. According to the Court, Dr. Jebens failed to be transparent once this situation came to light. She attempted to influence Dr. McGhee to stipulate to the altered report; and she asked Dr. McGhee not to contact Judge Hendon regarding her concerns about the altered report. In review of the documentation provided, Dr. Jebens was not honest in her communications. For example, the timeline in the "summary of events" provided by Dr. Jebens (Exhibit N) does not match the time stamped documents provided in the Court's exhibits. A second example is in Dr. Jebens' text messages with Marla Lalb. Those texts are as follows: Marla Lalb - "I thought you talked to her before you sent her the final. Didn't she agree then? And if so, why wouldn't she open the revised version?" Dr. Jebens - "No I said I emailed her the revised version explaining why the change was made. When I talked to her the next day and asked did she have any questions or concerns about

the revised report she said no. I had no idea she never even looked at the report." I did not see any evidence submitted that Dr. Jebens actually told Dr. McGhee that she changed the findings in the report. In fact, the communications do not support Dr. Jebens' statement that she "emailed her the revised version explaining why the change was made." In her November 22, 2016 text to Dr. McGhee, Dr. Jebens said she "needed to make some changes to your comp report on J." In her email to Dr. McGhee, Dr. Jebens stated, "Thanks for sending your report. See attached." I see no evidence that she *explained* anything about revisions to the report to Dr. McGhee.

As Administrator Conference Facilitator I find sufficient evidence to sustain the truth of the infractions as described in the Recommendation of Removal dated December 13, 2016. The Recommendation of Removal lists "dishonesty", "failure of good behavior" and "malfeasance". I would also conclude that Dr. Jebens' infractions show a "neglect of duty". Dr. Jebens had a duty to confer with the consulting clinician regarding the JAR report and she failed to do so.

These infractions do violate the Court's Personnel Policy Manual 6.0 – Ethics of Public Employment.

Mr. Reul has raised the issue as to whether removal is the appropriate discipline in this case. He believes that, should discipline be issued, removal is too drastic. It is not the function of the Administrative Review Conference Facilitator to make findings regarding discipline. The role is simply to determine if the infractions occurred and whether they violate Juvenile Court policy so this report does not address that issue.

		
Submitted by:	Cheryl A. Keller Human Resources Director Hamilton County Board of County Commissioners	Date