

**BEFORE THE MISSISSIPPI EMPLOYEE APPEALS BOARD**

**EMPLOYEE APPEALS BOARD**

**JACQUELINE JAMES**

**APPELLANT**

**VS.**

**CASE NO: 13-028**

**MISSISSIPPI DEPARTMENT OF EDUCATION**

**RESPONDANT**

**ORDER OF HEARING OFFICER**

**THIS CAUSE** having come on to be heard on July 25, 2013, and August 13, 2013, at the Offices of the Employee Appeals Board in Jackson, MS. The Appellant, Jacqueline James (“James”) was unrepresented and the Respondant, Mississippi Department of Education (“MDE”), was represented by Raina Anderson Lee, Attorney at Law. James appeals the Group II Number (1) Reprimand issued March 11, 2013, for a failure to follow instructions.

**FINDINGS OF FACT**

James is employed in the Office of Student Assessment at the MDE. Her immediate supervisor is Kimberly Jones, Division Director II (“Jones”). James Mason (“Mason”) is the Director of Student Assessment and Ms. Jones Supervisor. In August, 2012, Mason assigned James the task of coordinating the administration and testing of the Mississippi Writing Assessment Program, Third Edition (“MWAP 3”). At that time, the MWAP was administered twice a year, fall and spring, and was one of five (5) tests required for students to graduate high school in Mississippi. The MWAP was previously administered by an independent testing agency. The fall 2012, test was administered in house by MDE because fewer students were taking the test, about 800. However, MDE hired an external company to score the test results. This company returned scores on a sixteen (16) page spreadsheet. One of James’ duties was to take the score results from this spreadsheet and generate a report to the School districts. Mason offered James technical training and other assistance if needed for completion of this job.

In January, 2013, a pass/fail roster, prepared by James, was distributed to the School Districts. Of the final 800 scores, 162 were inaccurately reported to the School Districts and students who passed the test were informed that they had failed and other students were given inaccurate scores. After complaints from School Districts, the error was discovered and

corrected.

James was issued the Group II reprimand due to the errors in the assigned work. James was assisted on the project by her supervisor, Kimberly Jones, who did not agree with the reprimand. Jones insists that it was she, not James, who made the error in scoring because the error was made when the spreadsheet was merged with other data, a job Jones performed. James insists that she performed quality control.

#### CONCLUSIONS OF LAW

Under the rules of the Mississippi State Personnel Board Policy and Procedures Manual (“MSPB Manual”) Chapter 10.7, XX B., James has the burden of proving that the reasons stated in the notice of the agency’s final decision are not true or are not sufficient grounds for the action taken. Id. The Employee Appeals Board (“EAB”) may not alter the action taken by the agency if the agency has acted in accordance with the published policies, rules and regulations of the MSPB, and *if the personnel action taken by the responding agency is allowed under said policies.* Id. at XXIV, B. In this case, James has met her burden of proving that the reasons stated in the MDE’s final decision are insufficient for the action taken.

The Appellant, James, not Jones, was assigned the job to administer the MWAP 3. James was the person primarily responsible for accurately reporting the test results to the School Districts. However, Jones, not James, performed the actual work in merging the spreadsheets as James maintained that she did not have the technical expertise to do so. Likewise, Jones testified that James was not at fault. As a result, a Group II Reprimand was too severe for the actions taken by James as she was not responsible for the actual errors in the assigned work. However, since she was the person assigned the job to administer the test, and the test results were incorrect, a verbal reprimand is appropriate.

For the reasons set forth herein, the Group II reprimand is hereby DISMISSED and James will be issued a verbal reprimand.

SO ORDERED THIS THE 1<sup>st</sup> DAY OF OCTOBER, 2013.

  
WESLA SULLIVAN LEECH  
HEARING OFFICER