

ORDER ON APPELLANT'S MOTION FOR DISCOVERY

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IN THE MATTER OF THE APPEAL OF:

LORETTA PERRY-WILBORNE, Appellant,

vs.

DEPARTMENT OF HUMAN SERVICES,  
and the City and County of Denver, a municipal corporation, Agency.

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Appellant has moved for production of three categories of documents. Appellant included with her motion a copy of an email which indicates that the Assistant City Attorney objects to these requests as not relevant to the claims.

Appellant was a Case Management Coordinator with the Denver Human Services Department until her termination on Dec. 9, 2013 for inappropriate conduct and failing to assist a disabled client on Oct. 211, 2013. She challenges the dismissal as too harsh for the alleged violations, and also raises whistleblower and age discrimination claims.

Discovery requests

1. Appellant's training records

Appellant seeks a copy of her DHS training records. This information is readily accessible to Appellant as a part of her personnel file. In any event, her training records and the rest of her employment history are discoverable on the issue of the appropriateness of her conduct on the day in question, and the level of punishment imposed.

2. Disciplinary records of Frank Hernandez

Next, Appellant requests the disciplinary records for Frank Hernandez, a witness designated by the Agency to testify about the basis for Appellant's termination. Personnel records of other employees are excluded from the definition of public records by Colorado statute, and are generally protected by the privacy interests of the employee unless specifically relevant to the issues at hearing. C.R.S. § 24-72-202(4.5); see also In re Koehler, CSA 113-09 (1/27/10). Appellant raises no specific argument or theory as to why the witness' disciplinary history may affect his credibility as a fact witness or, may be otherwise relevant to the issues raised in this appeal.

3. Applications of Rudd, Smith and Ferguson

Finally, Appellant requests an order compelling the production of the new hire applications for the above witnesses in order to assist her in proving they have no experience in the jobs for which they were hired. Rudd, Smith and Ferguson apparently witnessed parts of the

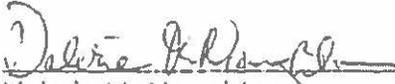
event leading to the termination. Appellant does not explain why information about their level of experience in their jobs could help her in proving that the discipline was unjustified, or in establishing her whistleblower or discrimination claims.

Order

Based on the foregoing findings and conclusions, it is hereby ordered as follows:

1. The Agency is ordered to produce Appellant's DHS training records.
2. Appellant's 2<sup>nd</sup> and 3<sup>rd</sup> discovery requests are denied as calling for the production of documents that are not discoverable with regard to the issues in this appeal.

DONE January 29, 2014.

  
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Valerie McNaughton  
Career Service Hearing Officer