

**BEFORE THE
STATE EMPLOYEES' APPEALS COMMISSION**

IN THE MATTER OF:

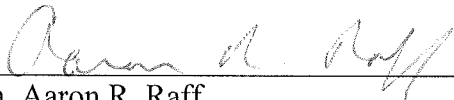
CHI-LISA GREENWOOD)	
Petitioner,)	
)	SEAC NO. 05-12-053
vs.)	
)	
WESTVILLE CORRECTIONAL)	
FACILITY BY INDIANA)	
DEPARTMENT OF CORRECTION)	
Respondent.)	

FINAL ORDER OF DISMISSAL

You are notified the Administrative Law Judge, acting on behalf of the State Employees' Appeals Commission, now enters a final order of dismissal against the Petitioner because SEAC lacks statutory jurisdiction. The reasons for the initial proposed dismissal are set forth in the ALJ's May 23, 2012, "Notice of Proposed Dismissal For Lack of Jurisdiction under Ind. Code § 4-15-2.2-42(e)" entered previously (the "Notice"). Namely, SEAC lacks statutory jurisdiction over the unclassified employee Complaint because a public policy exception to at-will employment discharge is not viably alleged within the Complaint. (See, Notice.) The Notice is further incorporated by reference herein. Petitioner received several continuances until October 12, 2012 to substantively respond to the Notice.¹ However, Petitioner did not timely respond to the substance of the Notice.

The Complaint, and this action, is hereby **DISMISSED**. This is the Final Order of the Commission in this matter. A person who wishes to seek judicial review must file a petition in an appropriate court within thirty (30) days of this order and must otherwise comply with IC 4-21.5-5.

DATED: October 24, 2012



Hon. Aaron R. Raff
Chief Administrative Law Judge
State Employees' Appeals Commission
Indiana Government Center North, Rm N501
100 N. Senate Avenue
Indianapolis, IN 46204
(317) 232-3137
Email: araff@seac.in.gov

¹ Petitioner's filings after the Notice related to discovery and seeking extensions for time to possibly secure counsel in this matter. Those extensions were granted until October 12, 2012. As of the date of this order, the ALJ has not received a substantive response to the Notice.

A copy of the foregoing was sent to the following:

Chi-Lisa Greenwood
Petitioner
535 Logan Dr., Apt. 505
Hammond, IN 46320

Mark E. Levenhagen, Superintendent
Westville Correctional Facility
5501 S 1100 W
Westville, IN 46391

Mike Barnes, Staff Attorney
Department of Correction
IGCS, Room W341
402 W. Washington Street
Indianapolis, IN 46204

Bruce Baxter & Joy Grow
State Personnel Department
IGCS, Room W161
402 W. Washington Street
Indianapolis, IN 46204

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CHI-LISA GREENWOOD)	
Petitioner,)	
)	SEAC NO. 05-12-053
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Respondent.)	

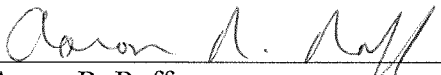
ORDER DENYING DISCOVERY MOTION AND ADJUSTING NOTICE DEADLINE

Petitioner Greenwood, pro se, moves to order production of certain state documents.¹ This discovery motion is a premature motion to compel and is DENIED as unripe. No ALJ intervention into discovery is yet appropriate. There is no indication that Petitioner has first contacted the Respondent by its staff attorney/representative(s) to informally or formally request discovery in the normal course of business. Neither is any certification present that Petitioner has attempted to worked informally with Respondent to resolve any discovery dispute. SEAC generally requires both before a party tenders a discovery motion. The Respondent should not be ordered to respond before it has had a chance to have an informal dialogue with Petitioner about the discovery.

Respondent shall treat the Petitioner's motion as a document request under Ind. T.R. 34 and respond to the Petitioner (not the ALJ) with documents and/or objections within thirty (30) days.

Additionally, a Notice of Proposed Dismissal is pending Petitioner's response by September 14, 2012 because SEAC presently considers that it lacks statutory jurisdiction over the Complaint because a public policy exception to at-will employment discharge is not viably alleged within the Complaint. Petitioner's Notice response deadline is extended to October 12, 2012. Further extensions disfavored and must be based on good cause shown.

DATED: August 24, 2012



Hon. Aaron R. Raff
Chief Administrative Law Judge
State Employees' Appeals Commission

¹ A copy is attached as it appears that Petitioner may have served the motion on DOC, but not DOC's staff counsel or SPD. This was just realized by the ALJ on this date. No response was received by Respondent, but it may be that Respondent is reasonably unaware of the filing. One attachment to the filing is a freedom of information act (federal FOIA) request to SPD. As to the FOIA request, Respondent must respond in accordance with FOIA anyway. No order is made herein as to the FOIA request.

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(317) 232-3137
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IGCS, Room W161
402 W. Washington Street
Indianapolis, IN 46204

RECEIVED

AUG 06 2012

STATE EMPLOYEES'
APPEALS COMMISSION

**BEFORE THE
STATE EMPLOYEES' APPEALS COMMISSION**

IN THE MATTER OF:

CHI-LISA GREENWOOD)	
Petitioner,)	SEAC NO. 05-12-053
vs.)	
)	
WESTVILLE CORRECTIONAL)	
FACILITY BY INDIANA)	
DEPARTMENT OF CORRECTIONS)	
Respondent.)	

MOTION TO PRODUCE

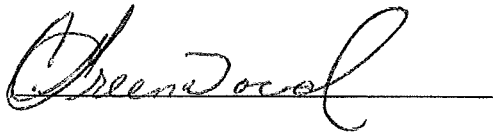
Comes now, Claimant before the State Employees' Appeals Commission and moves the State Employees' Appeals Commission to order the Employer to produce to the Claimant the below discovery:

- Any and all witness statements used to determine Claimants termination
- Any and all photographic and or video evidence to determine Claimants termination
- Any and all policies which were used to determine Claimants termination
- A list of all witnesses the employer called to give testimony to determine claimants termination
- Any and all other evidence the employer used to determine Claimants termination

Please produce the following documents to the Claimant.

1. A copy of post orders (specific and general) for the post Claimant was working the day Claimant was terminated.
2. A copy of policy 04-03-103 Information and Standards of Conduct.
3. Complete copies of the I-group log sheets of WCU pods: A, B, C, D, and WCU Control Room effective dates of 2/26/12-3/09/12.
4. Complete copies of the I-group: Westville Control Room, IC Control Room, EC Control Room, GSC Control Room and GSC post 2 log sheets effective the dates of 2/26/12-3/09/12.
5. Complete copies of the I-group count sheets of WCU pods: A, B, C, D on the effective date of 2/26/12.

6. Complete copies of the I-group WCU pod-D recreation sheet of effective 2/26/12.
7. Complete copies of the new issue of notice to staff dress policy (specific and general) for jewelry effective 2012.
8. All the Claimants' Emergency Contact Sheets effective dates of 2008-2012.
9. Complete copies of the last annual training of the claimants' whole written and computer prints.

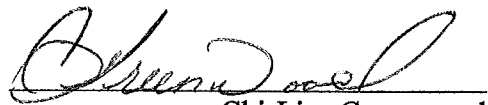
A handwritten signature in cursive script, appearing to read "Greenwood", written over a horizontal line.

Chi-Lisa Greenwood
Petitioner
535 Logan Dr. #505
Hammond, IN. 46320

CERTIFICATE OF SERVICE

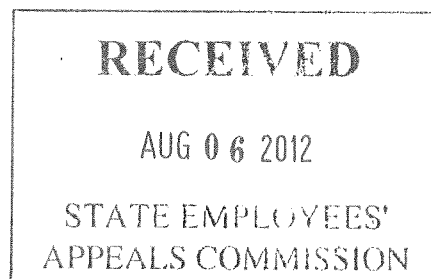
I, certify that on the 6 day of August, 2012 service of a true and complete copy of the above and foregoing pleadings or papers was made upon the party of record herein by depositing the same in the United States postal service wherein is copy written until open and protected under State and Federal Laws.

Westville Correctional Facility
5501 S. 1100 W.
Westville, IN. 46391



Chi-Lisa Greenwood
Petitioner
535 Logan Dr. #505
Hammond, IN. 46320

Chi-Lisa Greenwood
535 Logan Drive #505
Hammond, in. 46320



Monday, August 6th, 2012

Freedom of information liaison
Mr. Bruce Baxter
Director of Employee Relations
State Personnel Department
402 W. Washington St., Rm. W161
Indianapolis, Indiana 46204-2261

Dear sir:

The purpose of this letter is to request information pursuant to The Freedom of Information Act (FOIA), 5 U.S.C. section 552. If this information is not available from your agency, please forward this request to the appropriate agencies or advise me of the other agency which might have this information.

Please provide me with official copies of the following items:

- Your complete review on Complaint No. PS 14925
- All evidence the employer used: written photographic and or video
- All witness statements used
- Any policies which were used

Please contact me at the above address if you have questions regarding this request.
Thank you for your prompt attention to this matter.

Sincerely,



Chi-Lisa Greenwood

cc: Hon. Aaron R. Raff, Chief Administrative Law Judge, State Employees' Appeals Commission

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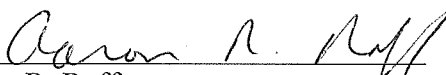
CHI-LISA GREENWOOD)	
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DEPARTMENT OF CORRECTION)	
Respondent.)	

ORDER GRANTING SECOND CONTINUANCE

Petitioner Greenwood, pro se, filed a letter request for continuance on July 23, 2012 indicating she was yet unable to retain counsel due to an economic hardship. A Notice of Proposed Dismissal (the "Notice") was issued on May 23, 2012 as SEAC presently considers that it lacks statutory jurisdiction over the Complaint because a public policy exception to at-will employment discharge is not viably alleged within the Complaint. The Notice is incorporated by reference. The Petitioner may desire additional time to obtain an attorney's counsel or advice.¹

In the interests of justice, the Petitioner's second letter for continuance is **GRANTED**. Petitioner shall have until **Friday, September 14, 2012** to substantively respond to the Notice of Proposed Dismissal.

DATED: July 31, 2012



Hon. Aaron R. Raff
Chief Administrative Law Judge
State Employees' Appeals Commission
Indiana Government Center North, Rm N501
100 N. Senate Avenue
Indianapolis, IN 46204
(317) 232-3137
Email: araff@seac.in.gov

A copy of the foregoing was sent to the following:

Chi-Lisa Greenwood
Petitioner

¹ Instead of responding to the particulars of the Notice, Petitioner has also re-filed her original complaint papers, which was unnecessary, as SEAC has those already upon the docket. The ALJ is looking to give Petitioner an opportunity to substantively respond to the public policy exception requirement as discussed in the Notice.

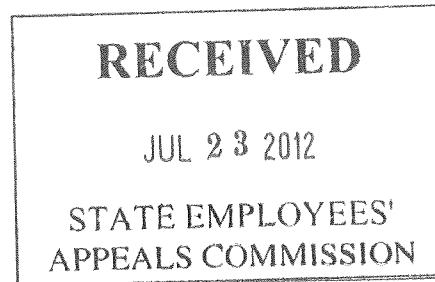
535 Logan Dr., Apt. 505
Hammond, IN 46320

Mark E. Levenhagen, Superintendent
Westville Correctional Facility
5501 S 1100 W
Westville, IN 46391

Mike Barnes, Staff Attorney
Department of Correction
IGCS, Room W341
402 W. Washington Street
Indianapolis, IN 46204

Bruce Baxter & Joy Grow
State Personnel Department
IGCS, Room W161
402 W. Washington Street
Indianapolis, IN 46204

Monday, July 23rd, 2012.



Hon. Aaron R. Raff
Chief Administrative Law Judge
State Employees' Appeals Commission
100 North Senate Avenue, Room N501
Indianapolis, IN. 46204

Attn: Hon. Aaron R. Raff

Sir, The purpose of this letter is to request a continuance of The Civil Service Complaint Process. An Appeal to be heard by The State Employees' Appeals Commission (SEAC).

I was given additional time from you, Your Honor, to seek a lawyer. However; due to economic hardships from unemployment and lack of unemployment benefits I cannot afford legal counsel therefore I must continue without an attorney.

Law is not my craft and the definition of a process as I, a laywoman understands, is like the definition of steps, to proceed, to go forth....

The Civil Service Complaint Process has its procedures, steps and through my lack of understanding I perceived I was being denied the appeal process.

I, Chi-Lisa Greenwood, have completed the steps of The Civil Service Complaint Process...in a timely manner. I do not agree with: Mr. Evan Lowry WCU Unit Team Manager, Mr. Mark Levenhagen Westville Correctional Facility Superintendent nor Mr. Bruce Baxter State Director of Employee Relations. I have file other complaints. However; I have not yet received copies.

I have enclosed copies of the following:

- Termination Letter
- The Civil Service Employee Complaint Process Steps and their Responses with Timed Notices.

If it pleases you, Your Honor, I am now requesting to take my matter to The State Employees' Appeals Commission (**SEAC**).

Respectfully,

A handwritten signature in black ink, appearing to read "C. Greenwood". The signature is written in a cursive style with a large initial "C" and a long, sweeping underline.

Ms. Greenwood.



WESTVILLE CORRECTIONAL FACILITY

5501 S. 1100 W. • Westville, Indiana 46391

Mark E. Levenhagen, Superintendent

Phone: (219) 785-2511 • Fax: (219) 785-6175

Mitchell E. Daniels, Jr.
Governor

Bruce Lemmon
Commissioner

RECEIVED

JUL 23 2012

STATE EMPLOYEES'
APPEALS COMMISSION

March 9, 2012

Chi-Lisa Greenwood
1306 Carriage Court
Apt A
La Porte, IN 46350

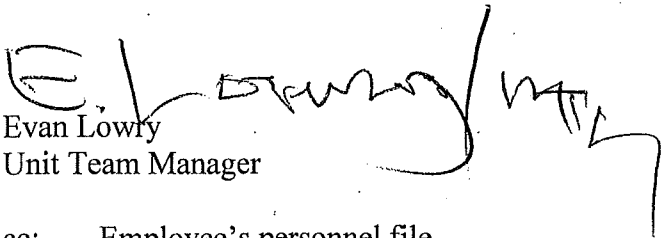
Dear Ms. Greenwood,

As discussed on March 6, 2012, your failure to properly conduct count as well as the failure to report of count not being properly conducted does not meet agency standards and is unacceptable. That is the reason for this disciplinary action. You are hereby notified that effective March 9, 2012, your employment is terminated in accordance with IC 4-15-2.2-24 which provides "An employee in the unclassified service is an employee at will and serves at the pleasure of the employee's appointing authority. . . . and may be dismissed, demoted, disciplined or transferred for any reason that does not contravene public policy."

This action may be appealable in accordance with IC 4-15-2.2-42. A civil service complaint form and eligibility information are available at <http://www.in.gov/spd/2399.htm>.

Information about your rights and obligations under COBRA will be sent to you separately at the home address on file.

Sincerely,


Evan Lowry
Unit Team Manager

cc: Employee's personnel file
State Personnel Department



STATE OF INDIANA

Department of Correction • Indiana Government Center - South, Room E334 • 302 W. Washington Street • Indianapolis, Indiana 46204-2738

Phone: (317) 232-5711 • Fax: (317) 232-6798 • Website: www.in.gov/indcorrection/

EOE





CIVIL SERVICE EMPLOYEE COMPLAINT

State Form 54707 (R / 1-12)

Indiana State Personnel Department

For Office Use Only

Complaint Number:

Please check the appropriate box:

- Complainant is a CLASSIFIED employee on an original working test period.
- Complainant is a CLASSIFIED employee who has completed an original working test period.
- Complainant is an UNCLASSIFIED employee.

EMPLOYEE INSTRUCTIONS: Please provide all requested information and retain a copy of this form for your records. PRINT or TYPE LEGIBLY. Information concerning the complaint process is provided on the reverse side of this form. Other procedural questions may be directed to Employee Relations Specialists in the State Personnel Department by calling 317.232.3080.

Full Name of Employee Chi-Lisa A. Greenwood	Agency / Facility Westville Correctional Facility
Home Address (number and street, city, state, and ZIP code) 535 Logan Dr. Apt. 505 Hammond, IN. 46320	
Contact Telephone Number 219-292-9986/219-902-9238	Contact Email lisasparkles@yahoo.com
Employee Identification Number 10000224988	Classification / Position Correctional Officer

EMPLOYEE COMPLAINT

Statement of Complaint & Remedy Sought:

I, Ms. Greenwood, was terminated from Westville Correctional Facility on March 9th Friday 2012. for failure to properly conduct count as well as the failure to report count not being properly conducted as a result of an investigation stated on Febuary 26th Sunday 2012. It is stated that the OIC XX is responsible for the unit. I, Ms. Greenwood was not responsible for the unit. Nor was I authorized how daily activities were to be cared out and in what order. I, Ms. Greenwood did not fail in reporting count not being made properly and the daily activites refelct that within the timeline. I, Ms. Greenwood, am requesting that complete restoration be given to me regarding my employment prior to the termination and the record of termination with the causes expunged from my employment file. I am also requesting wages lost during my termination period ~~XXXXXX~~ awarded to me.

Check here if additional pages are attached.

Signature of Employee

Date submitted to Appointing Authority/designee

(month, day, year) March 23rd Friday 2012.



Proof of Delivery

[Close Window](#)

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number:	1Z610X73A873429832
Service:	UPS Ground
Special Instructions:	ADULT SIGNATURE REQUIRED
Weight:	.10 lb
Shipped/Billed On:	03/23/2012
Delivered On:	03/26/2012 9:06 A.M.
Delivered To:	WESTVILLE, IN, US
Signed By:	SHEELY
Left At:	Dock

Thank you for giving us this opportunity to serve you.

Sincerely,

UPS

Tracking results provided by UPS: 07/23/2012 2:50 P.M. ET

[Print This Page](#)

[Close Window](#)



WESTVILLE CORRECTIONAL FACILITY
 5501 S. 1100 W. • Westville, Indiana 46391
Mark E. Levenhagen, Superintendent
 Phone: (219) 785-2511 • Fax: (219) 785-6175

Mitchell E. Daniels, Jr.
 Governor

Bruce Lemmon
 Commissioner

Step 1 Civil Service Response

Date: March 30, 2012

Chi-Lisa Greenwood
 535 Logan Dr.
 Apt 505
 Hammond, IN 46320



Complaint No.: PS 14925

Dear Mrs. Greenwood:


Certified #7010 0780 0001 3549 9446

Pursuant to IC 4-15-2.2 and on behalf of the Westville Correctional Facility/Department of Correction's Superintendent, I have caused a review to be made concerning the circumstances of your complaint. Your complaint concerns your dismissal.

IC 4-15-2.2-24(a)-(b) provides that "an employee in the unclassified service is an employee at will and . . . may be dismissed, demoted, disciplined, or transferred for any reason that does not contravene public policy." The information you provided does not show that the reason for your dismissal is one which contravenes public policy. My review shows that you failed to follow proper count procedures as well as failed in your responsibility to report that improper counts were being conducted was the reason for the dismissal. Accordingly, you were dismissed for a reason that does not contravene public policy. I am therefore denying your complaint.

If you are not satisfied with this decision, you have fifteen (15) calendar days to submit your complaint to step 2, the State Personnel Director: State Personnel Department, 402 West Washington Street, Room W161, Indianapolis, Indiana 46204; ATTN: Civil Service Employee Complaint; or Fax to 317.232.3089.

Sincerely,


 Mark E. Levenhagen
 Superintendent

*Received
 4/4/12
 [Signature]*

Cc: File
 State Personnel Department



United States Postal Service®

Sorry We Missed You! We ^{re} Deliver for You

Today's Date

7-4

Sender's Name

Westville

Item is at:

Post Office™ (See back)

Available for Pick-up After

Date: 4-5

Time: 9AM

For Redelivery
Go to usps.com/redelivery
or see reverse

- Letter
- Large envelope, magazine, catalog, etc.
- Parcel
- Restricted Delivery
- Perishable Item
- Other:

For Delivery: (Enter total number of items delivered by service type.)

For Notice Left: (Check applicable item)

- Express Mail®
- Certified Mail™
(Must claim within 15 days or article will be returned)
- Registered Mail™
- Insured Mail
- Return Receipt for Merchandise
- Firm Bill
- Delivery Confirmation™
- Signature Confirmation™

If checked, you or your agent must be present at time of delivery to sign for item.

Article Number(s)

7010 0780 0001 3549
9446

Notice Left Section

Customer Name and Address

Greenwood
535 Logan 505
Delivered By and Date

Article Requiring Payment

Amount Due

Postage Due COD Customs \$

Final Notice: Article will be returned to sender on

PS Form 3849, September 2009

usps.com

Delivery Notice/Reminder/Receipt

April 11th, Thursday 2012.

State Personnel Department
402 West Washington Street, Room W161
Indianapolis, IN. 46204

Attn: Civil Service Complaint

This is a rebuttal of the response given to me after my complaint to the appointing Authority/Designee's decision to the State Personnel Director.

My complaint not only concerns my dismissal it also concerns why I was dismissed and the circumstances within the at-will clause. "I, Ms. Greenwood, was terminated from Westville Correctional Facility as a result of an investigation started on February 26th Sunday, 2012."

As stated in the termination letter presented to me, "your failure to properly conduct count as well as failure to report of count not being properly conducted..." refers to the count not properly conducted on February 26th Sunday, 2012. The termination letter also states, "That is the reason for this disciplinary action." The action was my termination. There is a confliction here. A brush off, a change of context, that discards and discredits my complaint. On the Appointing Authority/Designee's response letter, it states, "you fail to follow proper count procedures as well as failed in your responsibility to report that improper counts were being conducted was the reason for the dismissal." The responding letter states that "an employee in the unclassified service is an employee at will...and maybe dismissed, demoted, disciplined or transferred for any reason that does not contravene public policy." The Appointing Authority/Designee's decision used count policies, procurers and documents to determine my dismissal. Therefore the circumstances apply to the decision and dismissal made for my termination and the at-will clause.

It is an understanding that I would be treated and dealt with fairly in all matters within public policy and I have not. The public policy does not accept any form of management abuse or unethical behavior. The necessary copies of the Step II Complaint Process are enclosed and the same remedy is sought.

Thank You,


Ms. Greenwood.



Proof of Delivery

[Close Window](#)

Dear Customer,

This notice serves as proof of delivery for the shipment listed below.

Tracking Number:	1Z610X73A274482631
Service:	UPS Next Day Air®
Special Instructions:	ADULT SIGNATURE REQUIRED
Weight:	.20 lb
Shipped/Billed On:	04/12/2012
Delivered On:	04/13/2012 9:45 A.M.
Delivered To:	INDIANAPOLIS, IN, US
Signed By:	LATOYA
Left At:	Mail Room

Thank you for giving us this opportunity to serve you.

Sincerely,

UPS

Tracking results provided by UPS: 07/23/2012 2:49 P.M. ET

[Print This Page](#)

[Close Window](#)



STATE PERSONNEL DEPARTMENT
402 W. Washington St., Rm. W161
Indianapolis, Indiana 46204-2261
Telephone: (317) 232-0200

Mitchell E. Daniels, Jr.
Governor

Daniel L. Hackler
State Personnel Director

May 1, 2012

Chi-Lisa Greenwood
535 Logan Drive, Apt. 505
Hammond, IN 46320



Re: Complaint No. PS 14925

Dear Ms. Greenwood:

In accordance with Section 42 of the State Civil Service System, and on behalf of the State Personnel Director, I have reviewed your complaint concerning your dismissal. The following decision is based on the information you presented, as well as information presented by Indiana Department of Correction—Westville Correctional Facility.

My review has indicated that you did not follow proper procedures as they relate to offender counts. Such controls are vital to the safety and security of the facility, and violations are serious infractions. Dismissal for not following offender count procedures does not contravene public policy. Accordingly, I am denying your complaint.

If you are not satisfied with this decision, you have fifteen (15) calendar days to submit your complaint to the State Employees' Appeals Commission. Submit copies of the decision being challenged, the completed complaint form, as well as the Step 1 and Step 2 responses to: State Employees' Appeals Commission, 100 North Senate Avenue, Room N501, Indianapolis, Indiana 46204.

Sincerely,

Bruce Baxter
Director of Employee Relations

Received on 5/3/12

BB/tam

cc: Dixie Phelan, Human Resources, Westville Correctional Facility

Thursday, May 10th, 2012.

State Employees' Appeals Commission (SEAC).
100 North Senate Avenue, Room N501
Indianapolis, IN. 46204

Attn: Civil Service Complaints' Appeal

This is an appeal of the response given to me after my complaint to the State Employees' Appeals Commission (SEAC).

I am still requesting a complete review of the alleged violations starting on Sunday, February 26th, 2012 and the actions of all parties in a thought-provoking way, as opposed to in a superficial or merely entertaining manner. I may not know the legal jargon of section 42 of the State Civil Service System or any other sections used. However; my civil service complaint and the complaint process are being abused and ignored. I have the right to "Due Process."

due process

n **citizen's right to justice:** the entitlement of a citizen to proper legal procedures and natural justice.

vt **follow procedures:** to deal with somebody or something according to an established procedure

complaint

com·plaint [kəm pláynt] (*plural com·plaints*)

n **statement of unhappiness:** a statement expressing discontent or unhappiness about a situation *If you have any complaints, talk to the manager.*

civil servant

(*plural civ·il ser·vants*)

n **government employee:** an employee in a government department

The burden of proving a policy exception rely on a serious review and the importance of it because of my advances being rebuked. The necessary copies of the Step I & II Complaint Process are enclosed and the same remedy is sought.

Thank You,


Ms. Greenwood.

English Customer Service USPS Mobile Register / Sign In



Search USPS.com or Track Packages

Quick Tools Ship a Package Send Mail Manage Your Mail Shop Business Solutions

Track & Confirm

You entered: 23050270000183721702

Status: Delivered

Your item was delivered at 10:53 am on May 14, 2012 in INDIANAPOLIS, IN 46204. The item was signed for by K WILLEVER. Additional information for this item is stored in files offline.

You may request that the additional information be retrieved from the archives, and that we send you an e-mail when this retrieval is complete. Requests to retrieve additional information are generally processed within four hours. This information will remain online for 30 days.

I would like to receive notification on this request

First Name M.I. Last Name
CHI-LISA GREENWOOD

Email Address
LISASPARKLES@YAHOO.COM

Restore

Find Another Item

What's your label (or receipt) number?

Find

LEGAL

- Privacy Policy ›
- Terms of Use ›
- FOIA ›
- No FEAR Act EEO Data ›

ON USPS.COM

- Government Services ›
- Buy Stamps & Shop ›
- Print a Label with Postage ›
- Customer Service ›
- Site Index ›

ON ABOUT.USPS.COM

- About USPS Home ›
- Newsroom ›
- Mail Service Updates ›
- Forms & Publications ›
- Careers ›

OTHER USPS SITES

- Business Customer Gateway ›
- Postal Inspectors ›
- Inspector General ›
- Postal Explorer ›

**BEFORE THE
STATE EMPLOYEES' APPEALS COMMISSION**

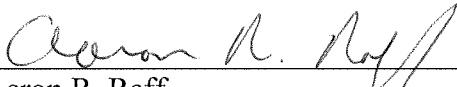
IN THE MATTER OF:

CHI-LISA GREENWOOD)
Petitioner,)
) SEAC NO. 05-12-053
vs.)
)
WESTVILLE CORRECTIONAL)
FACILITY BY INDIANA)
DEPARTMENT OF CORRECTION)
Respondent.)

ORDER GRANTING EXTENSION OF TIME

Petitioner's Complaint for review under the Civil Service System was filed May 12, 2012. Petitioner was a former unclassified (at-will) employee for Respondent. On May 23, 2012 the ALJ entered a Notice of Proposed Dismissal due to SEAC's lack of statutory jurisdiction in this matter. Petitioner, pro se, timely responded and indicated she reasonably needed additional time to secure counsel or review the matter with counsel before providing any substantive response. The Petitioner's motion for extension of time shows good cause and is **GRANTED**. Petitioner shall have until Friday, **July 27, 2012** to respond to the Notice of Proposed Dismissal. Petitioner should provide a copy of this Order and the proceeding Notice and Complaint to any counsel she retains.

DATED: June 4, 2012



Hon. Aaron R. Raff
Chief Administrative Law Judge
State Employees' Appeals Commission
Indiana Government Center North, Rm N501
100 N. Senate Avenue
Indianapolis, IN 46204
(317) 232-3137
Email: araff@seac.in.gov

A copy of the foregoing was sent to the following:

Chi-Lisa Greenwood
Petitioner
535 Logan Dr., Apt. 505
Hammond, IN 46320

Mark E. Levenhagen, Superintendent
Westville Correctional Facility
5501 S 1100 W
Westville, IN 46391

Mike Barnes, Staff Attorney
Department of Correction
IGCS, Room W341
402 W. Washington Street
Indianapolis, IN 46204

Bruce Baxter & Joy Grow
State Personnel Department
IGCS, Room W161
402 W. Washington Street
Indianapolis, IN 46204

Wednesday, May 30th, 2012.



Hon. Aaron R. Raff
Chief Administrative law judge
State Employees' Appeals Commission
100 North Senate Avenue, Room N501
Indianapolis, IN. 46204

Attn: Hon. Aaron R. Raff

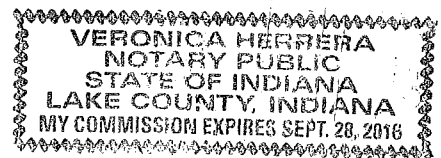
Through family council I understand you (and or whomever it may concern) do not agree with me regarding my last appeal. However, This is a plead to give a motion to give more time to seek a lawyer to help me understand and time for the lawyer to present the appropriate legal papers and clams as you have requested. I have mentioned previously I don't understand all the legal jargon/statements/responses given to me I do not comprehend it. As stated it is my burden to prove my clams and since I was denied copies to prove my clams I can only obtain it through an attorney's petition therefore I am asking more time to seek an attorney because without one they are only clams as you have stated.

The necessary copies of all The Complaint Process Steps are enclosed and the same remedy is sought.

Thank You,

A handwritten signature in cursive script, appearing to read "Greenwood".

Ms. Greenwood.



5-30-12
Veronica Herrera

**BEFORE THE
STATE EMPLOYEES' APPEALS COMMISSION**

IN THE MATTER OF:

CHI-LISA GREENWOOD)
Petitioner,)
) SEAC NO. 05-12-053
vs.)
)
WESTVILLE CORRECTIONAL)
FACILITY BY INDIANA)
DEPARTMENT OF CORRECTION)
Respondent.)

**NOTICE OF PROPOSED DISMISSAL FOR LACK OF JURISDICTION UNDER
IND. CODE § 4-15-2.2-42(e)**

On May 12, 2012, Petitioner (pro se) filed with the Commission a complaint for administrative review governed by the State Civil Service System under IC §§ 4-15-2.2-1 et seq., 42 (the Civil Service System) and IC §§ 4-21.5-3 et seq. (AOPA). A copy is attached and hereby considered the instant Complaint.¹ On March 9, 2012, Petitioner received a letter from Respondent stating her employment had been terminated for not meeting agency standards. Petitioner is an unclassified (at-will) employee and requests reinstatement of her employment as well as back-pay. Petitioner, in pertinent part, challenges the termination as being unfair, not based on factually accurate information and/or in violation of her due process rights under the 14th Amendment to the United States Constitution. (See, Complaint)

The Commission has an independent statutory obligation to assess its jurisdiction at the initial stage of the proceeding (and as a case might continue). IC § 4-15-2.2-42(e). Petitioner is an unclassified, at-will employee. This case must be dismissed because there is no statutory right alleged to be violated and, correspondingly, no alleged violation of specific public policy is demonstrated to maintain jurisdiction. A mere allegation of unfairness or lack of factual accuracy behind the discipline is insufficient. Petitioner does not have a property interest in at-will employment with the state so her 14th Amendment claim also must be dismissed as a matter of law. The following additional findings of fact, conclusions of law, and notice of proposed order of dismissal for lack of jurisdiction are entered.

I. Legal Standards & No Public Policy Exception is Alleged

Dismissal proceedings test the legal sufficiency of the Complaint. All facts plead in the non-moving party's complaint, and reasonable inferences therefrom, are taken as true. However, when a party's complaint is legally insufficient or fails to plead essential

¹ The SPD number at Step II below was 14925.

*Received
05/12/12*

elements of the claim(s), the complaint should be dismissed. *Meyers v. Meyers Construction*, 861 N.E.2d 704, 705-706 (Ind. 2007); *Huffman v. Office of Env'tl. Adjudication*, 811 N.E.2d 806, 814 (Ind. 2004); *Gorski v. DRR, Inc.*, 801 N.E.2d 642, 644 (Ind. Ct. App. 2003); and *Steele v. McDonald's Corp. et al.*, 686 N.E.2d 137 (Ind. Ct. App. 1997). *See also*, Ind. Trial Rule 12(b)(1) and (6).

The general at-will employment law is well settled. "An employee in the unclassified service is an employee at will and serves at the pleasure of the employee's appointing authority." IC § 4-15-2.2-24(a) (Civil Service System, Section 24(a)). "An employee in the unclassified service may be dismissed, demoted, disciplined, or transferred for any reason that does not contravene public policy." IC § 4-15-2.2-24(b). "Indiana generally follows the employment at will doctrine, which permits both the employer and the employee to terminate the employment at any time for a good reason, bad reason, or no reason at all." *Meyers*, 861 N.E.2d at 706 (internal quotes omitted).

Recognized exceptions to the at-will doctrine based on public policy have traditionally only been found where an employee was terminated or disciplined for exercising a statutory right or refusing illegal conduct that would lead to penal consequence. Put another way, the courts ask was the termination or discipline itself illegal in light of applicable statutory law²; a merely foolish or arbitrary choice by an employer to terminate or discipline does not invoke an exception. *Baker v. Tremco Inc.*, 917 N.E. 2d 650, 653-655 (Ind. 2009); *Meyers*, 861 N.E.2d at 706-707; *Orr v. Westminster Village North, Inc.*, 689 N.E.2d 712 (Ind. 1997); *Frampton v. Cent. Indiana Gas Co.*, 297 N.E.2d 425 (Ind. 1973); and *Tony v. Elkhart County*, 851 N.E.2d 1032 (Ind. Ct. App. 2006).

Because Petitioner is at-will, the state employer did not have to conduct a review of the alleged violations. The Respondent did not have to be "fair". Whether the Respondent is right or wrong about the facts of the underlying incident is irrelevant. Petitioner, not Respondent, holds the burden of proof to show public policy invalidity/exception to the termination. *Meyers* at 706; IC 4-15-2.2-42. A state employer can discipline an unclassified (at-will) employee for a "good reason, bad reason or no reason" unless it violates public policy in doing so. *Id.* Petitioner does not link the challenge to the termination's validity to any protected statutory class or other public policy right.

II. The Federal Due Process Claim (14th Amendment)

In the employment context, federal due process (and also federal equal protection) under the 14th Amendment to the United States Constitution requires that the former employee demonstrate a property interest (as defined by state law) in continued employment. This generally requires the employee to show that he or she was afforded just cause employment or could rely on an employment contract or other mutually

² Non-comprehensive examples include illegal discrimination on the basis of race, national origin, sex, age, disability, veteran status, religion, free speech, political affiliation or retaliation for filing a discrimination complaint or exercising statutory rights such as workers' compensation rights.

explicit understanding of continued employment. *Darnell Cole v. Milwaukee Area Technical College District, et al.*, 634 F.3d 901, 903-906 (7th Cir. 2011)(Whether a constitutionally recognized property implicated is a question of law); *Samone Redd v. Rosemarie Nolan et al.*, 663 F.3d 287, 296 (7th Cir. 2011)

Petitioner cannot make the required property interest showing here, which is an essential element of her federal due process claim under the 14th Amendment. Petitioner does not have a property right in continued employment, and the Civil Service System specifies at-will employment for unclassified employees. Only classified employees successfully outside of an initial working test period have a vested property (due process) right in state employment, and fall under the merit or "just case" standards in the Civil Service System. Petitioner was an unclassified (at-will) employee and cannot invoke the pre-deprivation procedural rights or standards of the repealed State Personnel Act. Petitioner could be disciplined for any reason that did not violate public policy as expressed in a clear federal or state statutory right. *Baker v. Tremco, Inc.* 917 N.E.2d 650, 653-655 (Ind. 2009); *Meyers* 861 N.E.2d at 706-707. *See and compare* Indiana Civil Service System (IC §§ 4-15-2.2)(effective July 1, 2011)(dividing state employment service into classified (just cause) and unclassified (at-will) in a precise manner) to the repealed State Personnel (Merit) Act, IC §§ 4-15-2 (repealed July 1, 2011).

Petitioner's due process claim under the 14th Amendment to the United States Constitution is dismissed.

III. Conclusions of Law and Order

Petitioner does not establish a claim to SEAC subject matter jurisdiction recognized by IC § 4-15-2.2-42(e). Petitioner must file a complaint supported with factual allegations and a cogent theory concluding that the termination was in violation of Indiana public policy as expressed by statute. *See*, IC § 4-15-2.2-42(e) (Civil Service System), and IC §§ 4-21.5-3-24 (AOPA).

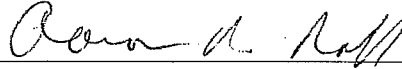
The Petitioner has **ten (10) days** from the date of this notice to file a motion requesting a final order of dismissal not be imposed and stating the "legal basis" relied upon for the request. The Petitioner should specifically address each jurisdictional reason(s) stated above by the Administrative Law Judge (ALJ) for the dismissal in such a motion. **Petitioner must legally explain or cure these identified defects.** Should Petitioner file a motion, Respondent may respond thereto within ten (10) days of same. It is the Petitioner's burden of proof to cure the jurisdictional defects if possible, and show that SEAC has subject matter jurisdiction of this matter. IC §4-15-2.2-42(e) and (f).

Motions and pleadings should be filed with the ALJ at the address shown below. As an alternative to the U.S. Mail, service may be made upon the ALJ by facsimile copy. Parties are cautioned, however, that while service through the U.S. Mail may be perfected upon mailing, service by facsimile copy is perfected only upon actual receipt. The facsimile number is (317) 233-9372. A copy of each motion or pleading must also be served upon all parties of record or their attorneys/representatives.

Parties are reminded not to contact the ALJ without serving and including the other party(s) on a communication. Currently, the parties are as identified in the caption above.

If no appropriate motion is filed showing jurisdiction exists, the ALJ will enter a final order of dismissal pursuant to IC § 4-15-2.2-42(e), and IC §4-21.5-3-24(c).³

DATED: May 23, 2012



Hon. Aaron R. Raff
Chief Administrative Law Judge
State Employees' Appeals Commission
Indiana Government Center North, Rm N501
100 N. Senate Avenue
Indianapolis, IN 46204
(317) 232-3137
Email: araff@seac.in.gov

A copy of the foregoing was sent to the following:

Chi-Lisa Greenwood
Petitioner
535 Logan Dr., Apt. 505
Hammond, IN 46320

Mark E. Levenhagen, Superintendent
Respondent Westville Correctional Facility
5501 S 1100 W
Westville, IN 46391

Mike Barnes, Staff Attorney
Department of Correction
IGCS, Room W341
402 W. Washington Street
Indianapolis, IN 46204

Bruce Baxter & Joy Grow
State Personnel Department
IGCS, Room W161
402 W. Washington Street
Indianapolis, IN 46204

³ Commission proceedings are additionally governed by the Administrative Orders and Procedures Act (AOPA), IC §§ 4-21.5 et seq. See IC § 4-15-1.5-6(1). Accordingly the Commission has delegated to its Administrative Law Judges pursuant to IC § 4-21.5-3-28 of the AOPA, the authority to issue final orders in this class of proceedings. The final order entered by the Administrative Law Judge for this class of proceeding shall be considered a final order under IC § 4-21.5-3-27, pursuant to this delegation.



WESTVILLE CORRECTIONAL FACILITY

5501 S. 1100 W. • Westville, Indiana 46391

Mark E. Levenhagen, Superintendent

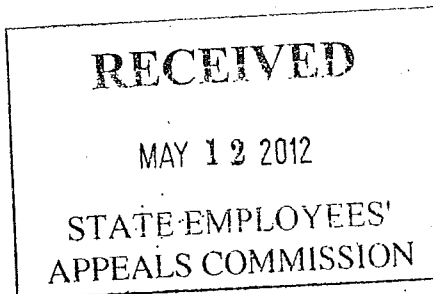
Phone: (219) 785-2511 • Fax: (219) 785-6175

Mitchell E. Daniels, Jr.
Governor

Bruce Lemmon
Commissioner

March 9, 2012

Chi-Lisa Greenwood
1306 Carriage Court
Apt A
La Porte, IN 46350



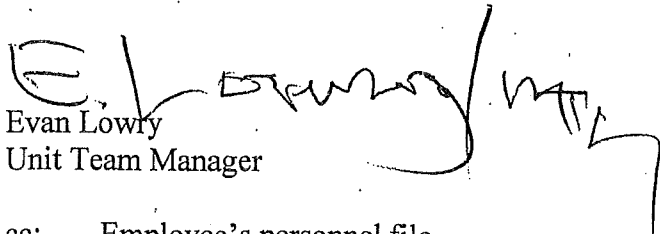
Dear Ms. Greenwood,

As discussed on March 6, 2012, your failure to properly conduct count as well as the failure to report of count not being properly conducted does not meet agency standards and is unacceptable. That is the reason for this disciplinary action. You are hereby notified that effective March 9, 2012, your employment is terminated in accordance with IC 4-15-2.2-24 which provides "An employee in the unclassified service is an employee at will and serves at the pleasure of the employee's appointing authority. . . . and may be dismissed, demoted, disciplined or transferred for any reason that does not contravene public policy."

This action may be appealable in accordance with IC 4-15-2.2-42. A civil service complaint form and eligibility information are available at <http://www.in.gov/spd/2399.htm>.

Information about your rights and obligations under COBRA will be sent to you separately at the home address on file.

Sincerely,


Evan Lowry
Unit Team Manager

cc: Employee's personnel file
State Personnel Department





CIVIL SERVICE EMPLOYEE COMPLAINT

State Form 54707 (R / 1-12)

Indiana State Personnel Department

EMPLOYEE INSTRUCTIONS: Please provide all requested information and retain a copy of this form for your records. PRINT or TYPE LEGIBLY. Information concerning the complaint process is provided on the reverse side of this form. Other procedural questions may be directed to Employee Relations Specialists in the State Personnel Department by calling 317.232.3080.

For Office Use Only	
Complaint Number:	
<i>Please check the appropriate box:</i>	
<input type="checkbox"/>	Complainant is a CLASSIFIED employee on an original working test period.
<input type="checkbox"/>	Complainant is a CLASSIFIED employee who has completed an original working test period.
<input type="checkbox"/>	Complainant is an UNCLASSIFIED employee.

Full Name of Employee Chi-Lisa A. Greenwood	Agency / Facility Westville Correctional Facility
Home Address (number and street, city, state, and ZIP code) 535 Logan Dr. Apt. 505 Hammond, TN 46320	
Contact Telephone Number 219-292-9986/219-902-9238	Contact Email lisasparkles@yahoo.com
Employee Identification Number 10000224988	Classification / Position Correctional Officer

EMPLOYEE COMPLAINT

Statement of Complaint & Remedy Sought:

I, Ms. Greenwood, was terminated from Westville Correctional Facility on March 9th Friday 2012. for failure to properly conduct count as well as the failure to report count not being properly conducted as a result of an investigation stated on February 26th Sunday 2012. It is stated that the OIC ~~XX~~ is responsible for the unit. I, Ms. Greenwood was not responsible for the unit. Nor was I authorized how daily activities were to be cared out and in what order. I, Ms. Greenwood did not fail in reporting count not being made properly and the daily activities reflect that within the timeline. I, Ms. Greenwood, am requesting that complete restoration be given to me regarding my employment prior to the termination and the record of termination with the causes expunged from my employment file. I am also requesting wages lost during my termination period ~~be~~ awarded to me.

RECEIVED
MAY 12 2012
STATE EMPLOYEES'
APPEALS COMMISSION

<input type="checkbox"/> Check here if additional pages are attached.	
Signature of Employee 	Date submitted to Appointing Authority/designee (month, day, year) March 23rd Friday 2012.



WESTVILLE CORRECTIONAL FACILITY

5501 S. 1100 W. • Westville, Indiana 46391

Mark E. Levenhagen, Superintendent

Phone: (219) 785-2511 • Fax: (219) 785-6175

Mitchell E. Daniels, Jr.
Governor

Bruce Lemmon
Commissioner

Step 1 Civil Service Response

Date: March 30, 2012

Chi-Lisa Greenwood
535 Logan Dr.
Apt 505
Hammond, IN 46320

Complaint No.: PS 14925

Dear Mrs. Greenwood:

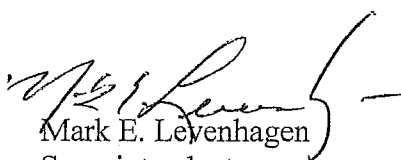
Certified #7010 0780 0001 3549 9446

Pursuant to IC 4-15-2.2 and on behalf of the Westville Correctional Facility/Department of Correction's Superintendent, I have caused a review to be made concerning the circumstances of your complaint. Your complaint concerns your dismissal.

IC 4-15-2.2-24(a)-(b) provides that "an employee in the unclassified service is an employee at will and . . . may be dismissed, demoted, disciplined, or transferred for any reason that does not contravene public policy." The information you provided does not show that the reason for your dismissal is one which contravenes public policy. My review shows that you failed to follow proper count procedures as well as failed in your responsibility to report that improper counts were being conducted was the reason for the dismissal. Accordingly, you were dismissed for a reason that does not contravene public policy. I am therefore denying your complaint.

If you are not satisfied with this decision, you have fifteen (15) calendar days to submit your complaint to step 2, the State Personnel Director: State Personnel Department, 402 West Washington Street, Room W161, Indianapolis, Indiana 46204; ATTN: Civil Service Employee Complaint; or Fax to 317.232.3089.

Sincerely,


Mark E. Levenhagen
Superintendent

*Received
4/4/12
Greenwood*

Cc: File
State Personnel Department



April 11th, Thursday 2012.

State Personnel Department
402 West Washington Street, Room W161
Indianapolis, IN. 46204

Attn: Civil Service Complaint

This is a rebuttal of the response given to me after my complaint to the appointing Authority/Designee's decision to the State Personnel Director.

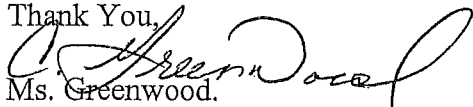
My complaint not only concerns my dismissal it also concerns why I was dismissed and the circumstances within the at-will clause. "I, Ms. Greenwood, was terminated from Westville Correctional Facility as a result of an investigation started on February 26th Sunday, 2012."

As stated in the termination letter presented to me, "your failure to properly conduct count as well as failure to report of count not being properly conducted..." refers to the count not properly conducted on February 26th Sunday, 2012. The termination letter also states, "That is the reason for this disciplinary action." The action was my termination. There is a confliction here. A brush off, a change of context, that discards and discredits my complaint. On the Appointing Authority/Designee's response letter, it states, "you fail to follow proper count procedures as well as failed in your responsibility to report that improper counts were being conducted was the reason for the dismissal." The responding letter states that "an employee in the unclassified service is an employee at will...and maybe dismissed, demoted, disciplined or transferred for any reason that does not contravene public policy." The Appointing Authority/Designee's decision used count policies, procurers and documents to determine my dismissal. Therefore the circumstances apply to the decision and dismissal made for my termination and the at-will clause.

It is an understanding that I would be treated and dealt with fairly in all matters within public policy and I have not. The public policy does not accept any form of management abuse or unethical behavior. The necessary copies of the Step II Complaint Process are enclosed and the same remedy is sought.

Thank You,

Ms. Greenwood.





STATE PERSONNEL DEPARTMENT
402 W. Washington St., Rm. W161
Indianapolis, Indiana 46204-2261
Telephone: (317) 232-0200

Mitchell E. Daniels, Jr.
Governor

Daniel L. Hackler
State Personnel Director

May 1, 2012

Chi-Lisa Greenwood
535 Logan Drive, Apt. 505
Hammond, IN 46320

Re: Complaint No. PS 14925

Dear Ms. Greenwood:

In accordance with Section 42 of the State Civil Service System, and on behalf of the State Personnel Director, I have reviewed your complaint concerning your dismissal. The following decision is based on the information you presented, as well as information presented by Indiana Department of Correction—Westville Correctional Facility.

My review has indicated that you did not follow proper procedures as they relate to offender counts. Such controls are vital to the safety and security of the facility, and violations are serious infractions. Dismissal for not following offender count procedures does not contravene public policy. Accordingly, I am denying your complaint.

If you are not satisfied with this decision, you have fifteen (15) calendar days to submit your complaint to the State Employees' Appeals Commission. Submit copies of the decision being challenged, the completed complaint form, as well as the Step 1 and Step 2 responses to: State Employees' Appeals Commission, 100 North Senate Avenue, Room N501, Indianapolis, Indiana 46204.

Sincerely,

Bruce Baxter
Director of Employee Relations

Received on 5/3/12

BB/tam

cc: Dixie Phelan, Human Resources, Westville Correctional Facility

Thursday, May 10th, 2012.

State Employees' Appeals Commission (SEAC).
100 North Senate Avenue, Room N501
Indianapolis, IN. 46204

RECEIVED

MAY 12 2012

STATE EMPLOYEES'
APPEALS COMMISSION

Attn: Civil Service Complaints' Appeal

This is an appeal of the response given to me after my complaint to the State Employees' Appeals Commission (SEAC).

I am still requesting a complete review of the alleged violations starting on Sunday, February 26th, 2012 and the actions of all parties in a thought-provoking way, as opposed to in a superficial or merely entertaining manner. I may not know the legal jargon of section 42 of the State Civil Service System or any other sections used. However; my civil service complaint and the complaint process are being abused and ignored. I have the right to "Due Process."

due process

n **citizen's right to justice:** the entitlement of a citizen to proper legal procedures and natural justice.

vt **follow procedures:** to deal with somebody or something according to an established procedure

complaint

complaint [kəm pláynt](*plural* **complaints**)

n **statement of unhappiness:** a statement expressing discontent or unhappiness about a situation *If you have any complaints, talk to the manager.*

civil servant

(*plural* **civil servants**)

n **government employee:** an employee in a government department

The burden of proving a policy exception rely on a serious review and the importance of it because of my advances being rebuked. The necessary copies of the Step I & II Complaint Process are enclosed and the same remedy is sought.

Thank You,


Ms. Greenwood.

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For Domestic and International Use



1007

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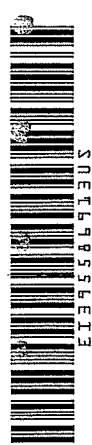
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affix customs declarations
(PS Form 2976, or 2976A).

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MAY 31 2012
STATE EMPLOYEES'
APPEALS COMMISSION

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Addresssee Copy
Label TH-B, March 2004

UNITED STATES POSTAL SERVICE[®] Post Office To Addressee

IN (POSTAL SERVICE USE ONLY)

Code	Day of Delivery	Postage
	<input type="checkbox"/> Next <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd Del. Day	\$ 12.95
Accepted	Scheduled Date of Delivery	Return Receipt Fee
<input type="checkbox"/> Day <input type="checkbox"/> Year	Month Day	\$
	Month Day	Insurance Fee
	Scheduled Time of Delivery	COD Fee
	<input type="checkbox"/> Noon <input type="checkbox"/> 3 PM	\$
	Military	Total Postage & Fees
	<input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	\$ 12.95
Weight	Int'l Alpha Country Code	Acceptance Emp. Initials
lbs. ozs.		

DELIVERY (POSTAL USE ONLY)

Delivery Attempt	Time	Employee Signature
<input type="checkbox"/> AM <input type="checkbox"/> PM		
Delivery Attempt	Time	Employee Signature
<input type="checkbox"/> AM <input type="checkbox"/> PM		
Delivery Date	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	

CUSTOMER USE ONLY

WAIVER OF SIGNATURE (Domestic Mail Only)
Additional merchandise insurance is void if I wish delivery to be made without obtaining signature of addressee's agent if delivery employee is authorized to deliver. Signature of delivery employee's signature committee is valid proof of delivery.

NO DELIVERY Holiday Mailer Signature

TO: (PLEASE PRINT) PHONE ()
 Michela Greenwood
 35 Logan Dr # 205
 Hammond, IN 46420

TO: (PLEASE PRINT) PHONE ()
 Chief Administrative Law Judge
 Hon. Sharon K. Kraft
 State Employees Appeals Commission
 100 North Senate Ave, Room 501
 Indianapolis, IN 46204

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FOR INTERNATIONAL DESTINATIONS, WRITE COUNTRY NAME BELOW.



EP-13C

**BEFORE THE
STATE EMPLOYEES' APPEALS COMMISSION**

IN THE MATTER OF:

CHI-LISA GREENWOOD)
Petitioner,)
) SEAC NO. 05-12-053
vs.)
)
WESTVILLE CORRECTIONAL)
FACILITY BY INDIANA)
DEPARTMENT OF CORRECTION)
Respondent.)

**NOTICE OF PROPOSED DISMISSAL FOR LACK OF JURISDICTION UNDER
IND. CODE § 4-15-2.2-42(e)**

On May 12, 2012, Petitioner (pro se) filed with the Commission a complaint for administrative review governed by the State Civil Service System under IC §§ 4-15-2.2-1 et seq., 42 (the Civil Service System) and IC §§ 4-21.5-3 et seq. (AOPA). A copy is attached and hereby considered the instant Complaint.¹ On March 9, 2012, Petitioner received a letter from Respondent stating her employment had been terminated for not meeting agency standards. Petitioner is an unclassified (at-will) employee and requests reinstatement of her employment as well as back-pay. Petitioner, in pertinent part, challenges the termination as being unfair, not based on factually accurate information and/or in violation of her due process rights under the 14th Amendment to the United States Constitution. (See, Complaint)

The Commission has an independent statutory obligation to assess its jurisdiction at the initial stage of the proceeding (and as a case might continue). IC § 4-15-2.2-42(e). Petitioner is an unclassified, at-will employee. This case must be dismissed because there is no statutory right alleged to be violated and, correspondingly, no alleged violation of specific public policy is demonstrated to maintain jurisdiction. A mere allegation of unfairness or lack of factual accuracy behind the discipline is insufficient. Petitioner does not have a property interest in at-will employment with the state so her 14th Amendment claim also must be dismissed as a matter of law. The following additional findings of fact, conclusions of law, and notice of proposed order of dismissal for lack of jurisdiction are entered.

I. Legal Standards & No Public Policy Exception is Alleged

Dismissal proceedings test the legal sufficiency of the Complaint. All facts plead in the non-moving party's complaint, and reasonable inferences therefrom, are taken as true. However, when a party's complaint is legally insufficient or fails to plead essential

¹ The SPD number at Step II below was 14925.

elements of the claim(s), the complaint should be dismissed. *Meyers v. Meyers Construction*, 861 N.E.2d 704, 705-706 (Ind. 2007); *Huffman v. Office of Env'tl. Adjudication*, 811 N.E.2d 806, 814 (Ind. 2004); *Gorski v. DRR, Inc.*, 801 N.E.2d 642, 644 (Ind. Ct. App. 2003); and *Steele v. McDonald's Corp. et al.*, 686 N.E.2d 137 (Ind. Ct. App. 1997). *See also*, Ind. Trial Rule 12(b)(1) and (6).

The general at-will employment law is well settled. "An employee in the unclassified service is an employee at will and serves at the pleasure of the employee's appointing authority." IC § 4-15-2.2-24(a) (Civil Service System, Section 24(a)). "An employee in the unclassified service may be dismissed, demoted, disciplined, or transferred for any reason that does not contravene public policy." IC § 4-15-2.2-24(b). "Indiana generally follows the employment at will doctrine, which permits both the employer and the employee to terminate the employment at any time for a good reason, bad reason, or no reason at all." *Meyers*, 861 N.E.2d at 706 (internal quotes omitted).

Recognized exceptions to the at-will doctrine based on public policy have traditionally only been found where an employee was terminated or disciplined for exercising a statutory right or refusing illegal conduct that would lead to penal consequence. Put another way, the courts ask was the termination or discipline itself illegal in light of applicable statutory law²; a merely foolish or arbitrary choice by an employer to terminate or discipline does not invoke an exception. *Baker v. Tremco Inc.*, 917 N.E. 2d 650, 653-655 (Ind. 2009); *Meyers*, 861 N.E.2d at 706-707; *Orr v. Westminster Village North, Inc.*, 689 N.E.2d 712 (Ind. 1997); *Frampton v. Cent. Indiana Gas Co.*, 297 N.E.2d 425 (Ind. 1973); and *Tony v. Elkhart County*, 851 N.E.2d 1032 (Ind. Ct. App. 2006).

Because Petitioner is at-will, the state employer did not have to conduct a review of the alleged violations. The Respondent did not have to be "fair". Whether the Respondent is right or wrong about the facts of the underlying incident is irrelevant. Petitioner, not Respondent, holds the burden of proof to show public policy invalidity/exception to the termination. *Meyers* at 706; IC 4-15-2.2-42. A state employer can discipline an unclassified (at-will) employee for a "good reason, bad reason or no reason" unless it violates public policy in doing so. *Id.* Petitioner does not link the challenge to the termination's validity to any protected statutory class or other public policy right.

II. The Federal Due Process Claim (14th Amendment)

In the employment context, federal due process (and also federal equal protection) under the 14th Amendment to the United States Constitution requires that the former employee demonstrate a property interest (as defined by state law) in continued employment. This generally requires the employee to show that he or she was afforded just cause employment or could rely on an employment contract or other mutually

² Non-comprehensive examples include illegal discrimination on the basis of race, national origin, sex, age, disability, veteran status, religion, free speech, political affiliation or retaliation for filing a discrimination complaint or exercising statutory rights such as workers' compensation rights.

explicit understanding of continued employment. *Darnell Cole v. Milwaukee Area Technical College District, et al.*, 634 F.3d 901, 903-906 (7th Cir. 2011)(Whether a constitutionally recognized property implicated is a question of law); *Samone Redd v. Rosemarie Nolan et al.*, 663 F.3d 287, 296 (7th Cir. 2011)

Petitioner cannot make the required property interest showing here, which is an essential element of her federal due process claim under the 14th Amendment. Petitioner does not have a property right in continued employment, and the Civil Service System specifies at-will employment for unclassified employees. Only classified employees successfully outside of an initial working test period have a vested property (due process) right in state employment, and fall under the merit or “just case” standards in the Civil Service System. Petitioner was an unclassified (at-will) employee and cannot invoke the pre-deprivation procedural rights or standards of the repealed State Personnel Act. Petitioner could be disciplined for any reason that did not violate public policy as expressed in a clear federal or state statutory right. *Baker v. Tremco, Inc.* 917 N.E.2d 650, 653-655 (Ind. 2009); *Meyers* 861 N.E.2d at 706-707. *See and compare* Indiana Civil Service System (IC §§ 4-15-2.2)(effective July 1, 2011)(dividing state employment service into classified (just cause) and unclassified (at-will) in a precise manner) to the repealed State Personnel (Merit) Act, IC §§ 4-15-2 (repealed July 1, 2011).

Petitioner’s due process claim under the 14th Amendment to the United States Constitution is dismissed.

III. Conclusions of Law and Order

Petitioner does not establish a claim to SEAC subject matter jurisdiction recognized by IC § 4-15-2.2-42(e). Petitioner must file a complaint supported with factual allegations and a cogent theory concluding that the termination was in violation of Indiana public policy as expressed by statute. *See*, IC § 4-15-2.2-42(e) (Civil Service System), and IC §§ 4-21.5-3-24 (AOPA).

The Petitioner has **ten (10) days** from the date of this notice to file a motion requesting a final order of dismissal not be imposed and stating the “legal basis” relied upon for the request. The Petitioner should specifically address each jurisdictional reason(s) stated above by the Administrative Law Judge (ALJ) for the dismissal in such a motion. **Petitioner must legally explain or cure these identified defects.** Should Petitioner file a motion, Respondent may respond thereto within ten (10) days of same. It is the Petitioner’s burden of proof to cure the jurisdictional defects if possible, and show that SEAC has subject matter jurisdiction of this matter. IC §4-15-2.2-42(e) and (f).

Motions and pleadings should be filed with the ALJ at the address shown below. As an alternative to the U.S. Mail, service may be made upon the ALJ by facsimile copy. Parties are cautioned, however, that while service through the U.S. Mail may be perfected upon mailing, service by facsimile copy is perfected only upon actual receipt. The facsimile number is (317) 233-9372. A copy of each motion or pleading must also be served upon all parties of record or their attorneys/representatives.

Parties are reminded not to contact the ALJ without serving and including the other party(s) on a communication. Currently, the parties are as identified in the caption above.

If no appropriate motion is filed showing jurisdiction exists, the ALJ will enter a final order of dismissal pursuant to IC § 4-15-2.2-42(e), and IC §4-21.5-3-24(c).³

DATED: May 23, 2012



Hon. Aaron R. Raff
Chief Administrative Law Judge
State Employees' Appeals Commission
Indiana Government Center North, Rm N501
100 N. Senate Avenue
Indianapolis, IN 46204
(317) 232-3137
Email: araff@seac.in.gov

A copy of the foregoing was sent to the following:

Chi-Lisa Greenwood
Petitioner
535 Logan Dr., Apt. 505
Hammond, IN 46320

Mark E. Levenhagen, Superintendent
Respondent Westville Correctional Facility
5501 S 1100 W
Westville, IN 46391

Mike Barnes, Staff Attorney
Department of Correction
IGCS, Room W341
402 W. Washington Street
Indianapolis, IN 46204

Bruce Baxter & Joy Grow
State Personnel Department
IGCS, Room W161
402 W. Washington Street
Indianapolis, IN 46204

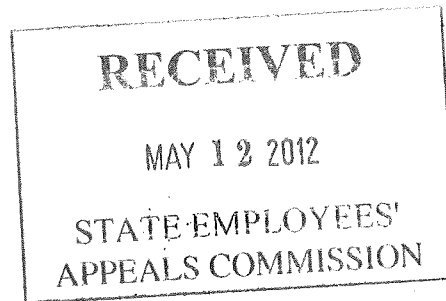
³ Commission proceedings are additionally governed by the Administrative Orders and Procedures Act (AOPA), IC §§ 4-21.5 et seq. See IC § 4-15-1.5-6(1). Accordingly the Commission has delegated to its Administrative Law Judges pursuant to IC § 4-21.5-3-28 of the AOPA, the authority to issue final orders in this class of proceedings. The final order entered by the Administrative Law Judge for this class of proceeding shall be considered a final order under IC § 4-21.5-3-27, pursuant to this delegation.



WESTVILLE CORRECTIONAL FACILITY
5501 S. 1100 W. • Westville, Indiana 46391
Mark E. Levenhagen, Superintendent
Phone: (219) 785-2511 • Fax: (219) 785-6175

Mitchell E. Daniels, Jr.
Governor

Bruce Lemmon
Commissioner



March 9, 2012

Chi-Lisa Greenwood
1306 Carriage Court
Apt A
La Porte, IN 46350

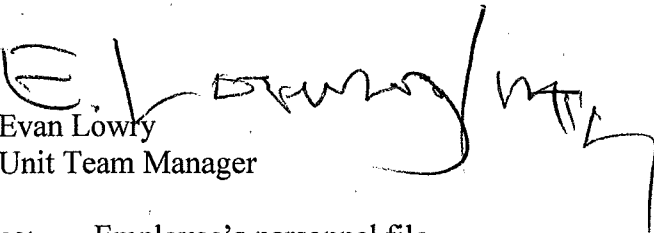
Dear Ms. Greenwood,

As discussed on March 6, 2012, your failure to properly conduct count as well as the failure to report of count not being properly conducted does not meet agency standards and is unacceptable. That is the reason for this disciplinary action. You are hereby notified that effective March 9, 2012, your employment is terminated in accordance with IC 4-15-2.2-24 which provides "An employee in the unclassified service is an employee at will and serves at the pleasure of the employee's appointing authority. . . . and may be dismissed, demoted, disciplined or transferred for any reason that does not contravene public policy."

This action may be appealable in accordance with IC 4-15-2.2-42. A civil service complaint form and eligibility information are available at <http://www.in.gov/spd/2399.htm>.

Information about your rights and obligations under COBRA will be sent to you separately at the home address on file.

Sincerely,


Evan Lowry
Unit Team Manager

cc: Employee's personnel file
State Personnel Department





CIVIL SERVICE EMPLOYEE COMPLAINT

State Form 54707 (R / 1-12)

Indiana State Personnel Department

For Office Use Only

Complaint Number:

EMPLOYEE INSTRUCTIONS: Please provide all requested information and retain a copy of this form for your records. PRINT or TYPE LEGIBLY. Information concerning the complaint process is provided on the reverse side of this form. Other procedural questions may be directed to Employee Relations Specialists in the State Personnel Department by calling 317.232.3080.

Please check the appropriate box:

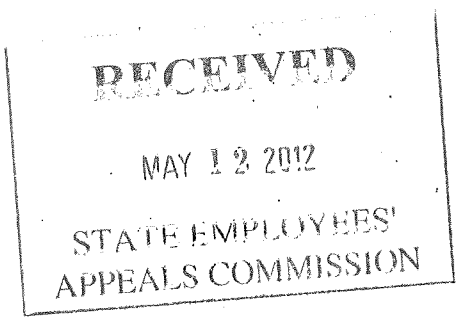
<input type="checkbox"/>	Complainant is a CLASSIFIED employee on an original working test period.
<input type="checkbox"/>	Complainant is a CLASSIFIED employee who has completed an original working test period.
<input type="checkbox"/>	Complainant is an UNCLASSIFIED employee.

Full Name of Employee Chi-Lisa A. Greenwood	Agency / Facility Westville Correctional Facility
Home Address (number and street, city, state, and ZIP code) 535 Logan Dr. Apt. 505 Hammond, IN. 46320	
Contact Telephone Number 219-292-9986/219-902-9238	Contact Email liskasparkles@yahoo.com
Employee Identification Number 10000224988	Classification / Position Correctional Officer

EMPLOYEE COMPLAINT

Statement of Complaint & Remedy Sought:

I, Ms. Greenwood, was terminated from Westville Correctional Facility on March 9th Friday 2012. for failure to properly conduct count as well as the failure to report count not being properly conducted as a result of an investigation stated on Febuary 26th Sunday 2012. It is stated that the OIC ~~XX~~ is responsible for the unit. I, Ms. Greenwood was not responsible for the unit. Nor was I authorized how daily activities were to be cared out and in what order. I, Ms. Greenwood did not fail in reporting count not being made properly and the daily activites refelct that within the timeline. I, Ms. Greenwood, am requesting that complete restoration be given to me regarding my employment prior to the termination and the record of termination with the causes expunged from my employment file. I am also requesting wages lost during my termination period ~~XXXXXX~~ awarded to me.



Check here if additional pages are attached.

Signature of Employee 	Date submitted to Appointing Authority/designee (month, day, year) March 23rd Friday 2012.
---------------------------	---



WESTVILLE CORRECTIONAL FACILITY

5501 S. 1100 W. • Westville, Indiana 46391

Mark E. Levenhagen, Superintendent

Phone: (219) 785-2511 • Fax: (219) 785-6175

Mitchell E. Daniels, Jr.
Governor

Bruce Lemmon
Commissioner

Step 1 Civil Service Response

Date: March 30, 2012

Chi-Lisa Greenwood
535 Logan Dr.
Apt 505
Hammond, IN 46320

Complaint No.: PS 14925

Dear Mrs. Greenwood:


Certified #7010 0780 0001 3549 9446

Pursuant to IC 4-15-2.2 and on behalf of the Westville Correctional Facility/Department of Correction's Superintendent, I have caused a review to be made concerning the circumstances of your complaint. Your complaint concerns your dismissal.

IC 4-15-2.2-24(a)-(b) provides that "an employee in the unclassified service is an employee at will and . . . may be dismissed, demoted, disciplined, or transferred for any reason that does not contravene public policy." The information you provided does not show that the reason for your dismissal is one which contravenes public policy. My review shows that you failed to follow proper count procedures as well as failed in your responsibility to report that improper counts were being conducted was the reason for the dismissal. Accordingly, you were dismissed for a reason that does not contravene public policy. I am therefore denying your complaint.

If you are not satisfied with this decision, you have fifteen (15) calendar days to submit your complaint to step 2, the State Personnel Director: State Personnel Department, 402 West Washington Street, Room W161, Indianapolis, Indiana 46204; ATTN: Civil Service Employee Complaint; or Fax to 317.232.3089.

Sincerely,


Mark E. Levenhagen
Superintendent

*Received
4/4/12
Greenwood*

Cc: File
State Personnel Department



STATE OF INDIANA

Department of Correction • Indiana Government Center - South, Room E334 • 302 W. Washington Street • Indianapolis, Indiana 46204-2738

Phone: (317) 232-5711 • Fax: (317) 232-6798 • Website: www.in.gov/indcorrection/

EOE



April 11th, Thursday 2012.

State Personnel Department
402 West Washington Street, Room W161
Indianapolis, IN. 46204

Attn: Civil Service Complaint

This is a rebuttal of the response given to me after my complaint to the appointing Authority/Designee's decision to the State Personnel Director.

My complaint not only concerns my dismissal it also concerns why I was dismissed and the circumstances within the at-will clause. "I, Ms. Greenwood, was terminated from Westville Correctional Facility as a result of an investigation started on February 26th Sunday, 2012."

As stated in the termination letter presented to me, "your failure to properly conduct count as well as failure to report of count not being properly conducted..." refers to the count not properly conducted on February 26th Sunday, 2012. The termination letter also states, "That is the reason for this disciplinary action." The action was my termination. There is a conflict here. A brush off, a change of context, that discards and discredits my complaint. On the Appointing Authority/Designee's response letter, it states, "you fail to follow proper count procedures as well as failed in your responsibility to report that improper counts were being conducted was the reason for the dismissal." The responding letter states that "an employee in the unclassified service is an employee at will...and maybe dismissed, demoted, disciplined or transferred for any reason that does not contravene public policy." The Appointing Authority/Designee's decision used count policies, procurers and documents to determine my dismissal. Therefore the circumstances apply to the decision and dismissal made for my termination and the at-will clause.

It is an understanding that I would be treated and dealt with fairly in all matters within public policy and I have not. The public policy does not accept any form of management abuse or unethical behavior. The necessary copies of the Step II Complaint Process are enclosed and the same remedy is sought.

Thank You,


Ms. Greenwood.



STATE PERSONNEL DEPARTMENT
402 W. Washington St., Rm. W161
Indianapolis, Indiana 46204-2261
Telephone: (317) 232-0200

Mitchell E. Daniels, Jr.
Governor

Daniel L. Hackler
State Personnel Director

May 1, 2012

Chi-Lisa Greenwood
535 Logan Drive, Apt. 505
Hammond, IN 46320

Re: Complaint No. PS 14925

Dear Ms. Greenwood:

In accordance with Section 42 of the State Civil Service System, and on behalf of the State Personnel Director, I have reviewed your complaint concerning your dismissal. The following decision is based on the information you presented, as well as information presented by Indiana Department of Correction—Westville Correctional Facility.

My review has indicated that you did not follow proper procedures as they relate to offender counts. Such controls are vital to the safety and security of the facility, and violations are serious infractions. Dismissal for not following offender count procedures does not contravene public policy. Accordingly, I am denying your complaint.

If you are not satisfied with this decision, you have fifteen (15) calendar days to submit your complaint to the State Employees' Appeals Commission. Submit copies of the decision being challenged, the completed complaint form, as well as the Step 1 and Step 2 responses to: State Employees' Appeals Commission, 100 North Senate Avenue, Room N501, Indianapolis, Indiana 46204.

Sincerely,

Bruce Baxter
Director of Employee Relations

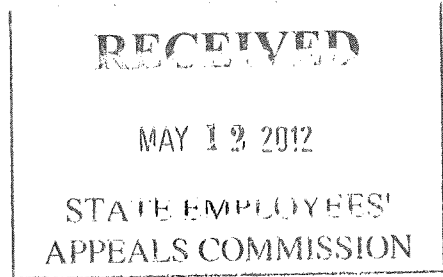
Received on 5/3/12

BB/tam

cc: Dixie Phelan, Human Resources, Westville Correctional Facility

Thursday, May 10th, 2012.

State Employees' Appeals Commission (SEAC).
100 North Senate Avenue, Room N501
Indianapolis, IN. 46204



Attn: Civil Service Complaints' Appeal

This is an appeal of the response given to me after my complaint to the State Employees' Appeals Commission (SEAC).

I am still requesting a complete review of the alleged violations starting on Sunday, February 26th, 2012 and the actions of all parties in a thought-provoking way, as opposed to in a superficial or merely entertaining manner. I may not know the legal jargon of section 42 of the State Civil Service System or any other sections used. However; my civil service complaint and the complaint process are being abused and ignored. I have the right to "Due Process."

due process

n citizen's right to justice: the entitlement of a citizen to proper legal procedures and natural justice.

vt follow procedures: to deal with somebody or something according to an established procedure

complaint

complaint [kəm pláynt] (*plural complaints*)

n statement of unhappiness: a statement expressing discontent or unhappiness about a situation *If you have any complaints, talk to the manager.*

civil servant

(*plural civil servants*)

n government employee: an employee in a government department

The burden of proving a policy exception rely on a serious review and the importance of it because of my advances being rebuked. The necessary copies of the Step I & II Complaint Process are enclosed and the same remedy is sought.

Thank You,


Ms. Greenwood.

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Print postage online - Go to usps.com/postageonline



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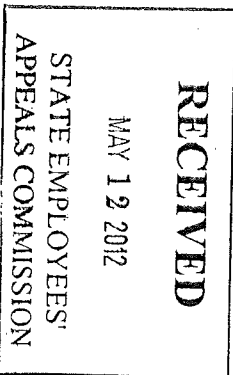
From/Expéditeur:

*Chelsia Greenwood
535 Logan Dr. Apt 585
Hammond, IN 46320*

To/Destataire:

*State Employees Appeals Commission (SEAC)
100 North Senate Avenue, Room N521
Indianapolis, IN 46204*

Country of Destination/Pays de destination:



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EP14F

Any amount of malleable material may be enclosed, as long as the envelope is not modified, and the contents are entirely confined within the envelope with the adhesive provided as the means of closure.