

RECEIVED
EMPLOYEE RELATIONS
COMMISSION

NOV 08 1984

LOS ANGELES COUNTY EMPLOYEE RELATIONS COMMISSION
HEARING OFFICER'S REPORT
RECOMMENDED FINDINGS OF FACT, CONCLUSIONS AND FINAL ORDER
UNFAIR EMPLOYEE RELATIONS PRACTICE

In the Matter of)
)
LOS ANGELES COUNTY EMPLOYEES)
ASSOCIATION, LOCAL 660, SEIU)
(MELBA JENKINS))
)
Charging Party,)
)
vs)
)
COUNTY OF LOS ANGELES, DISTRICT)
ATTORNEY'S OFFICE)
)
Respondent.)
)

Case: UFC 6.88

Hearing Officer:
Philip Tamoush
2907 Oakwood Lane
Torrance, California 90505

Hearing Officer Appointed
August 11, 1981

Record Closed
October 12, 1984

Report Issued
November 8, 1984

Appearances for Charging Party:

Michael P. Posner, Counsel
Geffner and Satzman
3055 Wilshire Blvd., Ste. 900
Los Angeles, CA 90010

Appearances for Respondent:

Loren R. Mathon
Deputy District Attorney
Bureau of Child Support Operations
555 Ferguson Drive
Commerce, CA 90022

ISSUE AND OTHER REVELANT FACTS

The Charge herein was filed on June 8, 1981, by the Los Angeles County Employee Association, Local 660, SEIU ("Charging Party"), alleging that that County's District Attorney's Office ("Respondent") violated Section 12(a)(1) of the Employee Relations Ordinance by reducing probationary employee, Melba Jenkins, from Supervising Child Support Investigator I to Child Support Investigator in retaliation for the employee filing grievances against her supervisor. Section 12(a)(1) of the Ordinance provides that:

"(a) It shall be an unfair employee relations practice for the County:

- (1) To interfere with, restrain, or coerce employees in the exercise of their rights recognized or granted in this ordinance."

The Ordinance further provides specifically for the exercise of employee rights, county (management) rights, and employee organization rights, including the right to raise grievances over the effects of management actions.

Both Parties agreed that the matter was properly before the Hearing Officer and neither raised any procedural or substantive objections. The hearings before the undersigned extended over a three year period from date of appointment because of extensive delays and continuances necessitated by scheduling conflicts. Approximately seventeen (17) days of substantive hearings were conducted. During the hearing the Parties submitted three (3) joint exhibits, fifty-four (54) union exhibits, and seventy-three (73) department exhibits, all of which were received into evidence. The Charging Party used six (6) witnesses in presenting its case in chief and rebuttal, including the

Appellant. The District Attorney's Office called six (6) witness in its case. Oral closing argument was made by counsel on July 23, 1984. That argument was the only part of the record transcribed by the reporter and was provided to the Hearing Officer on October 12, 1984, closing the record on the case.

BACKGROUND AND FINDINGS OF FACT

Melba Jenkins was appointed to the permanent position of Supervising Child Support Investigator I on June 11, 1980, after having served as Acting Supervisor in the same position from April 4, 1981. She was reduced to her prior classification of Child Support Investigator effective December 10, 1980, after being rated "unsatisfactory" in her probationary position by her supervisor, Lyvonne Naab (Joint Exhibit 1A, copy of unsatisfactory Report on Probationer). The County Civil Service Commission considered an appeal by Ms. Jenkins, such appeal alleging "discrimination, fraud and unfair treatment" (JX 1, Letter from the Charging Party to the Civil Service Commission), and dismissed the appeal in March 1981, sustaining the reduction. Charging Party then filed an Unfair Practice Charge as described above alleging retaliation by Ms. Naab and others because of her (Ms. Jenkin's) filing grievances against Ms. Naab.

The chronological sequence of facts is generally undisputed:

1. Melba Jenkins was an experienced "journeyman" Child Support Investigator (CSI) having served and been rated competent since mid-1972 (Union Exhibits 2-15).
2. Melba Jenkins was appointed Acting Supervising CSI I in April

and permanent SCS I in June pursuant to the decision of Richard Bupp, Chief of Regional Services, Ms. Naabs, Supervisor, without input (or objection) from Ms. Naabs (testimony of Jenkins, Naab and Bupp). According to Bupp, he operates under a "open door" policy, of which Ms. Jenkins availed herself in requesting the Acting and Permanent appointments. Bupp was impressed with her request and, accordingly, made the promotional appointments.

3. Ms. Jenkins acted as Acting SCS I from April 4 to June 11, 1980, and was rated satisfactory with positive narrative comments on her performance evaluation (UX 15).
4. Ms. Jenkins was appointed to the permanent position of SCS I effective June 11, 1980, by Mr. Bupp.
5. Ms. Jenkins filed three grievances against actions and decisions of her supervisor, Ms. Naab, with the noted results:
 - a. Grievance 1 (UX 17) July 16, 1980. Naab docking Jenkins for being absent without prior authorization at the end of a vacation on July 10 and 11, 1980. Disposition: Ms. Naab's supervisor, Mr. Bupp, granted the grievance requesting vacation time because another acting office manager had approved the additional two (2) days vacation.
 - b. Grievance 2 (UX 19) August 28, 1980. Naab's discussion and "Greensheet Evaluation", a form of interim probationary evaluation. The Greensheet Evaluation (District Attorney Exhibit 13) recorded "minuses", a

"weak" rating in three (3) categories. Disposition: Bupp determined that the grievance was "non-grievable" but did conduct an "informal hearing" to open the line of communication between Naab and Jenkins, essentially the remedy requested by Jenkins.

c. Grievance 3 (UX 41) November 12, 1980. Protest against Naab's formal warning to Jenkins regarding "non-compliance with established procedures". Disposition: Bupp granted the grievance by withdrawing the formal warning but authorizing Naab's memorializing of counseling sessions with Jenkins in a memorandum.

6. Ms. Naab recorded a monthly Greensheet Interim Probationary Evaluation on Ms. Jenkin's performance beginning July 11, 1980, and met with her regarding these evaluations on August 19, 1980, (Ms. Jenkins refused to sign the evaluation form and grieved this evaluation), October 14, 1980 (signed by Ms. Jenkins), and December 2 and December 9, 1980 (Jenkins apparently not asked to sign this evaluation).
7. In dicussions on the morning of December 9, 1980, Naab provided Jenkins with a copy of the final Report on Probationer rated overall "unsatisfactory".
8. As a matter of general information, it should be noted that Civil Service Commission does not review unsatisfactory reports on probationers unless affirmative claims of discrimination are made by the probationary employee. There is nothing in the record that indicates that the Commission heard or considered any specific allegations of

discrimination or conducted any form of evidentiary investigation or hearing. The appeal of the probationary report itself was not considered.

9. The unfair practice charge alleging that the reduction was in retaliation for the filing of grievances was filed in June, 1981, in a timely manner.

PARTIES CLOSING ARGUMENTS/FINDINGS AND CONCLUSIONS

This section will summarize the principal arguments of the Parties and points of consideration of the undersigned in arriving at his conclusions. Since the hearing extended for some seventeen (17) days over a three-year period, and no reporter's transcript was provided, it is neither possible nor desirable to lay out any extensive view of the record. However, certain findings and conclusions can be described relative to the nuances of this case.

The Parties' closing argument, which was transcribed, described their respective principal contentions and is analyzed briefly, along with the Hearing Officer's conclusions.

Charging Party: (Union Counsel)

1. Credibility resolutions are critical to the case (TRranscript, page 8).

Analysis: Both Parties chief witnesses, Ms. Jenkins and Ms. Nabb, were clear and articulate in stating their case and responding to examination. Their testimony is substantively the same as in their documentation submitted with the case. Other witnesses on both sides, but especially those

testifying for the Charging Party, appeared to or acted as though they had such a strong interest in the matter about which they were testifying, that their testimony was not useful in resolving any issues.

2. Ms. Jenkins' emotional breakdown in crying on cross examination confirmed the "totality of the harrassment and intimidation from Ms. Naab" (TR p9).

Analysis: Ms. Jenkins emotional reaction at the hearing and during critical events of December 9, 1980 (her termination interview with Ms. Naab) appear to be the result of her own personal emotional characteristics and could not shown to be the result of external influence. As a matter of fact, Ms. Jenkins appears to have and displayed at the hearing complete presence of mind and deliberate, well thought out, attitudes and manners.

3. Management tended to believe its own representatives in sorting out the facts and circumstances surrounding this case rather than speaking with Ms. Jenkins and other precipient witnesses (TR p9).

Analysis: There was no legal requirement that management do more than make a full and fair investigation, even in disciplinary matters. There is no requirement that management interview representatives of the employees viewpoint in deciding to fail a person during a probationary period.

4. Management ignored its responsibilities by rejecting Grievance No. 2 rather than dealing with it substantively in order to help establish better lines of communication between

Ms. Jenkins and Ms. Naab (TR pl0).

Analysis: In fact, Grievance No. 2 was dealt with substantively in formal discussions sufficiently to handle the communications problems alleged by Ms. Jenkins.

5. Ms. Jenkins needed guidance, assistance and help from Ms. Naab during her probationary period and received instead behavior which was vindictive, retaliatory, petty, tending to intimidate, harrassing, coercing and designed to beat Ms. Jenkins into submission (TR pl2).

Analysis: There obviously was a failure on the part both combatants to see eye to eye regarding how to perform the day-to-day supervisory responsibilities. However, when one reviews the focus of a probationary period and the monthly Greensheet Evaluations provided by Ms. Naab, and the numerous task lists and other devices used to communicate with Ms. Jenkins, while they are very formal, they do conform to the need to communicate clear and specific standards to Ms. Jenkins about what is expected of her in terms of Ms. Naab's expectations. The problem that appears to continuously crop up and was evident even in Ms. Jenkins' testimony from time to time is that Ms. Jenkins did not "grant" to Ms. Naab the authority to supervise her and really, basically, wanted to run her own ship.

6. Contrary to management witness contention, the evidence shows that Ms. Naab's tone of voice in meetings with Ms. Jenkins in the office was consistently louder and more abusive. Ms. Jenkins' voice couldn't be heard in argumentative

conversations between the two (TR pl4).

Analysis: Union counsel is correct. Based on the tone of voice of the chief witnesses at the hearing, Ms. Jenkins appears to have a very soft voice, certainly softer than Ms Naab's which is more a normal conversational tone when answering questions.

7. There was no backlog of case work being handled by Child Support Investigator being supervised by Ms. Jenkins contrary to Ms. Naab's contention (TR pl6).

Analysis: Notwithstanding the conflict in testimony between Ms. Jenkins' witnesses and Ms. Naab's testimony and records, Ms. Jenkins was rated as overall "competent" in the area of quantity of work performed by herself. District Attorney's Exhibit 71 and 72 do indeed reflect backlog issues. However, resolution of this question does not effect the principal conclusions regarding the unfair practice in this case.

8. UX 22 relative to the authority of the Supervising Typist Clerk, the second supervisor in Ms. Naab's office, usurps Ms. Jenkins' authority as acting office manager.

Analysis: There is nothing implicit in the memorandum or throughout the record of this case that indicates that either of the supervisors' functions were being affected by the absences of any one of the three supervisors in the office. Ms. Jenkins as acting office manager, even according to her own testimony and statements of her counsel, ran the office effectively and efficiently. This is confirmed by Ms. Naab's evaluation of her during that period.

9. The task list describing the day-to-day duties of Ms. Jenkins (DA X5) should have been provided her earlier in her supervisory career.

Analysis: These task lists were actually prepared by Ms. Jenkins based on duties she was actually performing. They are a common management tool and there was nothing in the record to indicate that they were required to be used as other than a communications tool during Ms. Jenkins' probationary period.

10. Ms. Jenkins conformed to "Request For Time Off" procedures (DA X3) when such requests were made after an employee had taken the time off and returned to work. Ms. Naab has the ultimate responsibility for approving time off slips. (TR p23).

Analysis: DA X3 refers to the time of completion of the Time Off slip or form, not to the time of the making of the request itself. The distinct conclusion left with the Hearing Officer from Ms. Jenkins' testimony is that she believed, erroneously, that she and her subordinates could take time off in both emergency and non-emergency situations (or themselves determine in their own minds that a situation constituted an emergency even if an objective viewer would conclude otherwise) and then take the time off and report the time later. Ms. Jenkins' responsibility was not merely ministerial in initialing time off requests but substantive as the employee's supervisor.

11. Ms. Naab's daily diary (UX 52) for 1980 contains relatively

few negative comments before Ms. Jenkins filed her grievances but after July, much more is recorded there (TR p26).

Analysis: If the daily diary is to be believed, then one must note that there are significant comments about Ms. Jenkins beginning as early as April 14 (almost immediately after Ms. Jenkins was appointed acting supervisor by Mr. Bupp). Such comments become much greater in quantity in June after Ms. Jenkins receives the permanent appointment continuing into early July, all before Grievance No. 1 was filed. Notwithstanding that, the diary is not accepted by the Hearing Officer as a significantly accurate original document since it does contain so many "white-outs" and re-writes of pertinent sections. Either a daily diary should be used for original documentation of events and kept in that form or not used at all. The Parties can not have it both ways.

12. Ms. Naab's evaluation of Ms. Jenkins as a Child Support Investigator rates her as strong and overall "competent" prior to Ms. Jenkins filing of grievances after her appointment to supervisor. All other evaluations prior to this are also strongly positive. It is inconsistent that Ms. Jenkins' evaluation should deteriorate so greatly after her grievances were filed (TR p27).

Analysis: The skills, attitudes and behaviors of supervisors versus that of those supervised are so different that the kind of comparison suggested between pre- and post-evaluation is inapplicable.

13. The memoranda left on Ms. Jenkins' desk on the evening of

August 29 (UX 21-40) should and could have been discussed with Ms. Jenkins as acting office manager rather than left for Ms. Jenkins to go through on her own (TR p29).

Analysis: Ms. Jenkins on the previous afternoon had filed Grievance No. 2, disagreeing with Ms. Naab's analysis of her (Ms. Jenkins) Greensheet Evaluation. She, Ms. Jenkins, would not approve of a waiver of the time limits for Ms. Naab to respond to the grievance on August 29. At that point, it is not difficult to understand that face-to-face communications between the two employees had already broken down.

14. The grievances filed by Ms. Jenkins were not inappropriate and did not deserve the harrassment, intimidation and coercion which followed from Ms. Naab (TR p35-36).

Analysis: When one reviews the complete records there is certainly aggravation possible in the relations between the two around the time of the processing of the grievances, but the problems between Ms. Naab and Ms. Jenkins begin earlier and continue throughout the probationary period as a consequence of their whole working relationship, including Ms. Jenkins' apparent inability or lack of desire to conform to Ms. Naab's work standards.

15. Management witnesses were biased in that their analysis and evaluation of the problems which were occurring at the work site were essentially militaristic in their attitude about supervision (TR p40ff).

Analysis: That is correct and may reflect a military/police type of operation. However, styles of leadership and

supervision do not of themselves prove unfair labor practices.

Based on all of the above arguments, the Union believes that it is the proper conclusion that the grievances filed resulted in unlawful employee relations practices by the District Attorney's office. The Union requests such a conclusion and a remedy that the probationary report that was issued be removed from her file, that a report be submitted that she satisfactorily passed her probationary period and that she be treated as if she were a supervisor with respect to wages and benefits since December 10, 1980 (TR p44-45).

Respondent:

1. Ms. Nabb was a strong manager with extensive successful experience who was brought into the Hyde Park office where Ms. Jenkins worked in late 1979 for specific production reasons. Hyde Park had poor production, backlogs and absenteeism which Ms. Naab was charged with responsibility of dealing with as part of her role in taking over the office. Ms. Naab clearly oriented subordinates to personnel and working conditions, rules (DA X1), trained Ms. Jenkins on both an informal and formal basis (various exhibits) and continued ongoing formal training through memoranda and other sources. Counseling of Ms. Jenkins was a continuing activity as a normal task performed for a probationary employee (TR p46-51).

Analysis: Commented on previously, it is obvious that Ms. Naab acted vis-a-vis Ms. Jenkins in a relatively formal and

direct manner relatively early in their relationship. Nonetheless, the objective written record of events of the period in question confirms that notification of standards, training, counseling all were occurring on a continuing basis.

2. Ms. Jenkins failed to follow known procedures on which she was trained or counseled in the area of timekeeping, maintenance of statistics, completion of time studies, carrying out supervisory duties (assignment/reassignment of staff and duties), failure to follow Bureau and District Attorney procedures, all of which were amply documented by Ms. Naab (TR p52-68).

Analysis: Many days of both testimony and documentation review were spent covering the specific work performance areas. While the function of the unfair practice process is not to determine the specific proficiency of Ms. Jenkins' performing her supervisory job, the record is complete that Ms. Naab believed that Ms. Jenkins was not performing many of her functions up to minimum standards and did communicate with her throughout with evaluative and other processes.

3. Ms. Jenkins' managerial attitudes and skills were merely not sufficient. She was promoted beyond the level of her efficiency. Ms. Naab's communications with Ms. Jenkins merely confirmed this after training and counseling her (TR p71-75).

Analysis: The communications, especially the monthly evaluations completed by Ms. Nabb, are complete and don't reflect any particular cause-and-effect relationship between

the filing of grievances and Ms. Jenkins' performance problems. Ms. Jenkins' negative attitude towards managerial attitudes which she expressed through much of her testimony were direct and clear.

4. Ms. Naab's red diary book (UX 52) containing memorialization of observations of Ms. Jenkins' behavior was an appropriate device to be kept and used by Ms. Naab. The Union did not successfully rebut its authenticity (TR p76ff).

Analysis: As indicated previously, the red book, while normally a valuable source document, in this case has so many "white-outs" as to not be useful in that regard. However, nothing was produced by the charging party to show convincingly that it had been altered to change its meaning or to significantly question its authenticity as a "hindsight" memorialization. The diary was introduced as evidence by the Union, not the County.

5. The memoranda left by Ms. Naab as instructions for Ms. Jenkins to complete during her, Ms. Naab's, vacation (UX 21-40) were not complicated and contained tasks for which Ms. Jenkins had been trained and was well qualified (TR p78ff).

Analysis: This is correct. While of seemingly large number, the tasks required in the memoranda or documents are brief and to the point and as a matter of fact were completed by Ms. Jenkins without significant complaint at the time.

For all of the above reasons, the District Attorney's office requested that the unfair practice charge be dismissed.

In arriving at his final conclusions in this matter, the Hearing

Officer placed significantly greater reliance on the substantial written evidence submitted by the Parties, i.e. memoranda, record of grievances filed and responses thereto, evaluative documents, etc. over the narrative and question/answer testimony of the recollections of the Parties' witnesses. The principal contenders and adversaries in this matter, Ms. Jenkins and Ms. Naab, each spent several days on the witness stand and for the most part appeared to be calm, mature, sophisticated, and the essence of the perfect subordinate and supervisor. At no time did either witness lose control or appear to not have command of her situation and her position vis-a-vis the other's contentions and arguments. However, even a brief glance at the counseling/warning memoranda and formal evaluations written by Ms. Naab and the grievance documents written by Ms. Jenkins reflect a strength of purpose and conflict virtually at the beginning of their permanent relationship (that is, after June 11 when Ms. Jenkins received the permanent promotion from Mr. Bupp). Within two (2) weeks of her permanent appointment, Ms. Naab and Ms. Jenkins were already in dispute relative to Ms. Jenkins' supervisory activities and timekeeping methods. (While these events appeared to have started even earlier when Ms. Jenkins was an acting supervisor, both adversaries refer to these June dates in their respective documents as the first formal confrontations. (DA 13 and UX 19). By the time of the filing of the first grievance, July 16, battle lines were drawn and direct confrontation regarding everything from Ms. Jenkins' timekeeping methods to supervisory assignments, etc. appear to be in question. The July 16 grievance, Grievance No. 1, dealing with a relatively simple matter of authorization for time off for Ms. Jenkins, contains

some four and a half pages of substantiation in the original grievance. Memoranda from Ms. Naab from then on appeared to be equally as detailed and long. Both employees write in the third person passive tense voice generally and the battle in effect continues. Grievance No. 2 regarding Ms. Jenkins' objection to her first Greensheet evaluation is three and a half single spaced pages. Ms. Naab's work assignment memoranda and the Greensheet evaluation itself during this period seem to be equally long and laborious.

The Hearing Officer will not belabor this report any further with more graphic descriptions, but the above is exemplary of the continuing state of events during this whole period. However, one other major example should be described relative to the supervisory/subordinate relationship. According to the Union, the following event principally triggered the belief by Ms. Jenkins that Ms. Naab was retaliating against her for the filing of her grievances.

On or about August 29, 1980, a Friday, Ms. Naab was to go on vacation. According to office procedures, even though Ms. Jenkins was a new probationary supervisor, she had to act as acting office manager in Ms. Naab's absence. She was expected to act in the office manager capacity for approximately three (3) weeks beginning August 29. However, August 29 was one day after Ms. Jenkins had filed her Grievance No. 2, appealing and protesting in detail the probationary Greensheet evaluations of Ms. Naab. Ms. Naab had requested of Ms. Jenkins on August 29 that she, Ms. Naab, be granted an extension to respond to the grievance because of her vacation (UX 19C). Ms. Jenkins refused to grant the waiver, indicating, according to a fellow employee witness statement obtained by Ms. Naab that she, Ms. Jenkins,

did not understand the request for waiver (UX 19C). Accordingly, it is easy to see in retrospect that the Parties could not further communicate, at least on that date. Subsequently, on that day, August 29, Ms. Naab left numerous assignments, in writing, on Ms. Jenkins' desk to be completed (UX 23-40). Some of these assignments are to Ms. Jenkins as Supervising Child Support Investigator to be done by her or delegated to Child Support Investigators on her staff. Others, are assignments being given to Ms. Jenkins in her capacity as Acting Office Manager for three (3) weeks and require her specifically to set up procedures or to oversee activities. The following Monday morning, Ms. Jenkins came to work and found the assignments, with related case files attached, on her desk. Somehow she obtained a camera and took pictures of them that day. These pictures did not surface again so far as the record of the instant hearing is concerned for any purpose until the hearing itself some two (2) years later.

With regard to the specific assignments left on this occasion by Ms. Naab for Ms. Jenkins to accomplish, the Hearing Officer has reviewed them along with the extensive testimony about each one. There are none which appear to require abnormal activity on the part of an office manager or line supervisor or which are incapable of accomplishment. As a matter of fact, according to her own testimony, and that of Ms. Naab, these tasks were accomplished and Ms. Jenkins was not rated negatively because of her activities while acting as Acting Office Manager and completing these assignments.

According to her Union, the Department's action in failing her during her probationary period was taken specifically as a result of the filing of grievances against her supervisor. The Department

contends, in response, that the Appellant failed to meet minimum standards of quality, work habits, personal relations, adaptability, and supervisory ability. As counsel for both parties agreed, it is not the function of the unfair practice process to substitute for the Civil Service process and determine whether in fact Ms. Jenkins is qualified to perform the duties of the supervisory position. Rather, the appropriate standard is to determine whether the Charging Party has sustained its burden of proving that the manner of treatment of Ms. Jenkins by Ms. Naab and the resultant failure to complete probation was in retaliation for the filing of grievances and, thus, violative of her protected rights. One has to view the totality of circumstances in the Regional Office at the time and the reasonableness of management's actions vis-a-vis Ms. Jenkins' alleged performance. When one views the record in this light, it is not possible to conclude that the Union has sustained its burden. Or to put it another way, there appears to be from the record legitimate and reasonable business purposes in most of the actions described by the Respondent in its documents and evidence, notwithstanding how inappropriate the wording of certain documents might be or the taking of certain positions might be.

That Ms. Naab and her superiors have a sometimes informal, other times highly formal set of management procedures which results in the fostering of problems generally is not the question to be resolved here. The Hearing Officer is not being retained as a consultant by the Parties to suggest new methods or ways of dealing with employee or human relations generally.

But notwithstanding these practices, none of them seem to

indicate that Ms. Naab took actions against Ms. Jenkins in light of her filing of grievances, which nexus must be shown in order for her to prevail in this instant charge. What has been shown very well is a picture of two very strong minds, one a strong effective rank and file investigator and the other a strong effective and knowledgeable manager. The investigator, Ms. Jenkins, having had little or no formal supervisory experience may have viewed her role as a challenge, but instead attempted to challenge lawful authority in many inappropriate ways. As has been axiomatic since the earliest days of labor management relations, "...an industrial plant is not a debating society. Its object is production...someone must have the authority to direct the manner in which production is to go on until the controversy is settled. That authority is vested in supervision. It must be vested there because the responsibility for production is also vested there; and responsibility must be accompanied by authority." (Arbitrator Harry Shulman, Ford-Motor Company/UAW Local 600, 3 LA 779, June 30, 1944).

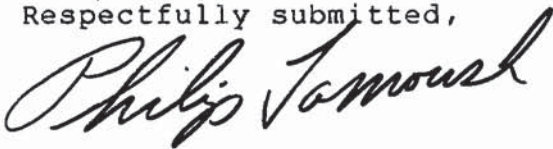
While not relying substantially on testimony, especially where it was in conflict, the Hearing Officer must credit the tone of some of the testimony of Ms. Jenkins which reflects her own personal attitudes and perceptions of her role. For example, with regard to the filing of grievances, she testified that "since we could not communicate, I filed a grievance, so we could get my work done more efficiently"! In her testimony about relations with Ms. Naab as early as July, she testified that Ms. Naab would "call me into her office for 'harrassment' sessions past working hours". And so on, indicating the challenging attitude of the relationship.

ORDER

The Hearing Officer concludes that there is nothing in the record of this case to show that the County violated the Appellant's rights when it failed her during her initial probationary period as a Supervising Child Support Investigator I and reduced her back to her former position of Child Support Investigator.

It is recommended that the Commission adopt the findings and conclusions of the Hearing Officer described above and order that this Unfair Charge 6.88 be hereby dismissed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Philip Tamoush".

Philip Tamoush
Hearing Officer

Torrance, California

November 8 , 1984