


MEMO

To: Board of Commissioners
From: Suzanne H. Smith 
Date: July 11, 2013
Subject: Employment Appeal Hearing - July 16 Meeting

Pursuant to a request filed by Richard O'Mahoney, an employee at the Gordon County E911 Center, an appeal hearing related to a disciplinary action has been scheduled before the Gordon County Board of Commissioners for Tuesday, July 16, 2013 beginning at 4 p.m. This hearing is being scheduled and conducted in compliance with Section 10-31, entitled "Disciplinary Action" of the Gordon County Personnel Ordinance (see attached copy).

At this hearing, the Board of Commissioners will serve as the trier of fact and judge of the evidence as presented concerning this employee appeal. On behalf of Gordon County, I will be presenting the testimony of several witnesses and tendering certain documents into evidence for the Board's consideration. The appellant, Mr. O'Mahoney, is entitled to certain due process protections guaranteed by the U.S. Constitution and federal and state laws and various court opinions concerning public employment. This means that Mr. O'Mahoney is entitled to a hearing before the Board, to be represented by an attorney if he so elects or he can represent himself, to cross-examine any witnesses that testify on behalf of Gordon County, to call witnesses to testify on his behalf, and to testify himself if he so decides, but he can not be required to do so. Based upon the evidence which is presented at the time of the hearing, including the testimony of witnesses and the presentation of documents, the Board will then decide whether to uphold the decision concerning the disciplinary action or to overturn that decision.

Pursuant to O.C.G.A. Section 50-14-3(6), the Board shall conduct the hearing at an open public meeting. The Board may deliberate in executive session concerning the evidence at the conclusion of the hearing, but the vote on whether to uphold the disciplinary action "shall be taken in public and minutes of the meeting as provided in this chapter shall be made available."

I am attaching the following documents concerning this employee disciplinary action appeal hearing:

1. Gordon County Personnel Ordinance, Section 10-31 Disciplinary Action;
2. Email dated June 17, 2013 from Mr. O'Mahoney to County Administrator Dowling;
- 3.. Report dated June 17, 2013 from E911 Director Vance to C. Admin. Dowling;
4. Letter dated June 21 from C. Admin, Dowling to Mr. O'Mahoney
5. Email dated June 26, 2013 from Mr. O'Mahoney to County Clerk Berry
6. Notice of Hearing served on Kristina Humphries.

The specific evidence concerning the facts involved in this matter will be presented to the Board at the hearing. You should base your decision on the evidence as you hear it presented before you during that hearing. At the conclusion of the evidence, any of the Board members may ask questions of any of the witnesses if they so desire as the Board is sitting as a panel of judges in hearing this matter. However, questions should be asked during the open public hearing so that both parties may hear the witness' response so that either side may have an opportunity to cross-examine that witness again or to provide additional evidence to support or rebut the testimony.

If you have any questions about this appeal process, then please contact me prior to the hearing.

- (3) The county administrator or his representative.
- (4) Attorneys representing the county.

(f) *Changes in evaluation.* If for any reason a department head shall request an alteration of the performance evaluation form, after it has been officially submitted to the human resources director, such request shall be in writing and shall set forth fully the reasons for the request. The employee shall also be notified if a change is made in the evaluation.
(Ord. of 12-19-95, Ch. VI)

Sec. 10-31. Disciplinary action.

(a) *Intent.* It is the intent of the county that effective supervision and employee relations will avoid most matters which necessitate disciplinary action. These rules, and disciplinary action for violation of such rules, are not intended to restrict the rights of anyone, but to insure the rights of all and to secure cooperation and orderliness throughout the career service. The severity of disciplinary action should be related to the gravity of the offense, the employee's record of disciplinary action, the employee's length of service, and the county's practice in similar cases.

The department head and the human resources director shall make every effort to insure that all employees understand their duties and are aware of the rules and standards that apply to them. Every effort shall also be made to consistently enforce rules and standards. Fairness, promptness, and legal sufficiency shall govern the disciplinary process.

In applying these guidelines for disciplinary actions, the concept of "progressive discipline" shall be followed. "Progressive discipline" is defined as meaning that when disciplinary actions are necessary, they are gradually increased and applied in terms of ascending severity. Each action is intended to correct unacceptable behavior. With progressive discipline, employees shall be given an opportunity to correct their behavior before a more severe action is applied. The objective is to apply the least severe action which will improve the employee's performance to an acceptable level.

(b) *Types of disciplinary action.* The forms of discipline to be utilized by the county, when deemed necessary, are as follows:

- (1) *Employee counseling (oral reprimand).* When an employee does not comply with the rules and standards of his position, the department head may counsel orally with the employee in order to clearly define areas of deficient job performance and steps needed for improvement, depending upon the severity of the deficiency. (A written record of the oral reprimand should be maintained by the immediate supervisor.)
- (2) *Written reprimand.* A department head may submit a written reprimand to an employee when oral warnings prove ineffective or when severe initial action is required. A copy shall be filed in the employee's personnel file. Included in the letter shall be a statement of the employee's right to appeal and appeal procedures. Two (2) reprimands within a twelve-month period for similar offenses may be grounds for dismissal.

- (3) *Suspension.* A department head may, for disciplinary purposes, suspend without pay any employee in his department for a length of time that he considers appropriate, not to exceed ten (10) working days. However, the department head has the option of making an accumulated leave in lieu of suspending him without pay, and the department head may apply this equivalent deduction to all or part of the employee's suspension time. A written statement, specifically setting forth reasons for such suspension, shall be furnished to the affected employee by his department head, at the time of the suspension, and a copy filed with the human resources director. With the approval of the county administrator, an employee may be suspended for a longer period, pending the investigation or trial of criminal charges against him. However, the filing of criminal charges against an employee shall be evaluated to determine if there is a negative impact upon the county of sufficient magnitude to justify suspension. The fact that a person is acquitted of the charges or that the charges are dropped does not necessarily mean that the suspension or other disciplinary action will be revoked.
- (4) *Demotion.* With the prior approval of the county administrator, a department head may reduce the salary of an employee or demote the employee, for cause. A written statement of the reasons for any such action shall be furnished to the affected employee, by his department head, on or before the effective date of the action, and a copy filed with the human resources director.
- (5) *Dismissals.* Dismissals are separations made for delinquency, misconduct, inefficiency, inability to perform the work of the position satisfactorily, or conduct which seriously jeopardizes the health, welfare or safety of the county, its employees or the general public.
- (c) *Progressive discipline.* The essential elements and responsibilities of progressive discipline are as follows:
- (1) Department heads and employees shall be mutually responsible that all employees understand their assigned duties, rules, regulations, policies, and procedures which are applicable.
 - (2) Department heads shall be responsible for prompt and consistent enforcement of all applicable rules, regulations, policies, and procedures which are applicable.
 - (3) Department heads and employees shall be mutually responsible for understanding and following the principles of good employee relations.
 - (4) Department heads shall be responsible for proper documentation of all disciplinary actions taken.
- (d) *Reasons for disciplinary action.* Listed below are some of the reasons which could be cause for disciplinary action referred to in subsection (a) above, but disciplinary action is not limited to the offenses listed:
- (1) Being convicted of a crime for which a prison sentence is imposed.

- (2) Too much lost time.
- (3) Being absent without leave.
- (4) Excessive tardiness or unapproved absences from work.
- (5) Inefficiency.
- (6) Abuse of county property.
- (7) Willfully giving false statements to supervisors, officials, the public, or the board of commissioners.
- (8) Violation of county administrative regulations or departmental rules, or public safety standard operating procedures.
- (9) Drinking of alcoholic beverages while working, being intoxicated on the job, or using other than prescribed drugs while working.
- (10) Discovery of a false statement in an application, which had not been detected previously, if such statement is of material evidence to the employee's current duties.
- (11) Acceptance of gratuities in conflict with the policy outlined in section 10-33 of this chapter.
- (12) Refusal to be examined by a physician designated by the county when so directed.
- (13) Political activity in conflict with county policies.
- (14) Borrowing county equipment for personal use.
- (15) Conduct, on or off the job, unbecoming to a county employee, or conduct which brings discredit to the county, if the employee is provided with written specific incidents upon which the charge is based.
- (16) Insubordination.
- (17) Failure to perform the duties and responsibilities of his/her position at an acceptable level of competence.

(e) *Dismissal, suspension, or demotion of department heads.* The county administrator has the authority to dismiss, suspend, or demote a department head for cause in accordance with the guidelines outlined in subsection (b) of this section.

(f) *Notice of disciplinary action.* In all cases, the immediate supervisor shall notify the employee of the action taken and a copy of such notice will be retained in the employee's personnel file except in the case of a verbal reprimand.

(g) *Appeal rights.* A regular employee who is dismissed, suspended, or demoted shall be given written specific reasons for the action and advised of appeal rights in accordance with this section.

- (1) Within five (5) work days of receipt of the written reasons for the action, the employee may counsel with the county administrator or his designee about the action. This meeting shall not include a representative of the employee nor other management representatives.

- (2) The county administrator or his designee, or where applicable, the elected official or judicial official, shall give the employee a written response within five (5) work days of the meeting with the employee. This response will advise the employee of his rights to appeal to the board of commissioners. In the case of an employee working under the direction of an elected official or a judicial official, the right to appeal shall be with the appropriate elected official or a judicial official. Following that appeal to the appropriate elected official or judicial official, any further appeals shall be to the appropriate court of law with jurisdiction of the matter.
- (3) A request for a hearing before the board of commissioners shall be submitted in writing to the county administrator or his designee within five (5) work days of receipt of the county administrator's response to the employee.
- (4) The county administrator or his designee shall schedule the hearing as soon as practical after receipt of the request, but within fifteen (15) work days.
- (5) The purpose of the hearing is for presentation of factual reasons for the action taken and for the employee to rebut these reasons and/or to show that the action taken was not justified. Either party may be represented by an attorney or other persons, but formal rules of evidence shall not be required.
- (6) The chairman of the board of commissioners shall exercise full authority to restrict or prohibit testimony that is irrelevant to the original written reasons for the disciplinary action.
- (7) The decision of the board of commissioners shall be by majority vote, taken in executive session, after the close of the hearing. Such decision shall be final.
- (8) Either side may, at its own expense, provide for a written record of this hearing. The county administrator or his designee shall in any event provide stenographic assistance to record time and place of meeting, persons present and presenting testimony, the decision of the board of commissioners, and a written response to the employee within five (5) work days.
- (9) The intent of time limits provided in this section is to provide for an expeditious settlement of appeals. A violation of these limits shall not prejudice the position of either party after a showing of reasonable cause for being unable to conform to the time limit.
- (10) It shall be a violation of this policy for any member of county government to interfere, in any way, with disciplinary actions except following written appeals as provided herein.

(Ord. of 12-19-95, Ch. VII)

Sec. 10-32. Separations.

(a) *Resignation.* To resign in good standing, an employee must, in writing, give his department head at least fourteen (14) calendar days notice. Normally, failure to comply with this rule shall be entered on the service record of the employee and may result in a denial of



Gordon County
Government

Randy Dowling <rdowling@gordoncounty.org>

Appeal

Rick OMahony <romaha1958@gmail.com>

Mon, Jun 17, 2013 at 12:48 PM

To: rdowling@gordoncounty.org

Cc: dvance@gordoncounty.org

17 June 2013

In accordance with the Gordon County Personnel Ordinance, Chapter VII, section C, paragraph G; Appeal Rights;

I am formally appealing my suspension of Monday, June 17, 2013.

According to section G – 1 :

1. Within five (5) work days of receipt of the written reasons for the action, the employee may counsel with the County Administrator or his designee about the action. This meeting shall not include a representative of the employee nor other management representation.

My suspension is inconsistent with other, similar violations that have occurred in the past.

Richard O'Mahony

Corporal – Shift 2A

Gordon County E911

cc: Randy Dowling - Gordon County Administrator

Debbie Vance - Director Gordon County E9-1-1

Michelle Gilliam - Training Coordinator Gordon County E9-1-1

Gordon County E9-1-1 Communications

100 Nine One One Blvd.
Calhoun, Georgia 30701

Phone: 706-602-8325
911 Fax: 706-602-9034

June 17, 2013

Randall Dowling, County Administrator

On June 12, 2013 Corp. Richard O'Mahony while on duty received a call into the 9-1-1 center from ADT Security reporting an alarm at a residence. The address ADT gave Corp. O'Mahony was 394 B Johnson Rd., SE Fairmount, Ga. Corp. O'Mahony Caded the address as 394 Johnson Rd. Lot B. Two totally different locations.

This mistake was not noticed by Corp. O'Mahony until the alarm company called into the center to cancel the alarm.

The homeowner Kristi Humphries arrived at her residence and did not see a patrol car and called her alarm company. Upon entrance in her home she saw that her home had been burglarized.

The homeowner owns a restaurant in town and called in to tell her husband that their home was burglarized. There were deputies sitting in the restaurant. Capt. Shane Parrott called into the 9-1-1 center to request a case number as he was working the burglary.

The homeowner then called myself highly infuriated not only because law enforcement was dispatched to the wrong address, but also normally her 13 year old son is home alone at that time of day. Fortunately he was not home this particular afternoon. Ms. Humphries had already called her alarm company and listened to the recording of the call from ADT so she knew the correct address had been given. She stated she did not feel that she could trust 9-1-1 again and that if her son had been home and hurt or worse the county would definitely be looking at a law suit. She questioned how much training dispatchers receive because she felt this type of mistake was inexcusable.

Upon reviewing all of the Caded documentation and listening to the tapes, the ADT operator was very clear on giving the address. Corp. O'Mahony never repeated the address to ADT which would have alleviated this mistake.

If the deputy had been given the correct location, they may have possibly caught the burglar.

I have looked back through other employee files and have found this incident to have occurred once prior, with the employee getting a written reprimand. The difference between the 2 calls was the 1st which occurred approx. 5 years ago was corrected while the ambulance was en-route and the employee had just completed his probation and initial training. Corp. O'Mahony is in a supervisory role which all in supervisory roles have been told they will be held to a higher standard. For those reasons I felt it fair to issue a written warning and 1 day suspension and I will also write a letter of apology to the homeowners.

This incident not only puts 9-1-1 in a bad light but also the county as a whole. The SOP's that were violated are as follows:

SOP # 3 page 3 Personnel Policies

"Unbecoming conduct shall include that which tends to bring this dept. in disrepute or reflects discredit upon the person as a member of this dept., **or that which tends to impair the operation or efficiency of this dept. or its personnel.**"

SOP #8 page 1 Liability

"Failure of the communication officer to get accurate information about the location of the person calling."

SOP # 11 Page 1 Incident location/address verification

"Call takers will verify location and address information on all calls. **The call taker shall properly document the incident information and caller information in the CAD.**"

SOP # 12 Page 1 Dispatch Procedures

"Ask caller for a cross street to verify location."

Corporal O'Mahony is a Level 2 Communication Officer which requires that he is: Basic Communication Officer certified, EMD certified, GCIC certified, proficient in call taking & dispatching all disciplines, have 2 or more years experience. Corporal O'Mahony has 18 years experience.

Being a Corporal at the 9-1-1 center also means that one of his job requirements is to train new hires and do monthly shift training. I feel the level of discipline was fair due to the actions of the call and his level of training.

Respectfully submitted,

Debbie Vance, E9-1-1 Director

EMPLOYEE REPRIMAND

NAME: Richard O'Mahony **TITLE:** Communication Corporal

OFFENSE OR VIOLATION OF POLICY/PROCEDURE? YES NO
(IF YES ATTACH COPY OF POLICY/PROCEDURE)

**TO YOUR KNOWLEDGE, HAS EMPLOYEE BEEN PREVIOUSLY
REPRIMANDED FOR THE SAME OFFENSE OR VIOLATION? YES NO**
IF YES, WHEN?

DESCRIPTION OF VIOLATION

On June 12th 2012 Cpl. O'Mahony did violate several Standard Operating procedures as listed below during CAD#46591, by sending units to the wrong address on a Burglary alarm call at 394 B Johnson rd. The address was listed as 394 Johnson Rd. Apt. B which was incorrect. Due to this there was a risk of life and property which is the reason for the 1 day suspension.

SOP #3 Page 3 Personnel Policies

Unbecoming conduct shall include that which tends to bring this dept. in disrepute or reflects discredit upon the person as a member of this dept. or that which tends to impair the operation or efficiency of this dept. or its personnel.

Sop # 8 Page 1 Liability

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Sop #12 Page 1 Dispatch Procedures

Cross Street

Cpl. O'Mahony is a Level 2 Communication Officer which requires that he is: Basic Communication Officer Certified, EMD Certified, GCIC Certified, Proficient in call taking & dispatching all disciplines, have 2 or more years experience (Cpl. O'Mahony has 18 years)

Michelle Gilliam
Training Coordinator Signature

June 13th 2013
DATE

EMPLOYEE REMARKS

I acknowledge I have read this reprimand

Paul O'Mahony

EMPLOYEE SIGNATURE

13 June 2013
DATE

INDICATES ONLY THAT OPPORTUNITY TO MAKE REMARKS WAS GIVEN AND THAT A COPY OF THIS FORM WAS RECEIVED.

HAS EMPLOYEE RECEIVED A COPY OF THIS REPRIMAND?

YES X NO

HAS EMPLOYEE RECEIVED A COPY OF POLICY/PROCEDURE?

YES x NO

RECOMMENDED ACTION AND ACTION TAKEN

RECOMMENDED ACTION: SUSPENSION RECOMMENDED?

YES X NO IF YES, HOW LONG? 1 Day

ACTION TO BE TAKEN: Corporal O'Mahony has been advised he will be suspended without pay for 1 shift which will occur on June 17th 2013. Corporal O'Mahony has been advised if this occurs again it could lead to demotion and /or termination.

Michelle Gilliam
Training Coordinator SIGNATURE

June 13th 2013
DATE

DISTRIBUTION OF COPIES:

 X EMPLOYEE

 X DIRECTOR

 X PERSONNEL FILE



Gordon County
Board of Commissioners

Board of Commissioners

Becky Hood, Chairman
Chad Steward, Vice Chairman
Norris Sexton, Commissioner
Kevin Cunningham, Commissioner
Jeff Gazaway, Commissioner

Randall G. Dowling, Administrator
rdowling@gordoncounty.org

Annette Berry, County Clerk
aberry@gordoncounty.org

June 21, 2013

Mr. Rick O'Mahony
Gordon County 911 Center

Re: Suspension Appeal

Dear Mr. O'Mahony:

I met with you at your request on Wednesday, June 19, 2013 to hear your appeal of a one day suspension without pay from the 911 Center for sending the Sheriff's Office to an incorrect address on June 12, 2013. I reviewed the information you submitted to me and listened to the specific 911 call. After careful review of all facts presented by you, I am upholding your one day suspension. Even with this action, I consider you a valued member of the Gordon County 911 Center.

If you wish to appeal my decision, you have the right to appeal to the Board of County Commissioners. If you choose this avenue, you must request an appeal hearing within five business days from the date of this letter by submitting a written request to Annette Berry, County Clerk, 201 N. Wall Street, Calhoun, Georgia 30701 or by e-mail at aberry@gordoncounty.org and a hearing in a public meeting will be scheduled within 15 business days after receiving your written request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Randall Dowling".

Randall Dowling
County Administrator

Cc: Personnel File



Gordon County
Government

Annette Berry <aberry@gordoncounty.org>

Re: Appeal

1 message

Annette Berry <aberry@gordoncounty.org>
To: Rick OMahony <romaha1958@gmail.com>
Cc: Randy Dowling <rdowling@gordoncounty.org>

Wed, Jun 26, 2013 at 10:32 AM

Rick,

I have received your request today for a personnel appeal before the Board of Commissioners. The County Personnel Policy calls for the appeal to be scheduled within 15 work days of your request for appeal. The Board will meet on Tuesday, July 16, 2013 for their Work Session before the Regular Meeting. Pursuant to your request, your hearing before the Board of Commissioners is scheduled for July 16, 2013 at 4:00 p.m. in the Administration Building conference room at 201 North Wall Street, Calhoun, Georgia.

Annette Berry

Clerk, Gordon County Board of Commissioners

On Wed, Jun 26, 2013 at 4:13 AM, Rick OMahony <romaha1958@gmail.com> wrote:

I am appealing the recent decision by Gordon County Administrator Randy Dowling to uphold my one suspension without pay. I request a public meeting.

Thank you.

Rick O'Mahony

Gordon County E9-1-1

—
Annette Berry, Clerk
Gordon County Board of Commissioners
P. O. Box 580
Calhoun, GA 30703
706-629-3795

STATE OF GEORGIA

COUNTY OF GORDON


NOTICE OF HEARING

TO: Kristina Humphries
394 B Johnson Road
Fairmount, GA 30139

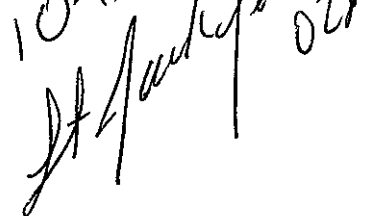
Please be advised that pursuant to the written request of Richard O'Mahony, an employee of Gordon County E-911 Center, a Hearing on his request for an appeal of Employee Discipline before the Gordon County Board of Commissioners will be held at **4:00 p.m. on the 16th day of July, 2013** at the Gordon County Administration Building located at 201 North Wall Street, Calhoun, Georgia.

Your attendance as a witness at this hearing is necessary based upon an incident which you reported involving Gordon County E911 and a call involving a request for assistance at your residence. The Board of Commissioners will conduct this hearing. Please contact either Gordon County Attorney Suzanne Smith or Human Resources Director Garah Childers for further information at (706)629-3795.

This the 10th day of July, 2013.


Annette Berry
County Clerk
Gordon County, Georgia

Post Office Box 580
Calhoun, GA 30703
(706)629-3795

SERVED
PERSONALLY
7-10-13

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