

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

CASEY YOUNG,)	
Appellant,)	CASE NO. 102438
and)	
)	
STATE OF IOWA (DEPARTMENT OF)	
PUBLIC HEALTH),)	
Appellee.)	

DECISION AND ORDER

This case is before the Public Employment Relations Board (PERB or Board) on the Appellant’s petition for review of a proposed decision and order issued by an administrative law judge (ALJ) following an evidentiary hearing on Casey Young’s (Young) Iowa Code section 8A.415(2) State employee disciplinary action appeal. Young filed his appeal challenging the State’s termination of his employment as a Disease Intervention Specialist (DIS) for the Iowa Department of Public Health (IDPH). The State alleged Young violated the State of Iowa Policy Prohibiting Sexual Harassment and the State of Iowa Violence-Free Workplace Policy when Young engaged in unwelcome and offensive conduct in the work environment and intimidated, degraded, and offended coworkers with his statements and comments. In her proposed decision, the ALJ concluded the State had established just cause to support its termination of Young’s employment based upon his violation of the State of Iowa Policy Prohibiting Sexual Harassment but had not established just cause to support its termination

of Young's employment based upon a violation of the State of Iowa Violence-Free Workplace Policy.

The State filed a brief prior to oral arguments. Young presented oral argument to the Board on his own behalf and attorney Nathan Reckman presented oral argument on the State's behalf.

Pursuant to Iowa Code section 17A.15(3), on appeal from an ALJ's proposed decision, we possess all powers that we would have possessed had we elected, pursuant to PERB rule 621-2.1(20), to preside at the evidentiary hearing in the place of the ALJ. Pursuant to PERB rules 621-11.8(8A,20) and 621-9.5(17A,20), on this petition for review we have utilized the record as submitted to the ALJ.

Based upon our review of this record, as well as the parties' oral arguments, we adopt the ALJ's findings of fact and we adopt the ALJ's conclusions of law with additional discussion and modification. We concur with the ALJ's determinations and conclusions that the State established just cause supported its termination of Young's employment due to his violation of the State's Policy Prohibiting Sexual Harassment in the workplace. However, for the reasons set forth herein, we conclude that the State established just cause supported its termination of Young's employment due to his violation of the State's Violence-Free Workplace Policy.

FINDINGS OF FACT

The ALJ's findings of fact, as set forth in the proposed decision and order attached as "Appendix A," are fully supported by the record. We adopt the ALJ's factual findings as our own.

CONCLUSIONS OF LAW

We agree with the ALJ's determinations as set out in Appendix A and adopt them as our own, with the additional modification and discussion:

The ALJ's findings include numerous occasions that Young made sexually explicit comments that were unwelcome, and engaged in hostile or offensive conduct that was directed at a person because of his or her sex. The comments included statements about his personal sexual encounters; sexual references to his ex-wife including asking a coworker if she wanted to see a picture of his ex-wife; statements about sexual dreams involving a coworker; statements by Young pointing out the location where he lost his virginity; crude statements commenting on a picture of a coworker on social media; statements using crude sexual slang at times which were not topical or relevant to any workplace issues; and sexual jokes.

We agree with the ALJ's conclusion that the "State provided sufficient evidence that Young engaged in unwelcome and offensive conduct of a sexual nature that was directed at his coworkers because of their sex." Based upon the totality of the circumstances, the State established that just cause supported Young's termination for violation of the State of Iowa Policy Prohibiting Sexual Harassment.

The ALJ further determined that the State did not establish sufficient evidence to support the allegation that Young violated the Iowa Violence-Free Workplace Policy. We disagree.

The purpose of the Iowa Violence-Free Workplace Policy is to provide a work environment free from threats, intimidation, harassment, and acts of violence against the public, vendors, clients, customers and employees. See State Exhibit 3 at page 6. It further provides that employees are prohibited from engaging in harassment of the public, vendors, clients, customers, and employees in accordance with the State of Iowa's Equal Opportunity, Affirmative Action and Anti-Discrimination policy. *Id.* The policy defines violence as "the actual or threatened use of physical force, action, or verbal or written statements which either results in or is likely to result in physical or mental pain or injury to another person, group of persons, or damage to property. Violence may be a single occurrence or it may be a pattern of behavior which intimidates, degrades, or offends another person or group of persons." *Id.* at page 6-7.

Young made numerous degrading and offensive comments to multiple coworkers during the course of his employment. This was a pattern of behavior that degraded and offended those coworkers.

Young was informed by coworkers, specifically LM and JL, that he should not talk like that in front of them; however, he continued to make verbal comments in group settings that were likely to result in mental pain or injury to others. Young made an inappropriate joke when he was working with LM and she stated to him "I just don't accept those things." State Exhibit 7, at page 5.

Then he continued to make inappropriate jokes in group settings in which both LM and JL were present.

Young sent a former coworker, AL, pictures of himself placing a sex toy in his mouth and on his head like a horn. Young also sent AL a crude message via social media commenting on her body in a picture of her. AL told Young that she did not appreciate it and it made her uncomfortable. When AL returned to the Bureau as a coworker, she felt threatened by Young and felt like he would retaliate against her.

Young told coworker AC that he dreamt the two of them were looking at pornographic magazines together and that he had a dream that they made an adult video in the back of an RV together. See Exhibit 10 at pages 3-4. Coworker AC felt uncomfortable that Young told her about these dreams. See State Exhibit 10 at page 4. AC went on to state “I would move on - because I felt just uncomfortable, and this person knows where I live, and I don’t - I don’t know.” See State Exhibit 10 at page 6.

Young told two contract workers, LH and KD, that his ex-wife was sleeping with a younger man. They reported that this made them both feel uncomfortable.

During a Bureau meeting, Young stated that “he was done with Mayer, the Bureau, and coworkers AL and MF.” Young stated that “Mayer, AL and MF could not be trusted.” Young was loud and aggressive during this outburst. At least three coworkers were concerned about whether Young would retaliate in some way.

During another meeting, Young made a joke about masturbation that at least seven people in the Bureau heard and found offensive. In the same meeting, Young discussed an extremely vulgar sex act, which offended the people in the meeting. Young's comments were not relevant to any work related discussions.

Coworker MF asked George Walton, Program Manager, if she could telework when Walton and Randall Mayer were out of the office because she did not want to be alone in the office with Young. Her telework request was approved.

Young made constant sexual references to his ex-wife and asked Shannon Wood (Wood), using language inappropriate for the workplace, if she wanted to see a picture of his ex-wife. Young also pointed out to Wood the location where he lost his virginity. Wood mentored Young for a year and a half on his language and told him that things he said were not appropriate on at least a dozen or more occasions.

Program Manager Walton spoke to Young a number of times about his inappropriate comments, including speaking to him on six occasions about using medical terms as opposed to the use of crude sexual slang. Walton told Young that crude sexual slang and irrelevant topics make people uncomfortable and may interfere with his work. We place greater weight than perhaps the ALJ on the fact that Young was informed by multiple people, on multiple occasions, that his comments were inappropriate, yet Young continued to behave in a way that degraded and offended his coworkers.

The State bears the burden of establishing just cause to support the discipline imposed. *Stein and State of Iowa (Iowa Workforce Development)*, 2020 PERB 102304 at 16. PERB examines the totality of the circumstances when determining the existence of “just cause”. *Id.* at 15. In order to establish just cause, the State must demonstrate the employee is guilty of violating the work rule, policy or agreement cited in the disciplinary letter. *Gleiser and State of Iowa (Dep’t of Transp.)*, 09-MA-01 at 17-18, 21. There is no specific “just cause” definition and it requires a case-by-case analysis. *Briggs v. Bd. of Directors of Hinton Cmty. Sch. Dist.*, 282 N.W.2d 740, 743 (Iowa 1979). “Just cause” also includes an analysis of the impact of the action on the employee’s performance of their job, as well as the impact it has on the employer. *Board of Dirs. v. Simons*, 493 N.W.2d 879, 884 (Iowa Ct. App. 1992).

Young’s verbal comments listed above demonstrate a pattern of persistent behavior that degraded and offended multiple coworkers. These comments were likely to result in mental pain or injury to these coworkers and did result in mental pain or injury to his coworkers as demonstrated by the coworker's statements that they felt uncomfortable, offended and concerned about retaliation. Young’s comments violated the State of Iowa Violence-Free Workplace Policy.

Having concluded that Young’s actions violated the Violence-Free Workplace Policy, the next inquiry is whether the penalty imposed is proportionate to the offense. *Krieger and State of Iowa (Dep’t of Transp.)*, 2020 PERB 102243, App. A at 7. The purpose of progressive discipline is to convey

the seriousness of the behavior while affording an employee the opportunity to improve; however, progressive discipline is unnecessary if the underlying conduct was a serious offense. *Phillips and State of Iowa (Dep't of Human Servs., 12-MA-05, App. A at 16.* The nature of Young's comments to coworkers were inappropriate, egregious, and pervasive. He was told on numerous occasions to stop and he refused to do so. Given that, the use of the progressive discipline standard was unnecessary.

We agree with the ALJ that the State demonstrated Young knew the employer's rules, expected conduct and had notice of the Violence-Free Workplace Policy. We also agree with the ALJ that Young's argument that he did not understand that his comments were offensive was not persuasive.

The State further established that it conducted a sufficient and fair investigation. The investigator was neutral and Young was given an opportunity to respond to the allegations against him.

After considering the totality of the circumstances, we find that the State established just cause supported its termination of Young's employment based upon his violation of the State of Iowa Policy Prohibiting Sexual Harassment and the Violence-Free Workplace Policy. Accordingly we enter the following:

ORDER

Young's state employee merit appeal is dismissed.

The cost of reporting and of the agency-requested transcripts in the amount of \$3,200.90 are assessed against the appellant, Casey Young, pursuant

to Iowa Code section 20.6(6) and PERB rule 621-11.9(20). A bill of costs will be issued to Young in accordance with PERB subrule 11.9(3).

This decision constitutes final agency action.

DATED at Des Moines, Iowa, this 12th day of December, 2022.

PUBLIC EMPLOYMENT RELATIONS BOARD



Erik M. Helland, Board Member



Cheryl Arnold, Board Member

Filed electronically.
Parties served via eFlex.

APPENDIX A

STATE OF IOWA
BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD

CASEY YOUNG, Appellant,)	CASE NO. 102438
)	
and)	PROPOSED DECISION AND ORDER
)	
STATE OF IOWA (DEPARTMENT OF PUBLIC HEALTH),)	
Appellee.)	

Appellant, Casey Young, filed a state employee disciplinary action appeal with the Public Employment Relations Board (“PERB”) pursuant to Iowa Code section 8A.415(2)(b) and PERB rule 621—11.2. Young appeals the third-step response of the director of the Iowa Department of Administrative Services (DAS) denying the appeal of his termination.

Young worked as a Disease Intervention Specialist for the Iowa Department of Public Health (IDPH). Young alleges the State did not have just cause to terminate his employment on March 6, 2020. The State denies Young’s termination was not supported by just cause.

A closed evidentiary hearing was held on April 16 and April 21, 2021. Seth Harrington represented Young. Anthea Hoth and Annie Myers represented the State. The parties submitted post-hearing briefs in June 2021.

After considering the evidence and the arguments of the parties, I conclude the State has shown just cause for Young’s termination.

1. Findings of Fact

1.1 Organizational Background of Bureau

Disease Intervention Specialist (DI specialist or DIS) work in the Bureau of HIV, STD, and Hepatitis (“Bureau”) within IDPH. At the time relevant to this appeal the Bureau Chief was Randall Mayer. Mayer had twenty-five employees report to him. Mayer had very little interaction with individual DIS, including Young. The program manager, George Walton, was in charge of the entire STD program and team. He focused on higher-level goals for the program, ensured the program met grant requirements, and provided functional oversight for some staff such as the DIS. Walton was not a supervisor. Shannon Wood, a DIS and the lead trainer, focused on training DIS and reviewing case notes and interview notes to ensure cases were properly investigated.

The Bureau maintains regional field offices for the delivery of disease prevention and public health services. The Bureau employs seven DIS and a couple of staff that work on data in the program. At the time relevant to this case, all the DIS except Young were female. The Bureau also employs data specialists and contract workers. The contract workers have a similar role to DIS employees, but tend to work with providers and clinics rather than patients or clients. The majority of the employees that worked for the Bureau were female.

DI specialists serve as a liaison between IDPH and the local public health departments for communicable diseases. DI specialists provide educational opportunities for the public. However, the main focus in this position is working with diagnosed individuals. IDPH receives a report when someone is diagnosed certain sexually transmitted diseases. The report goes through data staff and if it

meets the criteria that has been set, the report is assigned to a DIS to follow up with the client. The DIS calls the diagnosed person and offers several services including risk reduction counseling. The DIS also make sure the diagnosed person gets connected with services or medical care and partner services, which is essentially contact tracing.

The DIS ask questions of the client to elicit names of sex and needle-sharing partners so those individuals can be confidentially notified and referred for recommended testing and treatment. While working with clients, DIS ask open ended questions to build rapport. DIS must maintain professionalism to build this rapport and ensure the client knows the information they receive is trustworthy. DIS may use the client's language, rather than professional medical terms, to elicit responses to the questions and to establish that connection with the client.

DI specialists are located throughout the State. They have offices in Des Moines, Iowa City, Waterloo, Sioux City, and Council Bluffs. The DI specialists in the Des Moines office were worked in cubicles. In the Des Moines office, Bureau Chief Mayer and Program Manager Walton also worked in cubicles near the DI specialists, including Young.

At the times relevant to this appeal, DI specialists had monthly staff meetings in Des Moines. The employees would meet as a Bureau and then have a smaller group meeting with only DI specialists that met in roundtable discussions. In these meetings the DI specialists would discuss their experiences in the field. They might quote clients when describing a situation, but would otherwise use medical or professional terms. DI specialists had some contact with each other outside of meetings even if they worked in different regions. Professionalism among DI

specialists was important because the employees needed to be able to share information and trust that tasks would be completed and follow-ups would be done.

1.2 Young's Background with the State

Appellant Casey Young began employment with the State of Iowa as a secretary for IDPH's Bureau of Chronic Disease Prevention and Control in March 2017. He worked in that capacity for approximately a year. In his evaluation for that time, supervisors described Young as a positive personality and stated his manner of handling calls and working with stakeholders was commended by staff. In this secretarial position, Young worked in the same building as the Des Moines area DI specialists. During that time he met and would visit DI specialists MF and AL. MF and AL were friends that had worked together in a previous capacity and Young developed a joking relationship with them. AL and MF now say that Young made inappropriate comments of a sexual nature during this time period.

While working in the Chronic Disease Prevention and Control Bureau, Young applied to work as a DIS at the Bureau of HIV, STD, and Hepatitis. AL, who left State employment in November 2017 prior to this interaction, reviewed Young's application materials. MF was on the selection committee for this position. She did not voice concern with Young's behavior or comments of a sexual nature. The Bureau hired Young and he began his role as a DIS in March 2018. He worked as a DIS for a 17-county region in south central Iowa. In his evaluations Young met or exceeded expectations. Young acknowledged receipt of the State of Iowa Employee Handbook in October 2018. The handbook includes the pertinent policies for this appeal. Young completed training on preventing sexual harassment in March 2019.

1.3 Allegations and Issues throughout Young's Tenure with the Bureau

Young denies or qualifies some of the following allegations. In making the following findings, I reconciled conflicts in the evidence, which involved interviews and testimony of those that witnessed the events. Where the evidence was not reconcilable, I credited the facts that were most reasonable and consistent with other credible evidence. In making these findings, I considered the established criteria for the making of credibility determinations, such as the witness's actual knowledge of the facts, memory, interest in the outcome of the case and candor. *See Leavy-Westphal and State of Iowa (Iowa Veterans Home)*, 2019 ALJ 102126 at 5. In most circumstances I did not find Young's denial or qualification of the allegation credible due to the number of employees that witnessed such conduct and the general consistency of their interviews and testimony.

1.3.1 Coworkers' Early Concerns and Allegations about Young

From the beginning of his time with the Bureau, coworkers had concerns about Young's inappropriate comments to them individually, in group settings, and with clients. Wood, as the lead trainer for the Bureau, worked with and trained Young. She worked with Young every other day for the first month, and then weekly for the following few months. Wood claimed that after only meeting a couple of times with Young, they were driving and Young pointed out to Wood the location where he lost his virginity. Young denied this allegation. Wood also stated that Young made constant sexual references to his ex-wife and asked Wood, using language inappropriate for the workplace, if she wanted to see a picture of his ex-wife.

As part of his training, Young worked with other DI specialists in their regions. Another DI specialist, GM, also said that Young talked about his ex-wife using

inappropriate language. GM stated that although their job required them to talk about sexual activity at work, Young crossed boundaries. Two other DI specialists, LM and JL, stated that when Young shadowed each of them in their region Young made inappropriate comments. LM and JL each told Young not to talk like that around them. Both women stated that Young no longer made inappropriate comments directly to them, but still used inappropriate language or made inappropriate comments in group settings in which they were present.

Young also shadowed DI specialist MF as part of his training. MF and Young had a friendly relationship and joked around prior to his employment with the Bureau, although MF now says Young's jokes and comments were inappropriate even prior to his tenure as a DIS. During his training, MF did not feel that Young took the job seriously. Roughly eight months after Young started as a DIS, Young complained to Walton and Wood that MF spoke to him in an unprofessional manner. MF was spoken to about her attitude and told to stop interacting with Young. In the future, feedback MF had for Young went through Wood and Walton. MF claimed she had a hard time working with Young since his first day and he made her feel progressively more uncomfortable until she did not want to come to work. MF also claimed that at one point, someone complained about Young and he was "hunting people down" asking who complained about him. It is unclear from the record when this incident occurred.

MF's friend and former DI specialist AL also had issues with Young. AL and MF developed a joking relationship with Young while she worked for the Bureau. In November 2017 AL ended her employment with IDPH and moved to Minnesota. AL returned to Iowa and began as a contract worker for the Bureau in July 2019. AL

and Young had some communication while she was in Minnesota and Young worked for the Bureau. Young sent AL a couple of pictures while he was at work of him placing a sex toy in his mouth and on his head like a horn. The sex toy was State-issued for educational purposes. In June 2019, Young sent AL a crude message via a social media site commenting on a picture of her. AL responded that she did not appreciate it and it made her uncomfortable. Young apologized and AL said they would move on. Young let Walton know about the incident. When AL returned to the Bureau in July 2019 as a contract worker she told Young's supervisor that she would not meet with Young one-on-one. Since her return, Young has avoided AL, but AL said she felt threatened by Young and felt like he would retaliate against her.

Young also made inappropriate comments about sexual dreams to AC, an STD data coordinator with the Bureau. In the summer of 2019 Young told her he dreamt the two of them were looking at pornographic magazines together. In early fall of 2019, Young told AC he had a dream that they made an adult video in the back of an RV together. Young claimed he had a good relationship with AC and AC had shared a picture with him of sex toys in a ditch so he felt he was responding in kind. AC felt uncomfortable that Young told her about these dreams, but did not know if Young realized that he made her uncomfortable when he made the comments. AC noted that Young looked for an excuse to say something kind of lewd or more inappropriate than it needed to be and she often overheard him sharing things with a male coworker that were inappropriate.

DI specialists in the Bureau also felt that Young made inappropriate comments during group events, such as the DIS roundtables. At one of Young's first DIS roundtable meetings Young asked DI specialist GM to explain an explicit sexual

term. Most in the room felt the question was irrelevant to the topic at hand and that Young did not ask the question for educational purposes. GM stated that she did not feel that Young harassed her, but felt that Young subjected her to jokes and innuendos about women. At a different meeting, Young told people he had just met from the county health department that he did not need a condom because he was not having sex with anyone. During these group meetings, the group did talk about sex as that is necessary for the job, but coworkers still felt that Young talked about sex in a way that made them uncomfortable. Walton and Wood both encouraged Young to speak at these group meetings, but also feared that he would say something inappropriate.

Coworkers also complained that Young did not act professionally when working with clients. Early in Young's training, Young commented that a female client must be "having a good day" when she stated that her last sexual encounter was that morning. Wood was with Young during this call and told Young that his comment was not appropriate. During training DI specialist MC told Young that he needed to keep in mind that what he could say to female clients might be different because he is a male. Although coworkers complained about Young judging female clients' sexual experience and congratulating male clients on their sexual encounters, there is not sufficient evidence in the record that Young engaged in this behavior. Additionally, no client ever complained about Young's behavior.

Young received feedback from multiple people in the Bureau that his comments to coworkers, in group sessions, and while talking to clients was inappropriate. Wood claimed she mentored Young for a year and a half on his language and told him that things he said were not appropriate. She had a dozen or

more conversations with him about his language. After Wood had these conversations with Young his behavior and comments would improve, but only for a short time. Program manager, Walton, expressed a similar experience. Walton talked to Young a number of times about his inappropriate comments. Walton explained the nature of the DIS does require people to talk about sex, but there are appropriate ways to do that. Walton talked to Young six times about using medical terms as opposed to slang and talking about things of a sexual nature in the right context. Walton told Young that crude sexual slang and irrelevant topics make people uncomfortable and may interfere with his work. Walton believed that Young understood these conversations, but the conversations did not have any lasting impact on Young's behavior. Young acknowledged that people might have talked to him about his comments, but he claims he did not understand that his comments offended people.

1.3.2 Timeline of Concerns and Allegations in Fall 2019

In the fall of 2019, problems between Young and the Bureau escalated. Supervisor Mayer conducted Young's evaluation in early October 2019. In that evaluation Young received an exceeds expectations rating and was recommended to receive a salary increase.

During the evaluation, however, Mayer and Young discussed a complaint Mayer received about Young. Two of the contract workers, LH and KD, complained that during a meeting with Young he used inappropriate language for the workplace when he told them his ex-wife was sleeping with a younger man. This topic of conversation was not relevant to any discussion they were having and made them feel uncomfortable. Mayer told Young he needed to be more conscious about what

he said, which upset Young. Young said, "Well, I'm done. Then I'm done. I'm not talking to them. I'm not going to be talking to any staff members about my personal life." Despite this outburst, Mayer said the evaluation was positive overall. The evaluation did not reflect any of the inappropriate comments Young had made as Mayer said he was unaware of those issues.

In the middle of October, Young used the State car to drive to the courthouse for personal reasons, and was arrested at the courthouse. Contract worker AL received a picture of Young's mug shot from a friend that worked in a health care agency with ties to the Bureau. AL told DI specialist MF about the mug shot. She also talked to Walton about Young's arrest as a partnering agency had employees that knew about Young's arrest so she felt the Bureau's program manager should know. Walton also heard about the arrest from Young's family. Walton told Mayer about Young's arrest while in earshot of other employees, but both claimed they never mentioned Young's name.

DI specialist MF told coworker AC about Young's arrest. AC then texted Young to check on him. In the message AC indicated that Mayer may have said that Young was arrested. Young was upset that people in the office were talking about his arrest.

Because of his distress over the situation, Young met with Mayer and asked that Mayer talk to AL about sending around his mug shot to the office. Mayer said he would speak to AL, but Young did not feel that Mayer took the situation seriously. Young was also concerned about Mayer talking about personnel issues in public spaces and had previously expressed concern over this type of situation involving someone else. Mayer, during this meeting, also spoke to Young about misuse of the State car when he took it to the courthouse.

After speaking with Mayer, Young took his concerns to Susan Dixon, the Bureau Chief of Policy and Workforce Services. She oversees human resources for IDPH. Young explained his frustration with his mug shot being talked about and shown around the office and his concern about his supervisor, Mayer, talking about personnel issues in public spaces. Dixon said she could not do anything about Young's issue with his mug shot unless she had more information. She told him she would talk to Mayer about keeping personnel issues private, but could not change the office space to allow Mayer to have an enclosed office. Young felt Dixon was annoyed by his complaint.

Young claimed that after his complaint to Dixon, Mayer started harassing him and retaliating against him for his complaint. The day after Young complained to Dixon, Mayer emailed Young telling him that State vehicles were not to be used for personal use.

Sometime after Mayer sent this email, the Bureau had a meeting. At that meeting, Young had an outburst. In a room with at Bureau employees and non-Bureau employees, Young, using curse words, said he was done with Mayer, the Bureau, and AL and MF. Young told the people in the room that AL and MF passed around his mug shot and could not be trusted, and that Mayer could not be trusted either. Those that saw the outburst described Young as loud and aggressive. Several DI specialists told Young this was not the appropriate time to talk about it. At least three people that saw Young's outburst were concerned about what Young would do and whether he would retaliate against Mayer, AL, or MF. One coworker went so far as to say this type of behavior is how violence in the workplace starts. It is not clear that Mayer, AL, or MF were in the room at the time of Young's outburst.

In early November multiple people in the Bureau felt offended by comments Young made at the Eyes Open Iowa training.¹ This meeting was a training for employees in the Bureau as well as employees from county health departments. During the training, Young told the trainer he had a statistic about masturbation, a topic the training discussed. Young proceeded to tell a joke about masturbation that at least seven people in the Bureau heard and found offensive. In this same meeting, Young mentioned an extremely vulgar sex act, which offended the people in the meeting. Young's comments added nothing helpful to the discussion, but instead offended and embarrassed the people in the room. At least one coworker believed Young said these things for shock value.

The tension between Young and MF also continued during the fall of 2019. On November 7, MF, Young, and Wood exchanged emails regarding a change that needed to be made in some records. That same day, Young asked Walton, via email, that MF not review his cases as MF's emails caused him anxiety given their past history, his personal issues, and the tone of MF's emails. Walton did not respond until November 21. He told Young they were short staffed and MF would need to review Young's cases, but Young could talk to Walton or Wood if he had issues with MF's review. Later in November, MF asked Wood if she could telework when Mayer and Walton were both out of the office as she did not want to be in the office with Young when they were not there. Wood and Walton approved MF's telework request.

¹ Young claims he was not at this training and therefore could not have made these comments. Seven coworkers, including his program manager specifically recall Young making these comments at a meeting. Regardless of what meeting this may have been, ample evidence demonstrates Young made these comments in a group meeting during this time period.

Also at the end of November, Mayer and Young had a disagreement. Mayer believed that Young was conducting personal business over the lunch hour and did not take the hour as vacation. Young contends that he worked over that hour providing educational resources in the community. Young was upset about the situation and swore to Walton about Mayer. Mayer followed up with Young via email on November 26 stating that Young had not altered his time sheet as Mayer had requested. Young felt Mayer's email was a threat.

By the end of Young's time at the Bureau, the atmosphere among the DI specialists was increasingly tense. Multiple employees commented that coworkers were not comfortable sharing client experiences or things of a personal nature during group meetings anymore because the DI specialists' meetings no longer seemed like a place where they could openly talk due to Young's crass comments. Almost uniformly, Young's coworkers confirmed he was the only one in the Bureau engaging in such crass conduct. One employee that worked in the Des Moines office, MF, stated that she no longer wanted to come to work, although it is unclear whether that was because of Young's comments or her poor opinion of his work ethic.

1.3.3 Young's Concerns with his Treatment at the Bureau

Young claimed everyone joked around about sex in the office and he was treated differently because he was a male. Young felt by fall of 2019 everyone was watching him and out to get him.

The employees in the Bureau did talk about sex due to the nature of the position. Employees had stuffed microbes in their office and condom decorations. These types of materials were given out by the Bureau for educational purposes to decrease stigmatism. When the employees were together at conferences or at Bureau

meetings, several of the female employees did hang out together off work time. Some of the employees also engaged in a competition while at a conference, but not during the conference, that involved putting a condom on a sex toy.

Young claims the employees in the Bureau all joked around about sex and he merely responded in kind. The record does not support this claim. At least two female coworkers stated that Young said something offensive to them and they told him they did not want to hear it. They both stated that Young stopped joking with them, but they still were subjected to offensive comments in group settings. Two contract workers also felt that Young made inappropriate comments to them that were not relevant to their discussion and not appropriate for the workplace. Mayer counseled Young about those comments. Young's inappropriate comments were not merely a response to the atmosphere or the relationship with his coworkers. Young initiated inappropriate comments and conversations. The record does not demonstrate that Young's coworkers engaged in similar behavior or made similar inappropriate statements.

Young also felt that he was excluded from the group of his coworkers because he was the only male. Young was left off an email regarding Boss's Day early on while at the Bureau as he had not yet been added to the email chain. Young believed he had to attend a holiday party at his supervisor's house and felt uncomfortable in that setting. While setting up at a conference Young claimed his female coworkers told him to do the heavy lifting as that was man's work rather than setting up a table. The State issued a sex toy to all the employees for educational purposes and Young believed his looked more realistic than those received by his female coworkers.

Prior to Young's tenure as a DIS, another male DIS worked at IDPH. This employee was let go during his probationary period. However, he testified he also felt excluded by his female coworkers.

By the end of the year and a half that Young worked in the Bureau, he felt like everyone was watching him and was out to get him. In particular he felt that his coworkers were watching the time he spent working. The DI specialists flexed hours as they often would make or receive calls outside of normal business hours. In late November 2019, Wood and Young exchanged emails about Young's calendar being set to private. This communication concerned Young as he already felt the tension at work intensified during the fall of 2019 and everyone was out to get him.

1.4 Complaints Leading to DAS Investigations

In early November 2019, one DI specialist MC, complained to Mayer about Young's comments at the Eyes Open Iowa training. Mayer told MC to put her complaint in writing so she emailed Mayer on November 7.² In the email she discussed the training and specifically mentioned the vulgar sex act that Young referenced at the training. MC stated that she felt offended. Mayer did not feel that MC's email was detailed enough to immediately follow up on it.

On November 21, Wood emailed her complaint about Young as well as an anonymous complaint about Young to Mayer. Wood included many examples of Young's allegedly inappropriate comments. In the anonymous complaint, the person

² Young notes MC sent her email complaint to Mayer only an hour after he complained about MF to Walton and Wood. I find this connection irrelevant as MC had already talked to Mayer about her concerns. MC's email was merely a follow-up to that conversation. Thus, any significance between the timing of her email complaint about Young and Young's complaint about MF was merely coincidental as MC's verbal complaint likely preceded Young's complaint.

wrote that Young greatly affected the work environment and made people feel uncomfortable.

Receiving these additional complaints, Mayer felt there was enough detail that necessitated action. He forwarded the complaint to Susan Dixon, the person who oversaw IDPH's human resources, and Jeffrey Kerber, Mayer's supervisor, and said they would discuss how to proceed. Dixon and Mayer placed Young on administrative leave on December 3.³

Young, concerned with the office environment in the fall of 2019 filed his own complaint with DAS on December 3. Young claimed he was discriminated against and believed he was retaliated against because he complained to Susan Dixon in October about his supervisor Randall Mayer. He stated that Dixon, Mayer, AL, and MF were retaliating against him.

1.5 Investigations

DAS conducted the investigations for both Young's complaint and the complaints against Young. For the complaint against Young, the DAS investigator interviewed 16 people. This included Young, three contract employees, all seven of the DIS employees, the program manager, and the Bureau chief. The DAS investigator interviewed some of the employees multiple times to gain more information about both complaints. The DAS investigator asked Young about the comments he allegedly made, and Young mostly denied making the comments. The DAS investigator did not find Young's denials credible because of the number of

³ The record reflects the administrative leave letter was issued December 2, but was not provided to Young until December 3.

people that heard the same comments including coworkers, the program manager, and contract employees.

IDPH received the investigation report on March 4. In this report the DAS investigator found sufficient evidence that Young violated the State's policy prohibiting sexual harassment and the violence-free workplace policy. She found Young violated the policy prohibiting sexual harassment when he created a hostile environment from comments he made and then blamed the other person for their discomfort. She found he violated the violence-free workplace policy when he intimidated, degraded, and offended people, and found that his coworkers feared retaliation.

The investigator stated that Young made inappropriate comments that made employees and contractors uncomfortable. She also found ample evidence that coworkers asked Young to stop his offensive language, but his comments continued. Finally, she found that coworkers feared retaliation.

The DAS investigator determined that Young's complaint was unfounded. She did not find sufficient evidence to support his complaint.

1.6 Discipline

After receiving the investigation report from DAS, IDPH management determined termination was the appropriate discipline given just cause considerations. Dixon was involved in the discipline determination, but Young's supervisor Mayer, was not included in these discussions. IDPH management found the severity of Young's conduct during his limited time in the Bureau justified termination. IDPH management did not feel progressive discipline was appropriate in this situation because Young had already been told to stop his inappropriate

comments and had not done so. There was one other employee who had previously received a written warning for inappropriate comments, but IDPH management distinguished that situation from Young's situation. IDPH found the other person was disciplined for one occurrence, but Young's inappropriate comments were not isolated to a single occurrence.

IDPH management, including Dixon, Kerber, Young, and Mayer conducted Young's Loudermill interview. They did not find any reason to change the discipline determination. IDPH terminated Young's employment on March 6, 2020.

The termination letter stated that Young was discharged due to his violation of the State of Iowa Policy Prohibiting Sexual Harassment and the State of Iowa Violence-Free Workplace Policy. The letter details that Young's violations of the policies occurred when he "engaged in unwelcome and offensive conduct in the work environment and intimidated, degraded, and offended coworkers with your statements and behaviors in the workplace."

2. Summary of Arguments

The State contends it had just cause to terminate Young's employment. The State claims that Young engaged in unwelcome and offensive conduct in the workplace, intimidated, degraded, and offended coworkers with his statements and comments. The State claims the sheer number and consistency of allegations from eleven women lends credibility to the truth that Young made inappropriate and offensive statements in the workplace. The State also condemns Young's lack of awareness of the serious nature of his actions.

Young argues the State lacks sufficient evidence that he violated the State policies. Young also argues he did not have notice that his comments were offensive

or could lead to discipline, the investigation was not fair or objective, the discipline was not proportionate to the offense, and he was terminated in retaliation for his complaint about his supervisor.

3. Conclusions and Analysis

Young filed this appeal pursuant to Iowa Code section 8A.415(2), which states:

2. Discipline Resolution

a. A merit system employee . . . who is discharged, suspended, demoted, or otherwise receives a reduction in pay, except during the employee's probationary period, may bypass steps one and two of the grievance procedure and appeal the disciplinary action to the director within seven calendar days following the effective date of the action. The director shall respond within thirty calendar days following receipt of the appeal.

b. If not satisfied, the employee may, within thirty calendar days following the director's response, file an appeal with the public employment relations board . . . If the public employment relations board finds that the action taken by the appointing authority was for political, religious, racial, national origin, sex, age, or other reasons not constituting just cause, the employee may be reinstated without loss of pay or benefits for the elapsed period, or the public employment relations board may provide other appropriate remedies.

DAS rules provide specific discipline measures and procedures for disciplining employees. Those rules are as follows:

11—60.2(8A) Disciplinary actions. Except as otherwise provided, in addition to less severe progressive discipline measures, any employee is subject to any of the following disciplinary actions when the action is based on a standard of just cause: suspension, reduction of pay within the same pay grade, disciplinary demotion, or discharge Disciplinary action shall be based on any of the following reasons: inefficiency, insubordination, less than competent job performance, refusal of a reassignment, failure to perform assigned duties, inadequacy in the performance of assigned duties, dishonesty, improper use of leave, unrehabilitated substance

abuse, negligence, conduct which adversely affects the employee's job performance of the agency of employment, conviction of a crime involving moral turpitude, conduct unbecoming a public employee, misconduct, or any other just cause.

. . . .

60.2(4) Discharge. An appointing authority may discharge an employee. Prior to the employee's being discharged, the appointing authority shall inform the employee during a face-to-face meeting of the impending discharge and the reasons for the discharge, and at that time the employee shall have the opportunity to respond. A written statement of the reasons for the discharge shall be sent to the employee within 24 hours after the effective date of the discharge, and a copy shall be sent to the director by the appointing authority at the same time.

The State bears the burden of establishing that just cause supports the discipline imposed. *Stein and State of Iowa (Iowa Workforce Development)*, 2020 PERB 102304 at 16. The term "just cause" when used in section 8A.415(2) and in administrative rule is undefined. *Stockbridge and State of Iowa (Dep't of Corr.)*, 06-MA-06 at 21 (internal citations omitted). Determination of whether management has just cause to discipline an employee requires case-by-case analysis. *Id.* at 20.

When determining the existence of just cause, PERB examines the totality of the circumstances and rejects "a mechanical, inflexible application of fixed elements." *Stein*, 2020 PERB 102304 at 15. Although just cause requires examination on a case-by-case basis, the Board has declared the following factors may be relevant to the just cause determination:

While there is no fixed test to be applied, examples of some of the types of factors which may be relevant to a just cause determination, depending on the circumstances, include, but are not limited to: whether the employee has been given forewarning or has knowledge of the employer's rules and expected conduct; whether a sufficient and fair investigation was conducted by the employer; whether

reasons for the discipline were adequately communicated to the employee; whether sufficient evidence or proof of the employee's guilt of the offense is established; whether progressive discipline was followed, or not applicable under the circumstances; whether the punishment imposed is proportionate to the offense; whether the employee's employment record, including years of service, performance, and disciplinary record, have been given due consideration; and whether there are other mitigating circumstances which would justify a lesser penalty.

Hoffmann and State of Iowa (Dep't of Transp.), 93-MA-21 at 23; see *Stein*, 2020 PERB 102304 at 15–16. The Board also considers how other similarly situated employees have been treated. *Stein*, 2020 PERB 102304 at 16.

Iowa Code section 8A.413(19)(b) and DAS rule require the State to provide the employee being disciplined with a written statement of the reasons for the discipline. See *Krieger and State of Iowa (Dep't of Transp.)*, 2020 PERB 102243 at 6; *Hunsaker and State of Iowa (Dep't of Emp't Servs.)*, 90-MA-13 at 46, n.27. PERB has determined the presence or absence of just cause rests on the reasons stated in the disciplinary letter alone. *Krieger*, 2020 PERB 102243 at 6. In order to establish just cause, the State must demonstrate the employee is guilty of violating the work rule, policy, or agreement cited in the disciplinary letter. *Gleiser and State of Iowa (Dep't of Transp.)*, 09-MA-01 at 17–18, 21.

3.1 Violation of State Policies

The termination letter provided that Young violated the State of Iowa Policy Prohibiting Sexual Harassment and the Iowa Violence-Free Workplace Policy when he “engaged in unwelcome and offensive conduct in the work environment and intimidated, degraded, and offended coworkers with [his] statements and behaviors in the workplace.”

3.1.1 *State of Iowa Policy Prohibiting Sexual Harassment*

The State of Iowa Policy Prohibiting Sexual Harassment “prohibits unwelcome, hostile or offensive conduct, whether of a sexual or non-sexual nature, that is directed at, or is motivated by, a person because of his or her sex.” The policy also lists examples of violations including “Jokes, remarks, or innuendos that are sexual in nature”

The State provided sufficient evidence that Young engaged in unwelcome and offensive conduct of a sexual nature that was directed at his coworkers because of their sex. On numerous occasions Young made sexually explicit comments while in a group of mostly female coworkers. The evidence demonstrates his comments were unwelcome and offensive to those coworkers. Even coworkers who stated they were not personally offended stated the monthly meetings were tense and the group could not freely discuss topics anymore because of Young’s crass behavior. Young’s comments were unwelcome, hostile and offensive.

Young also made sexually inappropriate jokes and comments to individual coworkers. Young mentioned his personal life in an offensive manner to multiple coworkers and contract employees. Young mentioned sexually explicit dreams to a coworker that involved that coworker. Young’s comments to female coworkers and colleagues were offensive.

Young claims that everyone in the Bureau used this type of language and he only joked around with those that engaged in the same sort of behavior. The evidence does not support this claim. Young’s coworkers and other identified him as the only employee to use sexual terms and make sexual remarks in an inappropriate manner. Although this group talked about sex due to the nature of the job, other

members of the Bureau were able to do so in a professional manner. Additionally multiple coworkers stated that Young was the first to make the inappropriate remark and after they told him they would not accept that type of behavior, he stopped talking to them like that, but still engaged in inappropriate behavior at group meetings. The evidence in the record overwhelmingly shows that Young made inappropriate sexually charged comments to individual coworkers and colleagues outside the Bureau. Even discounting the statements from individual coworkers and colleagues that clearly expressed animosity toward Young, namely AL and MF, numerous other coworkers and colleagues confirmed Young's inappropriate comments and noted that he was the only one engaging in such behavior.

Young used vulgar sexual terms in group settings, he made jokes of a sexual nature, he mentioned sexually explicit dreams to a coworker that involved that coworker, and discussed his personal life to his coworkers in a way that was offensive. The State has demonstrated Young violated this policy.

3.1.2 Iowa Violence-Free Workplace Policy

The State of Iowa also contends Young violated the Iowa Violence-Free Workplace Policy. I do not find sufficient evidence to support this alleged violation.

The Iowa Violence-Free Workplace Policy prohibits employees from engaging in violence towards the public, vendors, clients, customers, or employees. The policy defines violence as “the actual or threatened use of physical force, actions, or verbal or written statements which results in or is likely to result in physical or mental pain or injury to another person, group of persons, or damage to property.” The policy further adds that violence may be just a single occurrence “or it may be a

pattern of behavior which intimidates, degrades, or offends another person or group of persons.”

The State provided evidence of potential mental pain or injury, mainly from Young’s coworker, MF. The State provided evidence that Young’s coworkers were concerned that Young’s behavior may escalate and he might do something to retaliate against Mayer, MF, or AL. The State has also shown that AL and MF feared retaliation from Young. MF went so far as to ask to telework so she would not be in the office with Young without supervisor Randall Mayer or program manager George Walton present.

The State has not shown, however, a link between Young’s actions and this mental pain or injury or even speculated about it. The State’s post-hearing brief failed to provide an analysis of Young’s alleged violation of this policy.

In testimony, witnesses discuss Young “hunting” people down when someone had complained about him before. The record does not establish when this incident occurred, but it appears it was not close in time to November 2019 when his coworkers were worried about his behavior. Further, only MF witnessed this behavior, and she did not testify. Without context for this incident, I cannot find this action formed the basis for Young’s alleged violation of the Violence-Free Workplace policy.

Young’s coworkers expressed concern about his outburst at a meeting in October or November when he said he was “done” with the Bureau and not to trust Mayer, MF, and AL. Coworkers described Young as loud and aggressive during this incident. Again, the State has not demonstrated the link between Young’s statement and mental pain or injury. This incident did not seem to upset Mayer, as Young had

used similar language when speaking with him during his evaluation about the allegations of the contract workers. Other coworkers testified they were concerned about Young's behavior, but did not claim to have mental pain or injury from Young's statement. Both AL and MF stated in their interviews they feared retaliation from Young, but did not attribute this fear of retaliation to this particular incident. MF, when interviewed, stated she did not feel comfortable with Young since the first day he started as a DIS, long before this incident occurred. MF stated that Young did not take the job seriously. MF does not point to an action or statement or series of actions or statements of Young that caused her particular concern and MF did not testify at the hearing. AL stated that she did not feel comfortable with Young since returning as a contract worker to the Bureau and avoided being in a room with him alone. She also testified that she did not feel comfortable with him after the incident with his mug shot. Again, AL does not link any fear she has of Young to his outburst at this meeting in October or November.

To prove a violation of the Violence-Free Workplace policy in this case, the State has to show Young's actions or statements caused mental pain or injury. Young made statements and it is possible those statements could be enough to form the basis for this type of policy violation, but based on the evidence in the record it is unclear if Young's actions were the cause of anyone's mental pain or injury. The State has the burden to show Young's violation of the Violence-Free Workplace policy and has failed to do so.

The State established that Young did violate one of the two State policies at issue.

3.2 Notice of Rules and Expected Conduct

The State demonstrated that Young knew the employer's rules and the expected conduct. Young had notice of both policies at issue. He also completed training on preventing sexual harassment. Further, numerous coworkers told Young that his statements in the workplace were inappropriate. His supervisor even warned him in October that he needed to be more careful about his comments. Young's allegation that no one ever told him they were upset with his comments is contradicted by statements from multiple individuals that specifically told him his comments were not acceptable. Further, Young's claim that he did not understand that his comments were offensive is not persuasive. Young had the sexual harassment training, his coworkers repeatedly told him his conduct was inappropriate, he should have known his comments were in violation of the State policies. The State has shown Young had adequate notice of the rules and expected conduct.

3.3 Sufficient and Fair Investigation

The State's investigation was sufficient and fair. Young claims the investigator asked leading questions and used gossip to determine that Young violated the policies. Young's claims are without merit. Young essentially seeks to quibble with minor details in a lengthy investigation. The investigations into the allegations against Young and Young's allegations against others in the Bureau were both completed by a neutral investigator. The investigator interviewed those that had knowledge and those that might have knowledge of the incidents at issue. The investigator interviewed sixteen people, which included contract workers, employees, and the supervisor. The investigation was thorough.

Though some of the investigator's questions may have been leading, those instances are minimal and do not detract from the information gathered. The investigator was neutral, and there is no indication in the record the investigator had a bias. Additionally, the investigator gave Young the opportunity to respond to the allegations against him. The State has shown a sufficient and fair investigation was conducted.

3.4 Progressive Discipline and Proportionality of Discipline

Young alleges that even if the State had shown a violation of the policy, the State did not have just cause to terminate Young's employment. The State admits it did not utilize progressive discipline, but feels termination was based on just cause. I agree the State had just cause to terminate Young's employment given the circumstances.

Young had no prior discipline, and yet the State proceeded to terminate his employment thereby forgoing progressive discipline. Progressive discipline is a system where measures of increasing severity are applied to repeat offenses until the employee's behavior is corrected or it becomes clear that it cannot be corrected. *Stein and State of Iowa (Iowa Workforce Dev.)*, 2020-PERB-102304, at 22 (quoting *Phillips and State of Iowa (Dep't of Corrections)*, 98-MA-09 at 14). PERB has recognized that progressive discipline is used because the purpose of employee discipline is to correct an employee's behavior rather than simply to punish the employee. *Stein*, 2020-PERB-102304, at 21.

When determining the appropriate discipline and the use or absence of progressive discipline, PERB considers the circumstances of the case. *Hoffmann and State of Iowa (Dep't of Transp.)*, 93-MA-21, at 26. Progressive discipline may

be inapplicable when the conduct underlying the discipline was a serious offense. *Phillips and State of Iowa (Dep't of Human Servs.)*, 12-MA-05 at App. 1, 13, 16-18. When determining the appropriate type of discipline given the circumstances, PERB examines the severity and extent of violations, position of responsibility held by the employee, employee's prior work record, and whether the employer has developed a lack of trust and confidence in the employee to allow the employee to continue in that position taking into account the conduct at the basis of the disciplinary action. *Phillips and State of Iowa (Dep't of Corr.)*, 98 H.O. 09 at 15; *Estate of Salier and State of Iowa (Dep't of Corr.)*, 95-HO-05 at 17.

In the instant case, the statements Young made were unprofessional and offensive. Although Young had no prior discipline, he was a newer employee in the Bureau and worked at the State for only three years. Young engaged in repeated inappropriate behavior from the beginning of his tenure with the Bureau until his termination despite warnings from coworkers, the program manager, and even his supervisor. The atmosphere in the Bureau disintegrated because of his comments. Given the level of unprofessionalism displayed by Young, his failure to correct his behavior when warned by numerous people, his limited time at the Bureau, and the effect his comments and behavior had on the office, the State has shown it was justified in skipping the steps of progressive discipline and proceeding to terminate Young's employment.

Even though the State failed to prove that Young violated the Violence-Free Workplace policy, Young's violation of the sexual harassment policy was

egregious and by itself justifies termination of Young's employment. The State has shown termination of Young's employment was justified given the circumstances.

Further, the only other case IDPH had where someone had made inappropriate comments was not similar to the case at hand. In that case, the employee engaged in the behavior one time, rather than the repeated offensive conduct displayed by Young in this case.

The State has shown just cause for terminating Young's employment for the violation of the policy prohibiting sexual harassment.

3.5 Retaliation Allegation

Finally, Young alleges he was disciplined as the result of retaliation after he had issues with coworker MF, he complained about his supervisor, and he initiated a complaint with DAS. I find insufficient evidence to corroborate Young's allegation.

The investigation against Young came about due to written complaints emailed to Mayer. The investigation was conducted by a neutral investigator. The discipline decision was reached by management after reviewing the investigation report and evaluating just cause factors. Young had complained about Mayer, but Mayer was not involved in the decision to terminate Young's employment.

Further, the timing of the investigation does not support Young's theory. Young complained about Mayer by October 21. Yet, Mayer and IDPH management did not begin an investigation into Young's comment until early December, after receiving written complaints from employees. Also, Young filed a complaint with DAS, but only after IDPH management placed Young on administrative leave pending the investigation into Young's comments and conduct.

Young also alleges the decision to terminate his employment was based on his gender and the environment created by a dominant female office. Again, I can find no evidence to support this claim. The investigation clearly establishes that Young engaged in repeated offensive behavior, and that others in the office were not engaging in such conduct. Although Young may have felt excluded from his coworkers due to his gender, there is no evidence the females in the office were retaliating against him because of his gender and that is what led to his termination. Both females and at least one male in the office noted Young's offensive conduct. Young had both coworkers that did not like him and those that were on friendly terms with him acknowledge that he engaged in offensive behavior and made offensive comments. Further, Young has not established a link between any malevolence his female coworkers may have had for him, and his termination. There is no support in the record for the theory that the DI specialists, others in the Bureau, the program manager, and contract workers all plotted against Young to bring about his termination. The State's termination of Young's employment resulted from a neutral and sufficient investigation, and a decision by IDPH management. I cannot find that Young's gender or the gender of the majority of his colleagues led to IDPH's termination of his employment.

The evidence in the record does not support Young's claim the Bureau retaliated against him in reaching the decision to terminate his employment.

The State has shown just cause to terminate Young's employment for his violation of the State of Iowa's Policy Prohibiting Sexual Harassment.

I consequently propose the following:

ORDER

Young's state employee merit appeal is dismissed.

The costs of reporting and of the agency-requested transcript in the amount of \$2,867.15 are assessed against the Appellant, Casey Young, pursuant to Iowa Code section 20.6(6) and PERB rule 621—11.9. A bill of costs will be issued to the Appellant in accordance with PERB subrule 621—11.9(3).

The proposed decision and order will become PERB's final agency action on the merits of Young's appeal pursuant to PERB rule 621—9.1 unless, within 20 days of the date below, a party files a petition for review with the Public Employment Relations Board or the Board determines to review the proposed decision on its own merits.

DATED at Des Moines, Iowa this 21st day of January, 2022.

/s/ Amber DeSmet

Administrative Law Judge

Filed electronically.
Parties served via eFlex.