

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE APPEAL BY)
[NAME REDACTED],) **No. 23 AA 40**
APPLICANT FOR THE POSITION OF)
POLICE OFFICER,) **(Taleo No. [redacted])**
CITY OF CHICAGO.)

FINDINGS AND DECISION

[Name redacted] (hereinafter referred to as “Applicant”) applied for a police officer position with the City of Chicago. In a letter dated October 18, 2023, the Office of Public Safety Administration gave Applicant written notice of its decision to remove Applicant from the list of eligible applicants for this position (“Eligibility List”) due to the results of a background investigation, along with the reason(s) for the disqualification decision (“Notice”).

On October 27, 2023, Applicant appealed this disqualification decision to the Police Board by filing a written request specifying why the Department of Police (“Department”) erred in the factual determinations underlying the disqualification decision and bringing to the Board’s attention additional facts directly related to the reason for the disqualification decision, pursuant to Section 2-84-035(b) of the Municipal Code of Chicago (“Appeal”).

On December 7, 2023, the Office of Public Safety Administration filed with the Police Board a copy of the Notice and its response to Applicant’s Appeal (“Response”). On December 12, 2023, Applicant filed a reply to the Response (“Reply”). Police Board Appeals Officer Mamie Alexander has reviewed the Notice, Appeal, Response, and Reply.

APPEALS OFFICER’S FINDINGS, CONCLUSIONS, AND RECOMMENDATION

Appeals Officer Mamie Alexander, as a result of a review of the above material, submits the following findings of fact, conclusions of law, and recommendation to the Police Board.

Filings by the Parties

Applicant filed a timely appeal as provided by Section 2-84-035(b) of the Municipal Code of Chicago. The Response and Reply were filed within the time period allowed by the Police Board Rules of Procedure.

According to Department's Notice, Applicant was removed from the list of eligible applicants for the position of probationary police officer for the following reason:

- IV. Pre-employment Investigation Standards for Applicants to the Position of Police Officer

D. Disqualification Based on Prior Employment History

1. A poor employment history will result in disqualification for the position of Police Officer. An applicant who has been discharged or disciplined for offenses which include any act of dishonesty, incompetence, insubordination, absenteeism, tardiness, or failure to follow regulations may be found unsuitable for employment.
2. A poor employment history may result in disqualification for the position of Police Officer. An applicant who has been discharged or disciplined for offenses which include any act of dishonesty, incompetence, insubordination, absenteeism, tardiness, or failure to follow regulations may be found unsuitable for employment.
3. Further, an applicant who, during previous employment has engaged in any conduct that would have violated the Chicago Police Department's Rules and Regulations had the applicant been a Chicago Police Department employee, may be found unsuitable for employment. In addition, an applicant with a history of sporadic employment, evidenced by frequent changes in employment of short duration may be found unsuitable for employment.

Applicant was disqualified by Department based on the contents of her personnel file from the Village of Calumet Park Police Department ("CPPD"), where she works as a police officer. Department alleges that Applicant's file contained numerous allegations of disrespectful and insubordinate behavior toward her superiors and fellow officers, particularly once she

applied with the Department. Applicant's file also contained reports that she was involved in a series of disputes with her co-workers, and pointed a gun at a fellow officer. She was also accused of using "unprofessional language on the radio," calling off sick "blue flu," improperly parking her squad car, using her cellphone during roll call, and excessive tardiness.

Appeal, Response and Reply

Applicant appeals the decision, stating that the bulk of the allegations contained in her CPPD file are false and retaliatory, and that after investigation, each of the complaints were "Not Sustained." Applicant shares that in March, 2023, she filed both bullying and sexual harassment complaints against her superior, [Name redacted] ("[Name redacted]"). As a result, Applicant's working environment became more hostile, and false allegations were consistently made against her.

Applicant's Appeal contains extensive documentation in support of her claims that the complaints were "Not Sustained." It also includes letters of recommendation from the CPPD Chief of Police, fellow officers, and detectives.

Department's Response states that the Appeal was reviewed, and Department relies upon the facts and evidence relating to the disqualification contained in Applicant's file. Department maintains that the Pre-Employment Disqualification Standard under which Applicant's disqualification decision was based upon is clear (namely, Disqualification Based on Prior Employment History). Department states that the evidence in Applicant's file supports its decision to disqualify Applicant from hiring, and Department is within its right to do so, citing *Apostolov v. Johnson*, 2018 IL App (1st) 173084; ¶¶ 24, 31 and *Johnson v. O'Connor*, 2018 IL App (1st) 171930, ¶¶ 16-17, 20.

In her Reply, Applicant explains that when she reported the multiple incidents of verbal

and sexual harassment from [Name redacted], she was not attempting to “get anyone in trouble,” but wanted the hostile work environment to cease. She states that she was not aware that she was opening herself up to scrutiny, false allegations, and retaliation. Applicant states that she was forced to file a complaint in March, 2023 because the behavior did not change following an email that she sent to the CPPD Chief in January, 2023.

Applicant stresses that she does not have a poor employment history and has not received discipline or been discharged by the CPPD for any of the reasons stated in the Notice (other than a one-day suspension for tardiness in 2021). Applicant explains that the one-day suspension occurred while she was still on probation and was the result of becoming a full-time caretaker for her brother, who was the victim of gun violence. Applicant states that while she takes great pride in being a Calumet Park Police Officer, she would “appreciate nothing more” than to become a Chicago Police Officer.

Findings of Fact

Filings were timely.

Department provided the factual basis for its decision to disqualify Applicant and remove her name from the Eligibility List. Department determined that Applicant’s prior employment history with the CPPD is grounds for disqualification. Department articulated the Standard by which the conduct was assessed by section and paragraph, and articulation of the Standard gives reasonable notice as to the basis for disqualification.

Department cites the following complaint/investigative/disciplinary history from Applicant’s CPPD file as grounds for her disqualification:

- On September 29, 2023, [Name redacted] submitted a report to the CPPD’s Chief and Deputy stating that Applicant was displaying disrespectful and insubordinate behavior.

He reported that since anticipating joining the CPD, Applicant has displayed an “I don’t care attitude.” He also alleged that on September 27 and 28, 2023, Applicant used her cell phone inside the station during roll call, and has been “very defensive, disrespectful, insubordinate, unprofessional, insulting, undermining, and destructive,” ruining the CPPD’s morale.

- On March 22, 2023 Applicant was accused of submitting a report in the “smallest of font size options” after being accused of using unprofessional language on the radio towards other department members.
- On July 11, 2023 Applicant was accused of becoming involved in a series of verbal disputes with two co-workers/officers. A third officer reported that he observed Applicant point a small black handgun at Officer [Name redacted] (“[Name redacted]”). Both Applicant and [Name redacted] denied the allegations.
- On March 21, 2023 Applicant parked her squad by the sally port door and left it behind.
- On June 18, 2021 Applicant’s Assistant Chief recommended that she receive a 5-day, non-paid suspension for calling off sick “Blue Flu” regarding a work stoppage.
- On March 23, 2021 it was recommended that Applicant receive a 5-day suspension for being late numerous times. Applicant was warned that she would be terminated if she continued to arrive late.

In her Appeal, Applicant provides additional details regarding her employment with the CPPD, and addresses each of the incidents contained in the Notice. Applicant states that the bulk of the allegations against her were made in retaliation for her complaints of bullying/sexual harassment against [Name redacted] and provides documentation in support. Applicant responds to the incidents listed in the Notice as follows:

- Applicant denies the allegations of a disrespectful and “I don’t care” attitude contained in [Name redacted]’s September 29, 2023 email, and states that [Name redacted] is attempting to sabotage her employment with the Department in retaliation for the complaints Applicant made against him. Applicant states that she was never notified of this email, and notes that there was no supporting evidence to support this claim. She states that no one in administration, including [Name redacted], has ever reprimanded her for her “attitude” or work performance. Applicant submitted a letter of recommendation from the CPPD Chief of Police and several other officers commending her work performance and character.
- Applicant states that the March 22, 2023 complaints regarding using unprofessional language on the radio and using small font on her report on the incident were “Not Sustained.” She states that a sergeant listened to the playback recordings and found no evidence of unprofessional language. She also explains that the CPPD’s computer system decreased the font size of her report. Applicant provided documentation confirming the “Not Sustained” findings.
- Applicant states that the report that she pulled a firearm on [Name redacted] was fabricated by another officer following her complaints of sexual harassment and bullying against [Name redacted]. Applicant states that she and [Name redacted] did not work together on the date in question. In addition, [Name redacted] stated that at no time did Applicant point a gun at him, nor was he in a verbal dispute with her. [Name redacted] also stated that he believes that some of the other officers “made false allegations to mislead the administration.” The CPPD Chief found that “all parties gave conflicting statements of the incident,” and each of the complaints against Applicant for this incident

were “Not Sustained.” Applicant provides a copy of the letter from the Chief in support.

- Applicant states that she parked by the sally port on March 21, 2023 because there was a stolen vehicle being held as evidence inside the garage, and she was unable to pull her squad car inside. As a result, this Complaint was “Not Sustained,” and a copy of the letter was provided in support.

- Applicant states that the Assistant Chief recommended a 5-day suspension for Applicant and the entire police department for calling off sick “Blue Flu” on June 18, 2021.

Applicant explains that “there has never been any evidence to prove” that she participated in the “Blue Flu” work stoppage. Applicant states that a grievance was filed and won on behalf of the police officers, and no one was suspended from work. A copy of the letter from the Chief was provided in support.

- Applicant states that while she was on probation in 2021, her brother was shot, and she became his full-time caretaker. As a result of assisting with his medical care and taking him to appointments, she was tardy for work on several occasions. Applicant states that although the Chief initially recommended a 5-day suspension, after she provided medical records and documentation to the CPPD regarding her brother’s condition, it was reduced to one day. Applicant stresses that since that time, she has not received any other reprimands for tardiness.

Applicant’s Appeal contains twenty-one exhibits consisting of CPPD documentation, letters of recommendation, and honorable mentions. Applicant provides not only the “Not Sustained” letters from each of the Complaints alleged, but also letters of recommendation from several CPPD officers, detectives, and the CPPD Chief of Police. Applicant’s fellow officers describe her as a hardworking, professional, competent, assertive, mature, intelligent

officer who performs her duties “exceptionally well.” Each of the letters also state that Department would be lucky to have Applicant.

Applicant also provides a copy of the Honorable Mention that she received from the CPPD after she assisted with the apprehension of two possible carjacking offenders. Applicant was commended for her quick thinking and action after receiving a radio transmission from the Blue Island Police Department (“BIPD”) describing offenders that Applicant encountered earlier that day in Calumet City. Applicant located the offenders and was able to detain them without incident until the BIPD arrived. Applicant provided a copy of the email recommending her for an honorable mention, along with a copy of the Honorable Mention Certificate. Applicant also included a character reference from a BIPD Detective [Name redacted] who described Applicant’s encounter with the BIPD. She described Applicant as friendly, helpful and informative, with a great passion for police work. She states that she is “positive” that Applicant will make an excellent CPD officer.

Chief [Name redacted] letter of recommendation begins by showing his support for Applicant, stating that she is an “excellent example of what the position needs.” He states that Applicant has shown competence and confidence in every assignment that she has been given and is a natural leader. Chief [Name redacted] also specifically addresses Applicant’s incidents with “a co-worker,” and states that none of the incidents have risen to the level of disciplinary action. He states that they should be categorized as “trivial personality conflicts,” and should not disqualify her from employment with the Department. He ends by stating that Applicant is an “exceptional candidate,” who would make a great addition to the CPD.

Conclusions of Law

Section IV. of the Bureau of Support Services Special Order contains the Pre-Employment Investigation Standards for Applicants to the Position of Police Officer (“Standards”) that are applicable to this Appeal.

Section D (2) of the Standards states: “A poor employment history may result in disqualification for the position of Police Officer. An applicant who has been **discharged or disciplined** for offenses which include any act of dishonesty, incompetence, insubordination, absenteeism, tardiness, or failure to follow regulations may be found unsuitable for employment.” (emphasis added)

Department alleges that the incidents contained in Applicant’s CPPD personnel file show a poor employment history, and are grounds for disqualification. However, Applicant provided documentation to show that each of the complaints against her were “Not Sustained.” The only exception was a one-day suspension for tardiness in 2021 when her brother was shot. Since that time, Applicant has received no other complaints for tardiness, and no disciplinary action has been taken against her for any reason.

The evidence submitted also shows that most of the significant allegations against Applicant came after she sent an email to Chief [Name redacted] in January, 2023 reporting that [Name redacted] was bullying and sexually harassing her. When the working environment continued to be hostile, she filed a formal complaint in March, 2023. Thereafter, complaints of fighting with co-workers, disrespect to a person, and unlawful use or display of a weapon were made against Applicant-even though she wasn’t at work at the time.

In addition, the timing and strong language of [Name redacted]’s September 29, 2023 report is suspect, as it was sent the same day that Department’s Investigator reviewed

Applicant's file. Applicant states that during her CPD application process, [Name redacted] continued to ask her questions about her intentions with the CPD. She states that he seemed overly concerned about her application, which made her uncomfortable. It is not a stretch to assume that the "simple personality conflicts" referred to by the Chief in his letter of recommendation included [Name redacted].

Department's Response relies on the information contained in the Notice, and fails to address the explanations and documentation provided in Applicant's Appeal. Specifically, Department fails to present evidence to counter Applicant's assertions that all of the Complaints were "Not Sustained." Although Applicant received a one-day suspension for tardiness back in 2021, she never had the issue again, and explained that she was late due to being a caretaker for her brother. She also provided the CPPD with his medical records. Therefore, it is unclear whether Applicant's conduct would be found to violate CPD Rules and Regulations under Section D(3).

Applicant states that Department's decision to disqualify her based on her employment history is "erroneous," as she has "not received discipline" for any of the incidents listed in Department's Notice. She states that she submitted documents containing her "supporting evidence" for each claim, and has taken great pride in serving with the CPPD. Applicant states that she was born and raised in Chicago and would appreciate nothing more than to serve her community as a Chicago Police Officer. She states that she is not only qualified, but "dedicated and eager" to continue learning and growing in a career with the CPD.

While Department asserts that the incidents contained in Applicant's CPPD personnel file show a poor employment history, considering the documentation presented and the numerous "Not Sustained" findings that resulted after CPPD's investigation(s), they do not, in and of

themselves, rise to the level of disqualification based on Section D of Department's Standards.

Because this was the sole basis for Applicant's disqualification, Applicant has shown, by a preponderance of the evidence, that the decision to remove her from the Eligibility List was erroneous.

Recommendation

Based on my findings and conclusions set forth above, I recommend that the decision to remove Applicant from the list of eligible applicants for the position of probationary police officer be **reversed**.

Respectfully submitted,

/s/ Mamie A. Alexander

Mamie Alexander
Appeals Officer

Date: February 15, 2024

POLICE BOARD DECISION

The members of the Police Board of the City of Chicago have reviewed the Appeals Officer's findings, conclusions, and recommendations.

The Police Board hereby adopts the Appeals Officer's findings, conclusions, and recommendation by a vote of 7 in favor (Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, and Andreas Safakas) to 0 opposed.

NOW THEREFORE, IT IS HEREBY ORDERED that the decision to remove [**Name redacted**] from the list of eligible applicants for the position of probationary police officer is **reversed** and she is **reinstated to the eligibility list**.

This decision and order are entered by a majority of the members of the Police Board: Kyle Cooper, Paula Wolff, Steven Block, Aja Carr-Favors, Mareilé Cusack, Nanette Doorley, and Andreas Safakas.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 22nd DAY OF FEBRUARY, 2024.

Attested by:

/s/ KYLE COOPER
President

/s/ MAX A. CAPRONI
Executive Director