



advice concerning the issues to be heard on any appeal she might take. She contends that such inadequate notice denies her her rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and under Section PW-PA 10.10(2)(a)1 of the Wisconsin Administrative Code.

The Disciplinary Notice Does Not

Meet the "Five W's" Test

In order for a disciplinary notice to meet the minimum standards of procedural due process, it must meet the "Five W's" test. Such test requires that the notice advise the employee 1) what wrongful acts he allegedly committed, 2) when, and 3) where they were allegedly committed. Further, the test requires that the notice state 4) who accuses the employee of the wrongful acts and 5) why the particular penalty is imposed. Beauchaine v. Schmidt, Wis. Pers. Bd. Case No. 73-38, 10-18-73.

The charges against the Appellant do not meet the "Five W's" test. They allege in the most general terms that the Appellant was incompetent, disobeyed rules, and had a bad attendance record. Yet they do not answer the questions posed by the "Five W's" test which would enable an employee to know in sufficient detail the basis of the employer's accusations against her. For example, they do not tell her what she did or didn't do in her work that resulted in the judgment that her work was unsatisfactory, what rules she violated, or when she was late and absent. The foregoing are only illustrative of the total lack of specificity in the charges against her. We find that the Respondent's discharge letter does not meet any of the criteria of the "Five W's" test and conclude that it constitutes inadequate notice of disciplinary action in violation of Due Process and the Wisconsin Administrative Code.

Respondent, in his brief, contends that the charges against the Appellant involve a continuing course of conduct throughout the period of her employment

which cannot be spelled out in detail. We do not believe that because a public employer finds fault with many aspects of an employee's conduct that it is relieved of its obligation to state the reasons for its action in sufficient detail to enable the employee to know what it is he is being charged with so that he might intelligently prepare his defense to those charges. Karetski v. Hill, Wis. Pers. Bd. Case No. 10, 10-23-73 does not hold otherwise. We conclude that notwithstanding the nature of the charges against Appellant the disciplinary notice was inadequate.

ORDER

IT IS HEREBY ORDERED that the Respondent immediately reinstate the Appellant to her former position, or a substantially similar position, without any loss of seniority or other benefits and with full back pay from the date of her discharge to the date of her receipt of Respondent's written directive to report to work.

IT IS FURTHER ORDERED that, within 10 days of the date of this Order, the Respondent shall advise the Board in writing concerning what steps he has taken to comply herewith.

Dated Oct 10, 1974

STATE PERSONNEL BOARD

BY

William Ahrens

William Ahrens, Chairman