



KANSAS LEGISLATIVE
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The Rundown podcast transcript for Performance Audit report titled ***Highway Patrol Personnel Actions (Limited Scope)*** – Released November 2020

Brad Hoff, Host and Recruiting and Training Manager: [00:00]

From the Kansas Legislative Division of Post Audit, this is The Rundown, your source for news and updates from LPA, including performance audits recently released to the Kansas legislature. I'm Brad Hoff. In November 2020, Legislative Post Audit released a limited-scope performance audit determining whether the Kansas Highway Patrol followed applicable policies and procedures related to the termination of two majors in July 2020. I'm with Heidi Zimmerman, principal auditor at Legislative Post Audit, who supervised this audit. Welcome to The Rundown, Heidi.

Heidi Zimmerman, Principal Auditor and Supervisor: [00:42]

Thanks Brad.

Brad Hoff, Host and Recruiting and Training Manager: [00:43]

So, before we start discussing what you found in this limited-scope audit, provide our listeners a little background on why the dismissal of two majors at the Kansas Highway Patrol in July 2020 was noteworthy.

Heidi Zimmerman, Principal Auditor and Supervisor: [00:59]

Sure. Well, Governor Laura Kelly announced the dismissal of two majors this past summer. Highway Patrol officials that we talked to told us they were dismissed for work performance issues, but this is noteworthy for a few reasons. So, first of all, a major has not been dismissed from the Highway Patrol in at least 25 years. So, let alone two majors being dismissed on one day. Secondly, on the same day that the Governor announced that the two majors were dismissed, she also announced that two independent investigations of the superintendent of the Highway Patrol had wrapped up and had found that the claims against the superintendent were unsubstantiated. So, there were a number of claims made against him ranging from sexual harassment to misuse of state aircraft to some gender discrimination issues. Two different entities had independently investigated those claims and they had both found that the claims against the superintendent were unsubstantiated. Both of those things happened on the same day. The Kansas State Troopers Association then questioned whether the dismissal of these two majors was retaliatory. They claimed that these two majors had provided some support to some of the women who had made the allegations against the superintendent and they had questioned

whether there was retaliation involved. So, the majors now have also filed a claim with the Federal Equal Employment Opportunity Commission and that case is currently ongoing.

Brad Hoff, Host and Recruiting and Training Manager: [02:50]

In this audit report you spend some time making a distinction between classified and unclassified employees. So, explain the difference between those two classifications and why it is an important distinction in this audit.

Heidi Zimmerman, Principal Auditor and Supervisor: [03:08]

So, the Civil Service Act as well as some other state laws set which employees in the state are classified employees and which ones are unclassified employees. So, unclassified employees are a pretty broad range of staff and it includes people like the Governor's staff and elected officials, people who are appointed to their jobs, as well as all the staff here at Legislative Post Audit are all unclassified employees. So, classified employees are pretty much any other position that law does not say are unclassified and they are treated a little bit different. So, unclassified employees are basically at-will employees and they can be dismissed for nearly any reason and they don't have to be told the reason for that dismissal. Conversely, classified employees have a variety of protections. So, they have to be provided reasons if they're going to be dismissed from their jobs and they can appeal a dismissal to the State Civil Service Board and this matters because the majors are unclassified employees. So, that affected the process by which Highway Patrol [officials] dismissed them.

Brad Hoff, Host and Recruiting and Training Manager: [04:22]

So, since the two majors were unclassified employees, what laws or regulations did the Highway Patrol have to follow to dismiss them?

Heidi Zimmerman, Principal Auditor and Supervisor: [04:33]

So, as we were just discussing, the unclassified employees don't have the same protections, which largely means that an employer really has very few things it has to do when dismissing an employee, but for the Highway Patrol we did identify a few things that they still had to do, even though the majors were unclassified. So, the first was that by state law, a major must be returned to his or her previous rank upon termination. So, in this case, the majors had to be returned to captains, which would have been their previous rank and captains at the Highway Patrol are classified employees. Second, we found that state regulations require that when an employee moves from an unclassified position to a classified position, they must be put on a probationary period of at least six months, and third, regulations allow probationary employees to be dismissed at any time during their probationary period and they don't have the typical protections that are available to regular classified employees.

Brad Hoff, Host and Recruiting and Training Manager: [05:46]

What did you find out about the Highway Patrol's compliance with these laws and regulations?

Heidi Zimmerman, Principal Auditor and Supervisor: [05:52]

Well, what we found was, first of all, that both majors were given the opportunity to resign prior to their dismissal. One of the majors did actually resign as a major, the other one did not. So, for the one that did not, by law, he had to be returned to the rank of captain and the Highway Patrol took this step. As regulations require, he was required to be placed on probation once he was demoted from an unclassified position to a classified position. We found that the Highway Patrol did take this step as well. Last, while he was a probationary employee, the Highway Patrol dismissed him, which again, based on regulations, they have the ability to do and when they dismiss someone during a probationary period, that person does not have those regular protections. So, they did put in writing that this person was dismissed. They did not state exactly why that dismissal was occurring.

Brad Hoff, Host and Recruiting and Training Manager: [07:03]

Finally, what is the main takeaway of this report?

Heidi Zimmerman, Principal Auditor and Supervisor: [07:07]

So, we found that the officials of the Highway Patrol followed state law and regulations when they dismissed the two majors. However, this audit does not evaluate the validity of the reasons or the intent behind that dismissal. So, while we can speak to the process and say that the process was followed, we couldn't say nothing about the reasons behind the dismissal.

Brad Hoff, Host and Recruiting and Training Manager: [07:34]

Heidi Zimmerman is a principal auditor at Legislative Post Audit. She supervised a limited-scope performance audit determining whether the Kansas Highway Patrol followed applicable policies and procedures related to the termination of two majors in July 2020. Heidi, thank you for taking the time to walk me through the audit's findings.

Heidi Zimmerman, Principal Auditor and Supervisor: [07:55]

Thanks for having me, Brad,

Brad Hoff, Host and Recruiting and Training Manager: [07:57]

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