STATE OF FLORIDA
REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

In the matter of:

Claimant/Appellee

R.A.A.C. Order No. 14-03883

vs.

Referee Decision No. 0008666971-02U

Employer/Appellant

ORDER OF REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

This case comes before the Commission for disposition of an appeal of the decision of a reemployment assistance appeals referee pursuant to Section 443.151(4)(c), Florida Statutes. The referee's decision stated that a request for review should specify any and all allegations of error with respect to the referee's decision, and that allegations of error not specifically set forth in the request for review may be considered waived.

On appeal to the Commission, evidence was submitted which had not been previously presented to the referee. The parties were advised prior to the hearing that the hearing was their only opportunity to present all of their evidence in support of their case. Florida Administrative Code Rule 73B-22.005 provides that the Commission can consider newly discovered evidence only upon a showing that it is material to the outcome of the case *and* could not have been discovered prior to the hearing by an exercise of due diligence. The Commission did not consider the additional evidence because it does not meet the requirements of the rule.

Also on appeal to the Commission, the appellant requests another hearing to present additional evidence from a witness who was unavailable for the hearing. The Commission's review of the hearing record reflects the appellant did not request a continuance to present the testimony of unavailable witnesses either before or during the hearing. Consequently, it has not been demonstrated the appellant is entitled to another hearing. The request is, therefore, denied.

Upon appeal of an examiner's determination, a referee schedules a hearing. As stated above, parties are advised prior to the hearing that the hearing is their only opportunity to present all of their evidence in support of their case. The appeals referee has the responsibility to develop the hearing record, weigh the evidence, resolve conflicts in the evidence, and render a decision supported by

competent, substantial evidence. Section 443.151(4)(b)5., Florida Statutes, provides that any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs is admissible, whether or not such evidence would be admissible in a trial in state court. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, or to support a finding if it would be admissible over objection in civil actions. Notwithstanding Section 120.57(1)(c), Florida Statutes, hearsay evidence may support a finding of fact if the party against whom it is offered has a reasonable opportunity to review such evidence prior to the hearing and the appeals referee or special deputy determines, after considering all relevant facts and circumstances, that the evidence is trustworthy and probative and that the interests of justice are best served by its admission into evidence.

By law, the Commission's review is limited to those matters that were presented to the referee and are contained in the official record. A decision of an appeals referee cannot be overturned by the Commission if the referee's material findings are supported by competent, substantial evidence and the decision comports with the legal standards established by the Florida Legislature. The Commission cannot reweigh the evidence or consider additional evidence that a party could have reasonably been expected to present to the referee during the hearing. Additionally, it is the responsibility of the appeals referee to judge the credibility of the witnesses and to resolve conflicts in evidence, including testimonial evidence. Absent extraordinary circumstances, the Commission cannot substitute its judgment and overturn a referee's conflict resolution.

Having considered all arguments raised on appeal and having reviewed the hearing record, the Commission concludes no legal basis exists to reopen or supplement the record by the acceptance of any additional evidence sent to the Commission or to remand the case for further proceedings. The Commission concludes the record adequately supports the referee's material findings and the referee's conclusion is a correct application of the pertinent laws to the material facts of the case.

On appeal to the Commission, the employer raises six assertions of error:

1. The referee applied the wrong definition of misconduct in his analysis.

2. The referee failed to consider the litigation threat and potential adverse publicity the claimant's conduct caused;

3. The referee did not comprehend the relevancy of the office morale evidence the employer offered regarding the claimant's involvement with an indirect subordinate;

4. The referee erred by failing to admit and consider after-acquired evidence regarding post-termination[1] misconduct;

5. The referee failed to consider the claimant's act of dishonesty regarding a lease;

6. The referee's ultimate conclusion regarding the reason for the employer's action is baseless.

The first three assertions of error relate to the employer's contention that the referee failed to properly analyze the issue of misconduct, specifically under subparagraph (a) of Section 443.036(30), Florida Statutes, and to properly consider evidence supporting proof under that portion of the statutory definition of misconduct.

As of the time of the discharge in this case, misconduct under subparagraph (a) included "conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee. Such conduct may include, but is not limited to, willful damage to an employer's property that results in damage of more than $50, or theft of employer property or property of a customer or invitee of the employer." As that language indicates, subparagraph (a) requires the employer to prove both a "conscious disregard of an employer's interests" *and* "a deliberate violation and disregard of the reasonable standards of behavior which the employer expects of his or her employee."

It is undisputed in this case that the employer had no policies regarding fraternization or harassment, and that the claimant had not previously been counseled or warned with regard to these issues. In the absence of an employer policy, or prior instruction or warning, the employer must show that the claimant engaged in conduct that is sufficiently contrary to the employer's interests and the reasonably expected standards of behavior that prior notice is not necessary to advise the claimant of the inappropriateness of his actions with respect to his employment. In such circumstances, the courts have examined the behavior to see whether it is isolated "poor judgment" or, alternatively, conduct sufficiently detrimental to the employer's interests that disqualification is appropriate despite

[1] We understand that the employer is actually referring to *pre-termination* conduct that was discovered post-termination.

no prior notice or warning. *See*, *e.g.*, *Smith v. Unemployment Appeals Commission*, 891 So. 2d 650 (Fla. 2d DCA 2005). Conduct such as theft, insubordination, dishonesty, and violent behavior are inherently disqualifying, but other conduct must be examined closely to see if a claimant should be expected to know such conduct is wrongful in the absence of policy or prior instruction or warning.

Although the referee did not include specific analysis regarding subparagraph (a) in his conclusions, we do not agree that the referee failed to consider this portion of the definition in the decision. Regardless, the referee's findings, conclusions and credibility determination lead to the inevitable result that misconduct has not been shown under that subparagraph.

With respect to the claimant's involvement with a subordinate while he was divorcing his wife, the evidence showed that any conduct between the claimant and the employee was consensual. The mere possibility that such conduct could later lead to a *quid pro quo* claim against the employer is insufficient to establish misconduct. Even in the absence of a policy or warning, an employee would be expected to refrain from continued *unwelcome* overtures to coworkers, but we have never held that consensual fraternization between a manager and his or her subordinate is *per se* misconduct, nor do we here. It would be particularly inappropriate to do so in this instance, as the board expressed no concern about hiring the claimant and his wife to work together, accepting the possibility of favoritism and its consequent impact on morale in the office from the outset. The referee's conclusion in this regard is proper.

With respect to the issue of office morale, the Commission recognizes that perceived favoritism could create such an impact in the office. However, the credited testimony was that this issue was not brought to the claimant's attention until the time of his termination, and given the inherently subjective nature of such perceptions, we can find no basis, given the credited evidence and the referee's findings, to reverse the referee's conclusions. The referee could reasonably find that the employer's discharge of the claimant was largely preventative, rather than disciplinary.

The last three issues the employer raises implicate the standards of causation in reemployment assistance cases. Section 443.101(1)(a)1., Florida Statutes, provides that an individual will be disqualified for benefits when s/he "has been discharged by the employing unit for misconduct connected with his or her work." The courts have held, in various contexts, that there must be a causal linkage between the decision to discharge an employee, and the claimant's alleged misconduct. For example, in *Gentsch, Larsen, Traad, M.D. v. Fla. Dept. of Labor & Employment Security*, 390 So. 2d 802 (Fla. 3d DCA 1980), the court affirmed the

Commission's order holding the claimant not disqualified for benefits, where the employer had chosen not to dismiss her when she wrote an unauthorized letter resulting in serious consequences for the employer, but subsequently discharged her for a poor performance evaluation. While the prior incident may have amounted to misconduct, the facts showed that it was the performance appraisal that motivated the discharge. Thus, the prior incident could not be grounds for disqualification. In *Berry v. Scotty's Inc.*, 711 So. 2d 575 (Fla. 2d DCA 1998), the court reversed a Commission order holding the claimant disqualified, concluding that the misconduct found by the Commission was not consistent with the grounds relied upon by the employer as the reason for discharge.

Finally, in *Panama City Housing Authority v. Sowby*, 587 So. 2d 494 (Fla. 1st DCA 1991), the claimant was not disqualified where the supposed misconduct occurred, and was known to the employer, almost two years before her termination. In that case, the record evidence reflected that the claimant was only terminated after "blowing the whistle" on the agency executive director. The court specifically rejected the employer's argument that causation was not required, holding that "the statute requires a nexus between the alleged misconduct and the termination of employment . . . ." 587 So. 2d at 498. We note that the relevant statutory language in Section 443.101(1)(a), Florida Statutes, has not materially changed since the decision in *Sowby*.

Although involving different factual scenarios, all of these cases turned on causation. Collectively, they stand for the proposition that the statutory language requires a causal connection between the discharge and the actions alleged to have been misconduct.

The employer's fourth argument contends that the referee should have permitted the employer to offer evidence that the claimant had engaged in extensive usage of his company computer for viewing pornography. Citing the after-acquired evidence doctrine[2] of employment law in cases such as *McKennon v. Nashville Banner Publishing Co.*, 513 U.S. 352 (1995), the employer contends it should be allowed to prove this behavior as grounds for disqualification after the fact. While we recognize there are public policy reasons to accept such a doctrine, the Commission views such a significant policy change to be within the province of the Legislature, in light of the current language of the statute, as well as long-standing Department, Commission and court precedent. Accordingly, the employer's request must be respectfully denied.

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[2] We note that this doctrine does not refer to evidence relating to the grounds upon which the discharge occurred, or closely related grounds, which is obtained after the termination decision. Such evidence is already potentially admissible. *See* R.A.A.C. Order No. 14-03908 (November 25, 2014); Fla. Admin. Code R. 73B-22.005.

The employer's fifth argument likewise is unavailing on the grounds of causation. While one board member did testify as to an issue with a lease, another testified that the lease issue played no part in the decision to discharge. We recognize that, as a collegial body, the board is composed of members who may have had different views. However, the employer's overall evidence did not establish either that the claimant was dishonest, or that any perception of such dishonesty was a cause in fact of the board's aggregate decision to terminate the claimant.

Finally, the employer criticizes the referee's "conclusion" that the discharge was a result of the claimant's divorce rather than his conduct. While the claimant's theory was supposition on his part, there were numerous facts which could support a finding that the contested divorce was a major factor in the events which led to the claimant's discharge and influenced the employer to take preemptive action in the absence of significant evidence of wrongdoing. However, we need not decide whether the referee properly divined the ultimate motivation of the employer in this case, because the referee properly held that the claimant's conduct was not disqualifying.

The Reemployment Assistance Appeals Commission has received the request of the claimant's representative for the approval of a fee for work performed in conjunction with the appeal to the Commission, as required by Florida Statutes Section 443.041(2)(a). In examining the reasonableness of the fee, the Commission is cognizant that: (1) in the event a claimant prevails at the Commission level, the law contains no provision for the award of a representative's fees to the claimant's representative, by either the opposing party or the State (i.e., a claimant must pay his or her own representative's fee); and (2) the amount of reemployment assistance secured by a claimant may be very small. The legislature specifically gave referees (with respect to the initial appeal) and the Commission (with respect to the higher-level review) the power to review and approve a representative's fees due to a concern that claimants could end up spending more on fees than they could reasonably expect to receive in reemployment assistance.

Upon consideration of the complexity of the issues involved, the services actually rendered to the claimant, and the factors noted above, the Commission approves a fee of $275.

The referee's decision is affirmed.

It is so ordered.

REEMPLOYMENT ASSISTANCE APPEALS COMMISSION

Frank E. Brown, Chairman
Thomas D. Epsky, Member
Joseph D. Finnegan, Member

This is to certify that on

12/31/2014 ,

the above Order was filed in the office of the Clerk of the Reemployment Assistance Appeals Commission, and a copy mailed to the last known address of each interested party.

By: Kady Thomas
Deputy Clerk

DEPARTMENT OF ECONOMIC OPPORTUNITY
REEMPLOYMENT ASSISTANCE PROGRAM
PO BOX 5250
TALLAHASSEE, FL 32314 5250

*29751778 *

Docket No.0008 6669 71-02 Jurisdiction: §443.151(4)(a)&(b) Florida Statutes

CLAIMANT/Appellee ***EMPLOYER/Appellant***

APPEARANCES Employer

Claimant

DECISION OF APPEALS REFEREE

Important appeal rights are explained at the end of this decision.

Derechos de apelación importantes son explicados al final de esta decisión.

Yo eksplike kèk dwa dapèl enpòtan lan fen desizyon sa a.

Issues Involved: SEPARATION: Whether the claimant was discharged for misconduct connected with work or voluntarily left work without good cause as defined in the statute, pursuant to Sections 443.101(1), (9), (10), (11); 443.036(30), Florida Statutes; Rule 73B-11.020, Florida Administrative Code.

Findings of Fact: The claimant was hired during march 2009 and was separated on June 12, 2013. The employer, employed the claimant as a full time Executive Director. The claimant performed his job to the best of his ability. The claimant's second in command was his wife. The claimant and his wife reported to a Board of Directors. The claimant had been hired

by the Board as a turnaround agent. At the time, the company was losing money, could not afford to finance new equipment, had low morale, low pay, high turnover, a decreasing ridership and poor relationships with banks and government entities. Under the claimant's direction, driver compensation increased, 40%, ridership went from 69,000 annually to more than 375,000, annual revenues increased from $350,000 to more than $2,000,000, the company had bought new equipment, and the companies relations with banks and government entities improved. The claimant was never informed by the Board that they found his performance unsatisfactory in any way. He received a bonus during the months prior to his termination. The claimant and his wife had not gotten around to creating an employee handbook during their four years at the helm. They did not create any policies or procedures regarding fraternization, sexual harassment, or creating a hostile work environment. The Board had no policies regarding fraternization, sexual harassment or creating a hostile work environment. The claimant separated from his wife during April 2013. The claimant met with the Chairman of the Board (COB) over lunch on May 17, 2013. The COB asked the claimant about his separation from his wife, He informed the claimant that there were pictures of the claimant with a female employee at a rooftop bar somewhere. The pictures had been taken by a private investigator in connection with the claimant impending divorce. The COB asked the claimant to call a board meeting and one was held on May 28. The topic du jour was potential sexual harassment claims that the employee, whom the claimant's wife's private investigator had taken pictures of, might file. The next day, the COB and another board member present the claimant with a Separation Agreement. He refused to sign it. He offered to provide them with a written statement from the employee that he was sexually harassing her. They declined his offer and changed their stated reasons for discharging him for his allegedly creating a hostile work environment. This was based on alleged claims from some of the other female employees that he was favoring the employer from the rooftop bar. These women had never made this complaints to the claimant. There was some back and forth between the claimants lawyer and the Board's lawyer. The claimant eventually received a letter telling him that he had been terminated by them at their discretion. The claimant's now ex wife was appointed to fill his slot.

Conclusions of Law: As of June 27, 2011, the Unemployment Compensation Law of Florida defines misconduct connected with work as:

(a) Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior which the employer expects of his or her employee.; or

(b) Carelessness or negligence to a degree or recurrence that manifests culpability, or wrongful intent, or shows an intentional and substantial disregard of the employer's interest or of the employee's duties and obligations to his or her employer.

(c) Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand or warning relating to more than one unapproved absence.

(d) A willful and deliberate violation of a standard or regulation of this state by an employee of an employer licensed or certified by this state, which violation would cause the employer to be sanctioned or have its license or certification suspended by this state.

(e) A violation of an employer's rule, unless the claimant can demonstrate that:

1. He or she did not know, and could not reasonably know, of the rules requirements;

2. The rule is not lawful or not reasonably related to the job environment and performance; or

3. The rule is not fairly or consistently enforced

The record reflects that the employer was the moving party in the separation. Therefore, the claimant is considered to have been discharged. The burden of proving misconduct is on the employer. Lewis v. Unemployment Appeals Commission, 498 So.2d 608 (Fla. 5th DCA 1986). The proof must be by a preponderance of competent substantial evidence. De Groot v. Sheffield, 95 So.2d 912 (Fla. 1957); TallahasseeHousing Authority v. Unemployment Appeals Commission, 4838 So.2d 413 (Fla. 1986). It was shown that the claimant was discharged for allegedly violating non existent policies. The employer did not present any competent evidence that any policies existed. The employer did not present any competent evidence that the claimant was guilty of the conduct they alleged he had engaged in, let alone that it would have violated any polices had he been guilty. Given the alacrity with which the claimant was replaced following his separation from his wife, and the fact that the Board replaced him with her, the referee is inclined to accept the claimant's contention that his separation resulted from his separation and divorce. The referee is not aware of any case law or statute defining a separation and divorce as misconduct connected with the work. In addition, given the fact that he and his wife were both hired by the Board, and worked together for four years, their arguments about fraternization, sexual harassment and creating a hostile work environment ring hollow.

The claimant's conduct in this case is not considered misconduct as defined above. While the employer may have had a good and compelling business reason for discharging the claimant, out of the blue, and replacing him with the wife he was divorcing, they did not prove misconduct. Accordingly, it is held that the claimant was separated under disqualifying circumstances.

The hearing officer was presented with conflicting testimony regarding material issues of fact and is charged with resolving these conflicts. The Reemployment Assistance Appeals Commission set forth factors to be considered in resolving credibility questions. These include the witness' opportunity and capacity to observe the event or act in question; any prior inconsistent statement by the witness; witness bias or lack of bias; the contradiction of the witness' version of events by other evidence or its consistency with other evidence; the inherent improbability of the witness' version of events; and the witness' demeanor. Upon considering these factors, the hearing officer finds the testimony of the claimant to be more credible. Therefore, material conflicts in the evidence are resolved in favor of the claimant.

The referee approves the attorney's fee of $1,250.

Decision: The determination dated July 22, 2013, is AFFIRMED.

If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the department and set forth in a separate overpayment determination, unless specified in this decision. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

This is to certify that a copy of the above decision was distributed to the last known address of each interested party on July 15, 2014.

SEAN DIMON
Appeals Referee

By:

DEMETRIA RIVERS, Deputy Clerk

IMPORTANT - APPEAL RIGHTS: This decision will become final unless a written request for review or reopening is filed within 20 calendar days after the mailing date shown. If the 20th day is a Saturday, Sunday or holiday defined in F.A.C. 73B-21.004, filing may be made on the next day that is not a Saturday, Sunday or holiday. If this decision disqualifies and/or holds the claimant ineligible for benefits already received, the claimant will be required to repay those benefits. The specific amount of any overpayment will be calculated by the Department and set forth in a separate overpayment determination. However, the time to request review of this decision is as shown above and is not stopped, delayed or extended by any other determination, decision or order.

A party who did not attend the hearing for good cause may request reopening, including the reason for not attending, at connect.myflorida.com or by writing to the address at the top of this decision. The date of the confirmation page will be the filing date of a request for reopening on the Department's Web Site.

A party who attended the hearing and received an adverse decision may file a request for review to the Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); **https://raaciap.floridajobs.org.** If mailed, the postmark date will be the filing date. If faxed, hand-delivered, delivered by courier service other than the United States Postal Service, or submitted via the Internet, the date of receipt will be the filing date. To avoid delay, include the docket number and claimant's social security number. A party requesting review should specify any and all allegations of error with respect to the referee's decision, and provide factual and/or legal support for these challenges. Allegations of error not specifically set forth in the request for review may be considered waived.

IMPORTANTE - DERECHOS DE APELACIÓN: Esta decisión pasará a ser final a menos que una solicitud por escrito para revisión o reapertura se registre dentro de 20 días de calendario después de la fecha marcada en que la decisión fue remitida por correo. Si el vigésimo (20) día es un sábado, un domingo o un feriado definidos en F.A.C. 73B-21.004, el registro de la solicitud se puede realizar en el día siguiente que no sea un sábado, un domingo o un feriado. Si esta decisión descalifica y/o declara al reclamante como inelegible para recibir beneficios que ya fueron recibidos por el reclamante, se le requerirá al reclamante rembolsar esos beneficios. La cantidad específica de cualquier sobrepago [*pago excesivo de beneficios*] será calculada por la Agencia y establecida en una determinación de pago excesivo de beneficios que será emitida por separado. Sin embargo, el límite de tiempo para solicitar la revisión de esta decisión es como se establece anteriormente y dicho límite no es detenido, demorado o extendido por ninguna otra determinación, decisión u orden.

Una parte que no asistió a la audiencia por una buena causa puede solicitar una reapertura, incluyendo la razón por no haber comparecido en la audiencia, en connect.myflorida.com o escribiendo a la dirección en la parte superior de esta decisión. La fecha de la página de confirmación será la fecha de presentación de una solicitud de reapertura en la página de Internet del Departamento.

Una parte que asistió a la audiencia y recibió una decisión adversa puede registrar una solicitud de revisión con la Comisión de Apelaciones de Servicios de Reempleo; Reemployment Assistance Appeals Commission, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Fax: 850-488-2123); **https://raaciap.floridajobs.org.** Si la solicitud es enviada por correo, la fecha del sello de la oficina de correos será la fecha de registro de la solicitud. Si es enviada por telefax, entregada a mano, entregada por servicio de mensajería, con la excepción del Servicio Postal de Estados Unidos, o realizada vía el Internet, la fecha en la que se recibe la solicitud será la fecha de registro. Para evitar demora, incluya el número de expediente [*docket number*] y el número de seguro social del reclamante. Una parte que solicita una revisión debe especificar cualquiera y todos los alegatos de error con respecto a la decisión del árbitro, y proporcionar fundamentos reales y/o legales para substanciar éstos desafíos. Los alegatos de error que no se establezcan con especificidad en la solicitud de revisión pueden considerarse como renunciados.

ENPÒTAN - DWA DAPÈL: Desizyon sa a ap definitif sòf si ou depoze yon apèl nan yon delè 20 jou apre dat nou poste sa a ba ou. Si 20yèm jou a se yon samdi, yon dimanch oswa yon jou konje, jan sa defini lan F.A.C. 73B-21.004, depo an kapab fèt jou aprè a, si se pa yon samdi, yon dimanch oswa yon jou konje. Si desizyon an diskalifye epi/oswa deklare moun k ap fè demann lan pa kalifye pou alokasyon li resevwa deja, moun k ap fè demann lan ap gen pou li remèt lajan li te resevwa a. Se Ajans lan k ap kalkile montan nenpòt ki peman anplis epi y ap detèmine sa lan yon desizyon separe. Sepandan, delè pou mande revizyon desizyon sa a se delè yo bay anwo a; Okenn lòt detèminasyon, desizyon oswa lòd pa ka rete, retade oubyen pwolonje dat sa a.

Yon pati ki te gen yon rezon valab pou li pat asiste seyans lan gen dwa mande pou yo ouvri ka a ankò; fòk yo bay rezon yo pat ka vini an epi fè demann nan sou sitwèb sa a, connect.myflorida.com oswa alekri nan adrès ki mansyone okomansman desizyon sa a. Dat cofimasyon page sa pral jou ou ranpli deman pou reouvewti dan web sit depatman.

Yon pati ki te asiste odyans la epi li resevwa yon desizyon negatif kapab soumèt yon demann pou revizyon retounen travay Asistans Komisyon Apèl la, Suite 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151; (Faks: 850-488-2123); https://raaciap.floridajobs.org. Si poste a, dat tenm ap dat li ranpli aplikasyon. Si fakse, men yo-a delivre, lage pa sèvis mesaje lòt pase Etazini Sèvis nan Etazini Nimewo, oswa soumèt sou Entènèt la, dat yo te resevwa ap dat li ranpli aplikasyon. Pou evite reta, mete nimewo rejis la ak nimewo sosyal demandè a sekirite. Yon pati pou mande revizyon ta dwe presize nenpòt ak tout akizasyon nan erè ki gen rapò ak desizyon abit la, yo epi bay sipò reyèl ak / oswa legal pou defi sa yo. Alegasyon sou erè pa espesyalman tabli nan demann nan pou revizyon yo kapab konsidere yo egzante.
