

**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Jaime L. Clutter,

*Appellant,*

v.

Case No. 08-WHB-08-0489

Columbiana County Department of Job and Family Services,

*Appellee*

**ORDER**

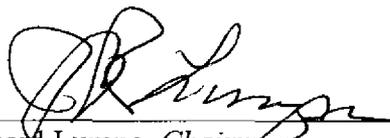
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that the instant appeal be **DISMISSED** for lack of jurisdiction over its subject matter, pursuant to R.C. 124.341 (A).



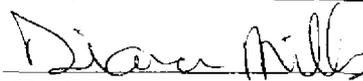
Lumpe - Aye  
Booth - Aye  
Sfalcin - Aye

  
\_\_\_\_\_  
J. Richard Lumpe, *Chairman*

**CERTIFICATION**

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitutes ~~(the original)~~ a true copy of the original order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, December 31, 2008.

  
\_\_\_\_\_  
Clerk

**NOTE:** Please see the reverse side of this Order **or** the attachment to this Order for information regarding your appeal rights.



**STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW**

Jaime L. Clutter,

Case No. 08-WHB-08-0489

*Appellant*

v.

November 5, 2008

Columbiana County Department of  
Job & Family Services,

*Appellee*

Jeannette E. Gunn  
*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This matter came on for consideration due to Appellant's August 28, 2008, filing of an appeal alleging that her removal constituted a retaliatory action as prohibited by R.C. 124.341. R.C. 124.341 states, in pertinent part:

(A) If an employee in the classified or unclassified civil service becomes aware in the course of employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources, and the employee's supervisor or appointing authority has authority to correct the violation or misuse, the employee may file a written report identifying the violation or misuse with the supervisor or appointing authority.

If the employee reasonably believes that a violation or misuse of public resources is a criminal offense, the employee, in addition to or instead of filing a written report with the supervisor or appointing authority, may report it to a prosecuting attorney, director of law, village solicitor, or similar chief legal officer of a municipal corporation, to a peace officer, as defined in section 2935.01 of the Revised Code, or, if the violation or misuse of public resources is within the jurisdiction of the inspector general, to the inspector general in accordance with section 121.46 of the Revised Code. In addition to that report, if the employee reasonably believes the violation or misuse is also a violation of Chapter 102., section 2921.42, or section

2921.43 of the Revised Code, the employee may report it to the appropriate ethics commission.

(B) Except as otherwise provided in division (C) of this section, no officer or employee in the classified or unclassified civil service shall take any disciplinary action against an employee in the classified or unclassified civil service for making any report authorized by division (A) of this section, including, without limitation, doing any of the following:

...

(1) Removing or suspending the employee from employment;

...

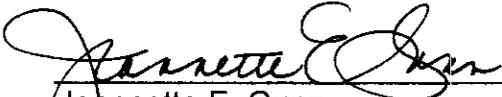
### CONCLUSIONS OF LAW

In order to invoke the protection of R.C. 124.341, an employee in the classified or unclassified civil service must meet two threshold requirements: the employee must have properly reported an alleged violation or violations of state or federal statutes, rules, or regulations, or misuse of public resources that the employee became aware of during the course of his or her employment, and the employee must demonstrate that one or more prohibited retaliatory actions must have been taken by Appellee.

In response to this Board's October 10, 2008, Procedural Order and Questionnaire, Appellant indicated that she filed a written report with her supervisor on August 7, 2008, by writing her concerns in Appellee's log book. I find that a log book entry is not sufficient to constitute a written report identifying a violation of state or federal statutes, rules, or regulations or the misuse of public resources, as contemplated by R.C. 124.341(A). Appellant has, therefore, failed to provide the Board with *prima facie* evidence that she complied with the provisions of R.C. 124.341(A), and is not protected under the provisions of R.C. 124.341.

Jaime L. Clutter  
Case No. 08-WHB-08-0489  
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Accordingly, because Appellant has failed to demonstrate compliance with the reporting requirements of R.C. 124.341(A), I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of subject matter jurisdiction.



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Jeannette E. Gunn  
*Administrative Law Judge*

JEG: