

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

Karen D. Clausen,

Case Nos. 09-INV-09-0399
09-REC-09-0400

Appellant.

v.

Ohio State University,

Appellee.

ORDER

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

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 appeals be **DISMISSED** since this Board does not have investigatory jurisdiction over any of the allegations made by Appellant and because Appellee acted within the law by denying Appellant's request for a position audit, pursuant to O.R.C. § 124.56

Lumpe - Aye
Sfalcin - Aye
Tillery - Aye



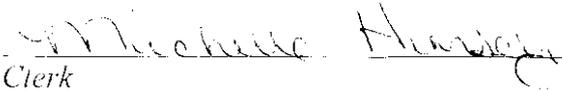


J. Richard Lumpe, *Chairman*

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 constitute (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, July 29, 2010.



Michelle Hunsicker
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**

Karen D. Clausen,

Case Nos. 09-INV-09-0399
09-REC-09-0400

Appellant

v.

June 28, 2010

Ohio State University,

Appellee

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

The above-captioned matters came on for consideration pursuant to a review of the information contained in the records of the respective cases. On September 4, 2009, Appellant filed an investigation request alleging that Appellee had abused its power by assigning her job duties outside her classification, by denying her vacation, by asking her to work overtime, by requesting additional information from Appellant to process her FMLA leave form, and by hiring temporary employees to answer financial aid questions (a job function previously performed by Appellant). Appellant also filed a reclassification appeal with this Board alleging that Appellee had denied her request for a position audit.

Unlike a court of general jurisdiction, the State Personnel Board of Review has authority only where it has been explicitly conferred upon it by the Ohio General Assembly. This Board's investigatory jurisdiction is derived from R.C. 124.56, which provides that this Board shall conduct an investigation when it has reason to believe that:

. . . any officer, board, commission, head of a department, or person having the power of appointment, layoff, suspension, or removal, has abused such power by making an appointment, layoff, reduction, suspension, or removal of an employee under his or their jurisdiction in violation of [Chapter 124.] of the Revised Code

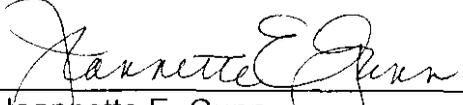
In order to invoke this Board's authority, Appellant must allege that Appellee has made an appointment, layoff, reduction, suspension, or removal in violation of R.C. Chapter 124. Where a request for investigation alleges none of the above-referenced triggering devices, the State Personnel Board of Review is without jurisdiction to proceed with an investigation. *State, ex rel. Carver v. Hull* (1994), 70 Ohio St.3d 570; *Okapal v. University of Toledo* (1982), PBR 82-INV-10-3019; *Reed v. Montgomery County Board of Mental Retardation* (1982), PBR 82-INV-09-2801; *Logsdon v. University of Cincinnati* (1982), PBR 82-INV-08-2690.

Appellant's request for investigation of Appellee's alleged improper assignment of job duties, denial of vacation, request for her to work overtime, request for additional information to process Appellant's FMLA leave form, and hiring of temporary employees to perform a job function previously performed by Appellant, does not allege any of the triggering devices found in R.C. 124.56. Accordingly, I find that this Board has no jurisdiction to proceed with an investigation of these matters.

Information contained in the record indicates that the position audit requested by Appellant was made after she received notification of the abolishment of her position, approximately three months after her position was designated for calculation of retention points pursuant to her job abolishment. Appellee's internal rules concerning position audits do not specifically address audit requests made by employees who encumber positions that have been designated for abolishment, however, Ohio Administrative Code 123:1-3-01(O) provides that requests for position audits will not be processed if the position is classified in a classification that is designated for calculation of retention points for purposes of a layoff or position abolishment. Pursuant to that section of the Ohio Administrative Code, the date that the classification is submitted for verification of retention points is the date requests for position audits are suspended. As noted, information contained in the record indicates that Appellant did not request a position audit until approximately three months after her position was submitted for verification of retention points. Accordingly, I find that Appellee did not act improperly by denying Appellant's request for a position audit.

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Therefore, because this Board does not have investigatory jurisdiction over any of the allegations made by Appellant and because Appellee acted within the law by denying Appellant's request for a position audit, I respectfully **RECOMMEND** that the above-referenced matters be **DISMISSED**.



Jeannette E. Gunn
Administrative Law Judge

JEG: