

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

KARLY K. BUTLER,

Appellant,

v.

Case Nos. 11-MIS-12-0420
11-REM-12-0421

MARION TECHNICAL COLLEGE,

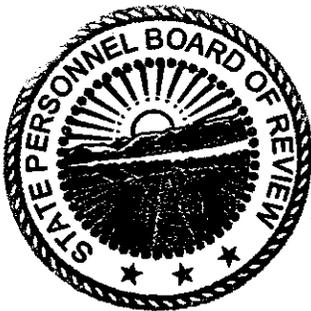
Appellee

ORDER

These matters 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 entirety of the record, including 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 are **DISMISSED** for lack of jurisdiction over the parties.



Casey - Aye
Lumpe - Aye
Tillery - Aye

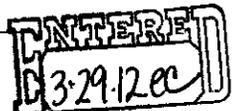

Terry L. Casey, Chairman

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, March 29, 2012.


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**

Karly K. Butler,

Appellant

v.

Marion Technical College,

Appellee

Case Nos. 11-MIS-12-0420
11-REM-12-0421

February 23, 2012

Jeannette E. Gunn
Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration pursuant to Appellee's Motion to Dismiss, filed with the Board on February 9, 2012. Appellee asserts that this Board is without jurisdiction to consider the instant appeal.

Upon a review of the information contained in the record, I find that Appellee is a technical college created by the Ohio Board of Regents in 1970 pursuant to R.C. 3357.02. I further find that Appellant was an employee of Appellee at the time of her termination from employment.

R.C. Section 124.03(A)(1) provides that this Board shall hear appeals of employees in the classified state service. R.C. Section 124.01(B) defines "state service" as follows:

* * *

(B) "State service" includes all offices and positions in the service of the state and the counties and general health districts of the state....

* * *

R.C. Section 124.01(K) provides that "service of the state" includes:

* * *

(K) ... all offices and positions of trust or employment with the government of the state [and] do not include offices and positions of trust or employment with state-supported colleges and universities, counties, cities, ...

* * *

Employees of a technical college are employees of that college district and not of the state (1981 OAG No. 81-062 at *5-6, citing 1962 OAG No. 3073); they do not fall within the classified service of the state. Accordingly, this Board does not have jurisdiction to hear direct appeals from employees of technical colleges created pursuant to Revised Code Section 3357.02, *et seq.* See, *Neibarger v. Central Ohio Technical College*, SPBR Case No. 04-REM-10-0449; *Kowalski v. Belmont Technical College*, SPBR Case No. 94-REM-09-0327; *Wade v. Hocking Technical College*, SPBR Case No. 89-REM-08-0405.

Therefore, I respectfully **RECOMMEND** that the instant appeal be **DISMISSED** for lack of jurisdiction over the parties.



Jeannette E. Gunn
Administrative Law Judge