STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JONATHAN MCCOMBS,

Appellant,

v.

Case Nos. 12-ABL-07-0154
12-LAY-07-0155
12-REM-07-0156

COLUMBUS STATE COMMUNITY COLLEGE,

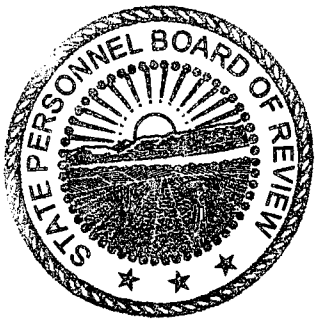
Appellee

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** as moot pursuant to O.R.C. 124.03 *et seq.*



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, November 2, 2012.

Clerk

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

11-2-12

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

JONATHAN MCCOMBS,	Case Nos. 12-ABL-07-0154 12-LAY-07-0155 12-REM-07-0156
Appellant	
v.	September 4, 2012
COLUMBUS STATE COMMUNITY COLLEGE,	
Appellee	JAMES R. SPRAGUE *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

These causes come on due to Appellant's July 3, 2012 filing of appeals from a courtesy notice that Appellant received from Appellee. This notice indicated that a contemplated reorganization of Appellant's business unit would eventually result in the abolishment of Appellant's position of Chairperson of Appellee's Justice and Public Safety Department. Thereafter, the records were developed *via* Procedural Order and Questionnaire. Based on that further development, it appears that this contemplated business unit reorganization may occur on or before Autumn 2013; yet no certain date for its implementation has been established at the present time.

On August 15, 2012, Appellee filed Appellee's motion to dismiss, based on alleged lack of ripeness and for alleged lack of subject matter jurisdiction. On August 28, 2012 Appellant filed Appellant's motion for leave to file *instanter* Appellant's memorandum *contra* to Appellee's motion to dismiss. Appellant's motion for leave to file is hereby GRANTED. Further, on August 28, 2012, Appellant filed Appellant's memorandum *contra* to Appellee's motion to dismiss.

In Appellant's memorandum *contra*, Appellant concedes that this matter does not, at the present, appear to present a genuine issue of dispute. Appellant indicates this is the case because Appellee has now rescinded its notice that Appellant's position would be eliminated and has communicated to Appellant that he would be restored to his former position.

However, Appellant does not concede that his position falls within the unclassified service. Neither does he concede that this Board lacks jurisdiction over the abolishment of a classified position under this appointing authority.

It appears that whatever action Appellee contemplated for this position has, at a minimum, been deferred to some future date. Accordingly, the parties are correct that the instant matters are not, at this point, ripe for adjudication and should, accordingly, be dismissed. It also appears that Appellant is correct that there is no need at this time to rule on Appellee's additional defenses based on subject matter jurisdiction.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeals as **MOOT**, as noted, above, pursuant to R.C. 124.03 *et seq.*

JAMES R. SPRAGUE
Administrative Law Judge

JRS: