

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

FREDERICK R. BADEN,

Appellant,

v.

Case Nos. 12-RED-06-0132
12-MIS-06-0133

HOCKING COLLEGE,

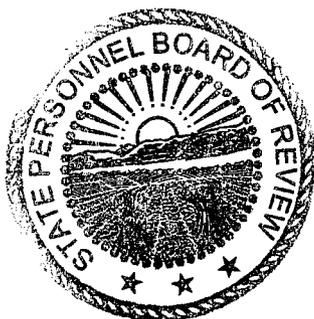
Appellee

ORDER

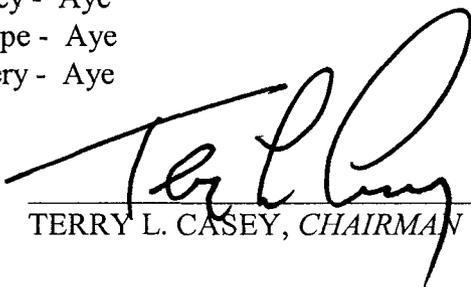
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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** for lack of subject matter jurisdiction pursuant to O.R.C. §§ 124.01 and 124.03.



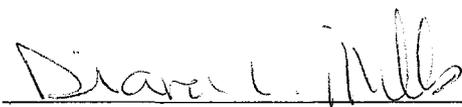
Casey - Aye
Lumpe - Aye
Tillery - Aye


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.

11-2012

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

Frederick R. Baden

Case Nos. 12-RED-06-0132
12-MIS-06-0133

Appellant

v.

September 20, 2012

Hocking College

Marcie M. Scholl

Appellee

Administrative Law Judge

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon Appellee's Motion to Dismiss, filed on August 10, 2012. To date, Appellant Baden has not filed a memorandum *contra*. Appellee correctly argues that this Board does not have jurisdiction to hear appeals of employees of technical colleges.

Unlike a court of general jurisdiction, this Board has only the authority granted to it by statute. Pursuant to section 124.03(A)(1) of the Ohio Revised Code, this Board has the authority "to hear appeals, as provided by law, of **employees in the classified state service** from final decisions of appointing authorities ..." (emphasis added). In looking at the definition of "state service" as found in section 124.01(B) of the Ohio Revised Code, it states:

(B) "State service" includes all offices and positions in the service of the state and the counties and general health districts of the state. "State service" does not include offices and positions in the service of the cities, city health districts, and city school districts of the state.

This Board had a previous case involving Central Technical College and in that case the Board concluded that it did not have jurisdiction over employees of technical colleges created pursuant to Ohio Revised Code Chapter 3357, *et seq.* Hocking Technical College was created in 1969 pursuant to section 3357.02 of the Ohio Revised Code. In 1975, the name was officially changed to Hocking Technical College from Tri-County Technical Institute District. Even though the college is now commonly referred to as Hocking College, its status as a technical college has not changed. All of the above information is evidenced by an affidavit of the Director of

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Human Resources, John Sanders, at the Appellee and by copies of documents on file with the Secretary of State and attached to Appellee's Motion to Dismiss.

Therefore, I respectfully **RECOMMEND** that the instant appeals be **DISMISSED** due to a lack of jurisdiction on behalf of the Board pursuant to sections 124.01 and 124.03 of the Ohio Revised Code.



Marcie M. Scholl
Administrative Law Judge

:mms