STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

MATTHEW P. SHAUGHNESSY,

Appellant,

v.

Case Nos. 12-ABL-09-0211
12-REM-09-0212
12-WHB-09-0213
12-MIS-09-0214

UNIVERSITY OF AKRON, BOARD OF TRUSTEES,

Appellee

ORDER

These matters 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 entirety of the records, 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 Appellee's Motion is **GRANTED** and the four instant appeals are **DISMISSED** for untimely filing, pursuant to Ohio Revised Code Sections 124.03, 124.328, 124.34 and 124.341.

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 tr~~ue 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 21, 2013.

Clerk

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

ENTERED 3/21/13

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

MATTHEW P. SHAUGHNESSY, *Appellant*	Case Nos. 12-ABL-09-0211 12-REM-09-0212 12-WHB-09-0213 12-MIS-09-0214
v.	January 23, 2013
UNIVERSITY OF AKRON BOARD OF TRUSTEES, *Appellee*	JAMES R. SPRAGUE *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

These matters came on for consideration upon Appellant's September 7, 2012 filing of appeals seeking to invoke this Board's respective jurisdiction over the abolishment of an encumbered position (R.C 124.328), the removal of an employee from a position (R.C. 124.34), the protection against retaliation for filing a whistleblower report (R.C.124.341), and the general jurisdiction of this Board (R.C. 124.03).

On October 11, 2012, this Board conducted an extensive Status Conference with the parties, at which the parties initially relayed their respective positions to the undersigned. Further, by agreement of the parties and pursuant to this Board's November 20, 2012 issued Procedural Order in these matters, on December 3, 2012 Appellee filed Appellee's motion to dismiss, memorandum in support, and accompanying supporting documentation. On January 17, 2013, Appellant filed Appellant's memorandum *contra* to Appellee's motion to dismiss, providing extensive discussion, carefully addressing the arguments in Appellee's motion to dismiss, and providing accompanying documentation.

Unfortunately, for Appellant, the matters from which Appellant wishes to appeal appear to have principally transpired at the latest in early March, 2012. Thus, I find that the State Personnel Board of Review is without jurisdiction to hear any of the above-captioned appeals because none of these appeals was timely filed, being filed well beyond even the broadest appeal filing time limit utilized by this

Board. Further, in February and March, 2012, Appellant did file four appeals from the same or related subject matter. Thereafter, in March, 2012, Appellant withdrew all of those appeals.

Accordingly, this Board now lacks jurisdiction to review any of Appellant's instant claims. As well, the subject matter of some of those claims is likely better pursued directly in the pertinent Court of competent jurisdiction.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **GRANT** Appellee's motion and **DISMISS** the four instant appeals for untimely filing, pursuant to R.C. 124.03, R.C. 124.328, R.C. 124.34, and R.C. 124.341.

JAMES R. SPRAGUE
Administrative Law Judge

JRS: