

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

Charles Eggleston,

*Appellant,*

v.

Case No. 2014-MIS-07-0168

Warren Civil Service Commission,

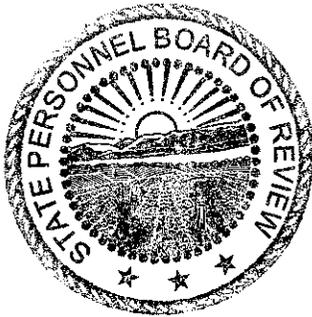
*Appellee,*

**ORDER**

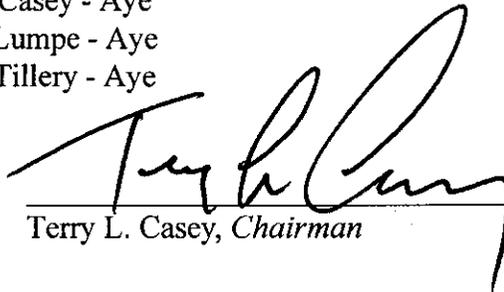
This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

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 appeal/investigation is **TERMINATED**.



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, December 17, 2014.

  
\_\_\_\_\_  
*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**

Charles Eggleston,

Case No. 14-MIS-07-0168

*Appellant*

v.

November 14, 2014

Warren Civil Service Commission,

Jeannette E. Gunn

*Appellee*

*Administrative Law Judge*

**REPORT AND RECOMMENDATION**

To the Honorable State Personnel Board of Review:

This cause comes on for consideration upon a review of the information contained in the record. On July 15, 2014, Appellant filed an appeal with this Board of Appellee's failure to remedy alleged violations of promotional examination requirements. Appellee subsequently filed a Motion to Dismiss, asserting that this Board lacks jurisdiction over the matter appealed; Appellant filed a Brief in Opposition.

Uncontroverted evidence contained in the record in this appeal indicates that Appellant sent a letter to Appellee alleging that the Fire Department Captain's Examination administered on February 1, 2014, failed to comport with the requirements of R.C. 124.45. Evidence demonstrates that Appellee received and considered Appellant's request that it vacate the results of the February 1 examination and administer a new examination. After discussion and debate, Appellee denied Appellant's request by letter dated July 3, 2014. Appellant subsequently filed the instant appeal with this Board.

**CONCLUSIONS OF LAW**

I note initially that this Board does not have jurisdiction to review the merits of Appellee's final order; no section of the Revised Code grants that authority to the Board and the Board will not substitute its judgment for that of Appellee in determining whether or not the Fire Department Captain's Examination

administered on February 1, 2014, met the requirements of R.C. 124.45. R.C. 2506.01 vests the power to judicially review the merits of Appellee's final order in the court of common pleas of the county in which Appellee's principal office is located.

This Board does, however, possess an investigatory authority over municipal civil service commissions. See, R.C. 124.40. The Board is authorized to conduct investigations whenever it has reason to believe:

... that a municipal civil service commission is violating or is failing to perform the duties imposed upon it by law, or that any member of a municipal civil service commission is willfully or through culpable negligence violating the law or failing to perform official duties as a member of the commission ....

A municipal civil service commission, pursuant to R.C. 124.40, performs the same functions as the Director of Administrative Services and the State Personnel Board of Review with respect to the civil service of a city. A municipal civil service commission has the responsibility to prescribe, amend, and enforce rules consistent with R.C. Chapter 124. for examinations for positions in the civil service of the city, and ensure that appointments are carried out correctly, as well as the responsibility to provide employees with the same right to appeal to the municipal civil service commission as a state or county employee would have to appeal to this Board. See, *Brotherton v. Amherst Civil Service Commission* (Jan. 23, 1991), PBR 90-INV-08-0861; *aff'd Franklin Co. No. 91CVF04-2777*, unreported.

As previously noted, the record indicates that Appellant sent a letter to Appellee alleging that the Fire Department Captain's Examination administered on February 1, 2014, failed to comport with the requirements of R.C. 124.45. Appellee notified Appellant that it had received Appellant's request and indicated that it had considered, discussed and debated the allegations, but ultimately denied Appellant's request that it vacate the results of and readminister the test.

Dissatisfaction or disagreement with the substance of Appellee's ruling is a legal issue subject to appeal on the merits. Even if erroneous, an unfavorable ruling is not by itself evidence of Appellee's violation or failure to perform a duty imposed upon it by law. Disagreement with the decision rendered by Appellee should be

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raised with the appropriate appellate authority; this Board is not an alternate trier of fact or appellate forum. See, R.C. 2506.01.

Upon consideration of all of the information contained in the record, I find that Appellee carried out the duties imposed upon it by law by hearing and considering Appellant's appeal, and by rendering a final, appealable decision. Therefore, I respectfully **RECOMMEND** that the instant appeal/investigation be **TERMINATED**.

  
Jeannette E. Gunn  
Administrative Law Judge