STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Mary Louise Allen,

Appellant,

v.

Case Nos. 2015-RED-09-0177
2015-WHB-09-0178
2015-INV-09-0179

Stark State College,

Appellee,

LIFTING OF STAY AND ISSUANCE OF FINAL ORDER

These matters came on for consideration upon Appellant's April 27, 2016 filing of a motion for reconsideration. On May 2, 2016, this Board issued a Stay in the instant matters. On May 16, 2016, Appellee filed its memorandum *contra* to Appellant's motion for reconsideration.

In her motion for reconsideration, Appellant appears to have some questions regarding the process this Board utilizes to review the record of a case, following the assigned Administrative Law Judge's (ALJ) issuance of a Report and Recommendation (R and R) in that case. As such, the parties should note the following.

Once the ALJ issues the R and R in a case, there is an opportunity for the parties to file objections to the content of the R and R. If objections are filed, the opposing party has an opportunity to file a response to the objections.

Once the time has run for the filing of objections and responses thereto, *each Board member separately reviews the entirety of the record in a case*. This includes any objections and responses that are timely and properly filed, as well as the rest of the record in the case. The Board members do not discuss with each other outside of a Board meeting the merits of a case that comes to them *via* the R and R process. The Board members are permitted to, and sometimes do, discuss the merits of such a case in a publically open and previously announced Board meeting. Prior to the beginning of the Board meeting, if any Board member requests a more comprehensive discussion on various aspects and details of a particular case, it will be separated out and reviewed more fully during the meeting. This is what occurred with the three instant cases. The Board's decision on that day was to adopt the Recommendation of the ALJ to dismiss these three cases. A final Order on these cases was then prepared and issued in a timely manner. Following the issuance of a final Order, either party then generally has an opportunity to appeal the final Order to the appropriate Court of Common Pleas.

In each of the above three cases, the Board members have conducted the aforementioned comprehensive case review and find no reason to set aside the final Order issued in these matters on April 22, 2016. Accordingly, that final Order stands as issued.

Wherefore, it is hereby **ORDERED** that the **STAY** issued in these matters on May 2, 2016 is **LIFTED** and the **final ORDER** in these matters issued on April 22, 2016 **STANDS AS ISSUED**, pursuant to R.C. 124.03, R.C. 124.341, R.C. 124.56, and O.A.C. 124-15-04, and O.A.C. 124-15-05.

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 the foregoing is ~~(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, May 23, 2016.

Clerk

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

NOTICE

Where applicable, this Order may be appealed under the provisions of Chapters 124 and 119 of Ohio Revised Code. An original written Notice of Appeal or a copy of your Notice of Appeal setting forth the Order appealed from and the grounds of appeal must be filed with this Board fifteen (15) days after the mailing of this Notice. Additionally, an original written Notice of Appeal or a copy of your Notice of Appeal must be filed with the appropriate court within fifteen (15) days after the mailing of this Notice. At the time of filing the Notice of Appeal or copy of your Notice of Appeal with this Board, the party appealing must provide a security deposit to the Board. In accordance with administrative rule 124-15-08 of the Ohio Administrative Code, the amount of deposit is based on the length of the digital recording of your hearing and the costs incurred by the Board in certifying your case to court. The length of the digital recording, the costs incurred, the corresponding amount of deposit required, and the final date that the Notice of Appeal or copy of your Notice of Appeal and the Deposit will be accepted by this Board are listed at the bottom of this Notice. If a full or partial transcript of the digital recording has been prepared prior to the filing of an appeal, the costs of a copy of that certified transcript will be accepted by this Board; transcript costs will be listed at the bottom of this Notice.

IF YOU ELECT TO APPEAL THIS BOARD'S FINAL ORDER, THEN YOU MUST PROVIDE THE DEPOSIT LISTED BELOW AT THE TIME YOU FILE YOUR NOTICE OF APPEAL OR COPY OF YOUR NOTICE OF APPEAL WITH THIS BOARD. Please note that the law provides that you have fifteen (15) calendar days from the mailing of the final Board Order to file your Notice of Appeal or copy of your Notice of Appeal both with this Board and with the Court of Common Pleas. The fifteenth day is the date that appears at the bottom of this Notice.

METHOD OF PAYMENT: for all entities other than State agencies, payment of the deposit must be by money order, certified check, or cashier's check. State agencies are required to use the Intra-State Transfer Voucher (ISTV) system (OBM Form 7205), which must be processed prior to the filing of an appeal. To initiate an ISTV, State agencies may call the State Personnel Board of Review Fiscal Office at 614/466-7046.

IF YOU MAINTAIN YOU CANNOT AFFORD TO PAY THE DEPOSIT LISTED BELOW, THEN YOU MUST COMPLETE THE BOARD'S "AFFIDAVIT OF INDIGENCE" FORM. YOU CAN OBTAIN THAT FORM BY CALLING 614/466-7046. THE COMPLETED AFFIDAVIT MUST BE RECEIVED BY THIS BOARD ON OR BEFORE May 31, 2016. You will be notified in writing of the Board's determination. If the Board determines you are indigent, you will be relieved of the responsibility to pay the deposit to the Board. However, if the Board determines you are NOT indigent, then YOU MUST FILE YOUR NOTICE OF APPEAL OR A COPY OF YOUR NOTICE OF APPEAL AND PAY THE DEPOSIT BY THE DATE LISTED BELOW.

If you have any questions regarding this notice, please contact the Board at 614/466-7046.

Case Number: 2015-RED-09-0177, *et seq*

Transcript Costs: N/A Administrative Costs: $25.00

Total Deposit Required: * $25.00

Notice of Appeal and Deposit Must
Be Received by SPBR on or Before: June 7, 2016

STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW

Mary Louise Allen	Case No. 2015-RED-09-0177
Appellant	
v.	February 1, 2016
Stark State College	
Appellee	Jeannette E. Gunn *Administrative Law Judge*

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause comes due to Appellant's filing of, among other things, an appeal wherein Appellant alleges she was reduced in pay or position. Along with Appellant's notice of appeal, Appellant filed several lengthy e mail chains to attempt to demonstrate her various claims. Unfortunately, it is difficult to discern how Appellant may have suffered a "reduction in pay" or a "reduction in position" as contemplated in either R.C. 124.34 or in O.A.C. 124-1-02 (Y) and (Z).

Thus, it appears that, to date, Appellant has been unable to set forth a reduction claim that would invoke the jurisdiction of this Board. Accordingly, the instant appeal should be dismissed.

Therefore, I respectfully **RECOMMEND** that the State Personnel Board of Review **DISMISS** the instant appeal for failure to state a claim invoking this Board's subject matter jurisdiction, pursuant to R.C. 124.03, R.C. 124.34, and O.A.C. 124-1-02 (Y) and (Z).

Jeannette E. Gunn

Jeannette E. Gunn
Administrative Law Judge