

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

Sherry Miller Johnson,

Appellant,

v.

Case Nos. 2016-INV-03-0042
2016-WHB-03-0043

Child Development Council
of Franklin County, Inc.,

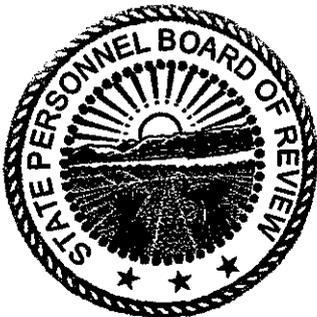
Appellee,

ORDER

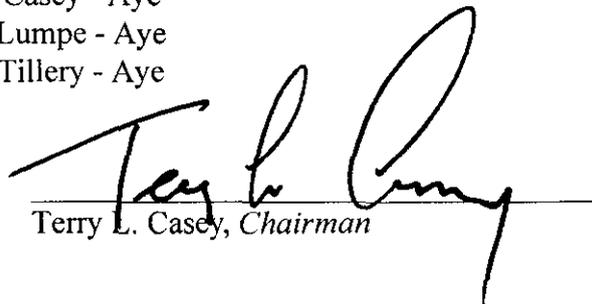
These matters came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeals.

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 the instant "whistleblower" appeal and request for an investigation are **DISMISSED** for lack of jurisdiction, pursuant to O.R.C. Sections 124.03, 124.341, and 124.56.



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, May 31, 2016.


Eric E. Com
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 June 7, 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 Numbers: 2016-INV-03-0042 and 2016-WHB-03-0043

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 15, 2016

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

Sherry Miller Johnson,

Appellant

v.

Child Development Council of Franklin County, Inc.,

Appellee

Case Nos.: 2016-INV-03-0042
2016-WHB-03-0043

April 29, 2016

Elaine K. Stevenson
Administrative Law Judge

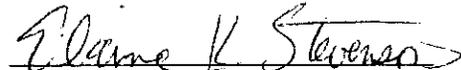
REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This matter came on for consideration upon Appellant's filing of a "whistleblower" appeal pursuant to Ohio Revised Code (O.R.C.) § 124.341, and a request for an investigation pursuant to O.R.C. § 124.56. On March 28, 2016, a Procedural Order was issued to the parties to gather information relevant to the issue of whether this Board has jurisdiction over these appeals.

On April 18, 2016, Appellee's legal representative filed a response to this Board's March 28, 2016 Procedural Order. Appellee states that it is a private nonprofit corporation established under O.R.C. Chapter 1702 to operate Head Start and Early Head Start programs for economically disadvantaged children and families in Franklin County, Ohio. As a private nonprofit corporation, Appellee's employees do not hold positions in the service of the state as defined by O.R.C. § 124.01 and, as a result, they are not subject to the civil service laws set forth in O.R.C. Chapter 124. Appellant did not file a reply.

Based on the foregoing, I respectfully **RECOMMEND** that the instant "whistleblower" appeal and request for an investigation be **DISMISSED** for lack of jurisdiction, pursuant to O.R.C. §§ 124.03, 124.341, and 124.56.


Elaine K. Stevenson
Administrative Law Judge