

STATE PERSONNEL BOARD OF REVIEW

LISA E. ARMITAGE,

Appellant

v.

Case No. 05-INV-03-0091

MIAMI UNIVERSITY,

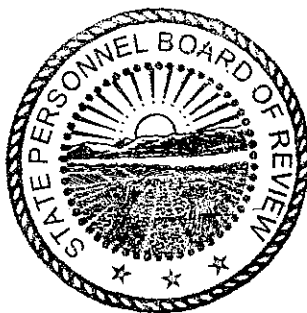
Appellee

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 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 Appellant's request for an investigation be **DISMISSED** for lack of subject matter jurisdiction, pursuant to R.C. 124.56.



Tracy – Aye
Lumpe – Aye
Booth – Aye

[Handwritten Signature]

Roger W. Tracy, *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, September 12, 2005.

[Handwritten Signature]

Clerk

INDEXED
9/12/05

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

Lisa E. Armitage,

Case No. 05-INV-03-0091

Appellant

v.

June 29, 2005

Miami University,

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. Appellant filed a request for investigation with this Board on March 9, 2005, stating that she was informed on September 17, 2004, of pending disciplinary action being brought by her employer.

Appellant supplemented the record on April 19, 2005, expressing objections to the manner in which her internal Equal Employment Opportunity complaint was being investigated by Appellee.

CONCLUSIONS OF LAW

Unlike a court of general jurisdiction, the State Personnel Board of Review has authority only where it has been explicitly conferred upon it by the Ohio General Assembly. This Board's investigatory jurisdiction is derived from R.C. 124.56, which provides that this Board shall conduct an investigation when it has reason to believe that:

. . . any officer, board, commission, head of a department, or person having the power of appointment, layoff, suspension, or removal, has abused such power by making an appointment, layoff, reduction, suspension, or removal of an employee under his or their jurisdiction in violation of [Chapter 124.1 of the Revised Code

In order to invoke this Board's authority, Appellant must allege that Appellee has made an appointment, layoff, reduction, suspension, or removal in violation of R.C. Chapter 124. Where a request for investigation alleges none of the above-referenced triggering devices, the State Personnel Board of Review is without jurisdiction to proceed with an investigation. *State, ex rel. Carver w. Hull* (1994), 70 Ohio St.3d 570; *Okpal v. University of Toledo* (1982), PBR 82-INV-1 O-301 9; *Reed v. Montgomery County Board of Mental Retardation* (1982), PBR 82-INV-09-2801; *Logsdon v. University of Cincinnati* (1982), PBR 82-INV-08-2690.

The complaints contained in Appellant's request for investigation and supplemental information are not sufficient to invoke this Board's investigatory authority, and that the Board is without jurisdiction to consider them. I find that an appeal of any pending discipline is premature; nor does this Board have any authority over EEO issues.

Therefore, I respectfully **RECOMMEND** that the instant investigation be **DISMISSED** for lack of jurisdiction over the subject matter.


Jeannette E. Gunn
Administrative Law Judge

JEG: