

STATE OF OHIO  
STATE PERSONNEL BOARD OF REVIEW

Jodi Davidson,

*Appellant*

v.

Case No. 2005-REM-02-0045

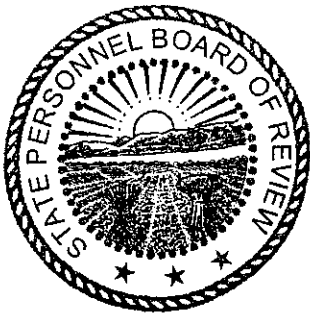
Warren County Board of Mental Retardation  
and Developmental Disabilities,

*Appellee*

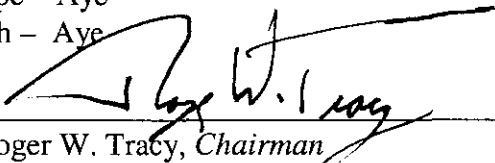
**ORDER**

This matter came on for consideration before the full Board. Based upon the reasoning set forth in the Board's Opinion attached hereto, the Board hereby disaffirms the removal of Appellant Davidson.

Wherefore, it is hereby **ORDERED** that Appellant's removal be **DISAFFIRMED** for the reasons set forth in the Board's Opinion attached hereto. **IT IS FURTHER ORDERED** that Appellant Davidson be **REINSTATED** to her position of Adult Service Provider, effective January 14, 2005, with all back pay and applicable benefits, such as vacation, pensions, and health benefits to which she is entitled, subject to monetary set off for monies earned, as a result of such disaffirmance.




Tracy – Aye  
Lumpe – Aye  
Booth – Aye

  
\_\_\_\_\_  
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, July 11, 2005.

  
\_\_\_\_\_  
Michele Allen  
Clerk

**NOTE:** Please see the attachment to this Order for information regarding appeal rights.



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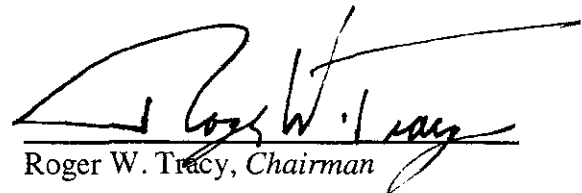
*Appellee*

**OPINION**

Appellant was removed as a classified employee without a R.C. 124.34 Order of Removal. A questionnaire was issued by this Board on June 9, 2005 to the Appellee due to the allegation of Appellant Davidson that she had been removed from her position effective January 14, 2005, but did not receive an Order of Removal. Appellee submitted its response to the questionnaire on June 21, 2005. In answer to question number 3, which asked if Appellee was contending Appellant Davidson was an unclassified employee at the time of her removal, Appellee answered "no". In answer to question number 4, Appellee stated it filed an order of removal with this Board on May 19, 2005, for the Appellant's removal effective January 14, 2005.

Appellee gave Appellant Davidson a letter terminating her employment. The letter did not contain any notice to Appellant Davidson of her appeal rights to this Board and Appellant Davidson was not provided with an order of removal prior to or on the effective date of her removal as required by section 124.34 of the Ohio Revised Code. Since Appellee is not contesting the classified status of Appellant Davidson, then she should have been removed in accordance with the provisions for removing a classified employee.

The appointing authority has failed to comply with Ohio Revised Code section 124.34. Therefore, removal of Appellant Davidson is **DISAFFIRMED**. Appellant shall receive all back pay and applicable benefits, such as vacation, pensions, and health benefits to which she is entitled, subject to monetary set off for monies earned, as a result of such disaffirmance.

  
Roger W. Tracy, Chairman