

CONCLUSIONS OF LAW

The Respondent in essence argues that the position in question is academic staff and not in the classified service, that the selection process for the position thus does not concern the Director of the Bureau of Personnel, and that therefore there is no basis for Board jurisdiction. The Appellant in essence argues that the position of Director of Plant Services does not fall within the purview of the statute defining academic staff, Section 36.05(1), and that therefore the position is or should be included within the classified service.

While the nature of Appellant's appeal vis-à-vis the University is somewhat ambiguous from the third paragraph of Appellant's appeal letter, it does concern the selection and/or appointment process for the position in question. By definition, this would not fall into the jurisdiction conferred by Section 16.05(1)(e), which concerns decisions of appointing authorities relating to "demotions, layoffs, suspensions or discharges." The only possible basis for jurisdiction over this appeal would be if it involved a decision of the Director of the Bureau of Personnel, in accordance with Section 16.05(1)(f), Wis. Stats. However, the selection process for positions outside the classified service is outside the purview of the Director, see Section 16.20(1) and (2), Wis. Stats.:

"(1) Appointing authorities shall give written notice to the director of any vacancy to be filled in the classified service; and the director shall certify pursuant to this subchapter and the rules of the director, from the roster of eligibles appropriate for the kind and type of employment, the grade and class in which the position is classified, the three names at the head thereof, which have not been certified three times.

(2) Unless otherwise provided in this subchapter and rules pursuant thereto, appointments shall be made by appointing authorities to all positions in the classified service from among those certified to them in accordance with subchapter (1). (Emphasis added.)

The appointment and selection process for persons in academic staff positions is vested by statute in the Board of Regents or its agents.

See Section 36.15(2), Wis. Stats., Academic Staff Appointments:

"Appointments under this section shall be made by the Board [of Regents], or by an appropriate official authorized by the Board, under policies and procedures established by the Board."

In order for the Personnel Board to have jurisdiction over this appeal, it must involve a decision of the Director of the Bureau of Personnel. The Appellant, who has the burden of proof, has made no showing nor has he argued that the Director was involved in the selection or appointment process. The question of whether the position involved is properly classified as academic staff is irrelevant to the determination of Personnel Board jurisdiction.¹ If it were established that the position should be in the classified service, this would at the most establish that the Director should have been responsible for the selection process. However, we conclude that even if we reached this point it would not provide an "action or decision" of the Director that would be a basis for our subject matter jurisdiction pursuant to Section 16.05(1)(f), Wis. Stats.

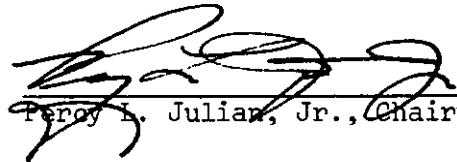
Inasmuch as we conclude it is not relevant to the jurisdictional inquiry, we do not take up the question of the propriety of the designation of the position of Director of Plant Services as academic staff, and this opinion should not be interpreted as doing so.

¹In appropriate circumstances, it is possible for the Personnel Board to rule on a question concerning the propriety of the classification of a position as academic staff, possibly through a request for investigation pursuant to S. 16.05(4), Wis. stats., or the appeal of a grievance pursuant to S. 16.05(7).

ORDER

IT IS HEREBY ORDERED that Respondent Weaver is dismissed as a party-respondent and so much of Appellant's claims as relates to Respondent Weaver is stricken.

Dated February 12, 1976. STATE PERSONNEL BOARD


Percy K. Julian, Jr., Chairperson

PERSONNEL BOARD
STATE OF WISCONSIN
MADISON

June 6, 1975

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Mr. Percy L. Julian, Jr., Chairman
Personnel Board
Rm 244
1 W. Wilson St.
Madison, Wis. 53702

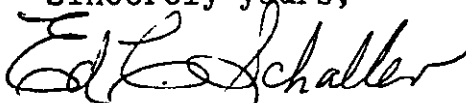
Dear Mr. Julian:

I would appreciate an opportunity to appear before the board in regards to my application for Purchasing Agent 1 for which I was interviewed by the board consisting of Martin Albrecht, Robert Ernst, and John Robinson on Thursday May 22, 1975. I received a notice after the interview that I was not eligible for the job.

I also have applied for the position of Director, Property Records Bureau and just received a letter from Mr. William Sayles, Chief Engineer, stating that he cannot advance my application to the next step in the selection process.

I would also like to discuss an application that I submitted to the University of Wisconsin Hospitals on January 20th to a Mr. Gary Mecklenburg and a letter dated April 3, 1975 from him stating that I was not among the top candidates. I have never been afforded a personal interview as yet.

Sincerely yours,



Ed C. Schaller, P. E.
904 Oakland Ave.
Madison, Wis. 53711
257-1713

BOARD'S

EXHIBIT # 1