

Appellants filed a grievance under the Departmental Grievance Procedure challenging the reorganization especially the new system of having the psychologists reporting to anyone other than the head psychologist. The grievance having been denied at the first three steps was appealed to the board by letter dated May 5, 1976. On January 14, 1977 Respondent filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction. An evidentiary hearing on the motion was held on February 14, 1977.

II. Conclusions of Law
The Board Lacks Jurisdiction To
Hear This Appeal

Appellants urge that the Board has jurisdiction to hear this appeal under Section 16.05(7) and/or Section 16.05(4). The former section states that the Board "may be designated as the final step in a state grievance procedure." Respondents' department has so designated the Board. The grievance procedure provides in part:

The decision of the Secretary will be final and binding on all grievances filed under the Department procedures except those which alleges a violation, incorrect interpretation or unfair application of:

1. A rule of the Personnel Board or a civil service statute (S. 16.01-16.32).
2. A function which the Director of Personnel has affirmatively delegated his authority to the Department. Manual of Instructions and Administrative Orders - Personnel, Department of Health and Social Services, Subject: Employee Relations, Chapter XIII, Page 4, Date Revised 7-23-70.

Appellants allege that the reorganization of Central Wisconsin Center into a unit system is a violation of Sections 15.02(4) and 16.01(2), Wis. Stats. Section 15.02(4) provides in part that:

The head of each department or independent agency shall, subject to the approval of the governor, establish the internal organization of the department or independent agency and allocate and reallocate duties and functions not assigned by law to an officer or any subunit of the department or independent agency to promote economic and efficient administration and operation of the department or independent agency.

The Personnel Board has reviewed in another case, Voigt v. Wettengel and Van Susteren, Pers. Bd. 74-93 (December 24, 1974), reversed in part Voigt v. Personnel Board, Case No. 145-300 (May 8, 1975) the issue of whether a specific reorganization was made in violation of the above cited section. That review was made in conjunction with an alleged violation of a civil service statute. The Board had jurisdiction to hear the appeal under Section 16.05(1)(f), that is, authority to hear appeals from decisions of the Director. The primary issues which the Board determined in Voigt were whether the employee was transferred and whether that transfer was illegal. The Circuit Court agreed with the Board's determination that the transfer was illegal. However, the Court did not agree with its finding that the reorganization from which the employee's transfer resulted was in violation of Section 15.02(4).

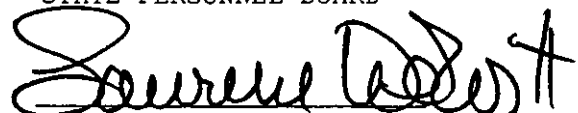
In the instant case Appellants do not have the automatic right of appeal which existed in Voigt. However, the grievance procedure defines the Board's jurisdiction broadly. Appellants have alleged "a violation, incorrect interpretation or unfair application of" Section 16.01(2). Therefore, we conclude that we have jurisdiction to hear this appeal based on the record to date. We wish to emphasize at this juncture that we find we have jurisdiction over this matter because of the breadth of the grievance procedure provision. We will consider this grievance only insofar as it effects personnel matters and the civil service system. The Board does not intend to review the management of the institution, including the question of whether the reorganization referred to was wise or unwise in regard to health administration or professional judgment. Since we have determined we have jurisdiction under the grievance procedure, we will not reach the issue of whether there exists an additional basis of jurisdiction under Section 16.05(4).

ORDER

IT IS HEREBY ORDERED that Respondent's motion to dismiss is denied.

Dated March 21, 1977.

STATE PERSONNEL BOARD


Laurene DeWitt, Chairperson