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 GREG LAFOND request for investigation  
 Case No. 77-122-I  
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OPINION  
 AND  
 ORDER

**OFFICIAL**

Before: DeWitt, Chairperson, Wilson, Warren, Morgan and Hessert, Board Members

The board has reviewed the entire file in this matter, including the petition for investigation filed June 9, 1977, the response of the Department of Veterans Affairs filed June 17, 1977, and the reply of petitioner filed June 21, 1977.

Petitioner alleges in his petition that on January 3, 1977, he was appointed to the position of Executive Assistant to the Secretary for the Department of Veterans Affairs pursuant to Section 15.05(3), stats. He further alleges that on May 26, 1977, interim Acting Secretary Wills attempted to discharge him from that position, and that that action was improper and illegal for two basic reasons, summarized as follows:

1. It was in violation of an interim policy and directive regarding the retention of department staff and employees issued by the Board of Veterans Affairs on May 20, 1977;
2. That as the interim acting secretary, Mr. Wills had no authority to discharge petitioner.

As relief petitioner requests "an investigation into the legality and reasons for his discharge and the issuance of an order reinstating him to his position . . . and requiring payment of all salary and other benefits due . . . ."

Section 15.05(3), stats., provides in part: "Each secretary may appoint, outside the classified service, an executive assistant to serve at his pleasure." (emphasis supplied) Section 16.05(4), stats., provides in part: "The board may make investigations . . . concerning all matters touching the enforcement and effect of this subchapter and rules prescribed thereunder . . . ." (emphasis supplied) There are no provisions in Subchapter II of Chapter 16 providing tenure or appeal

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rights to unclassified employes, or governing appointing authorities with regard to the discharge of such employes, such as obtain in the case of classified employes. The legislature has seen fit to specifically exempt the position in question from the classified service and the protections afforded those in that service. The legislative policy is set forth clearly in the statutes, and questions concerning those policies are more appropriately entertained by the legislature.


Petitioner further asserts in his reply letter, that this case raised an important policy issue concerning "the question of whether, in our State agencies governed by boards, those boards may establish interim personnel policies applicable to transition periods between the firing of one secretary and the hiring of another."

The power to investigate under Section 16.05(4), stats., is discretionary. There has been no allegation by petitioner that the question cited above involved any employe or position in the classified service. This question, in our opinion does not involve an issue of broad and important policy relative to the enforcement and effect of subchapter II of Chapter 16 and rules prescribed thereunder, of the nature that would warrant the exercise of this discretion. In our view the questions raised by this petition may appropriately be addressed by the Veterans Affairs Board.

Order

The petition for investigation filed June 9, 1977, is denied.

Dated August 26, 1977 STATE PERSONNEL BOARD

  
Laurene DeWitt, Chairperson