

CONCLUSIONS OF LAW

1. Chapter 36, Wis. Stats., assigns authority to the University of Wisconsin Board of Regents to appoint "the requisite number of offices, faculty, academic staff and other employes..."s.36.09(1)(e), Stats., (emphasis added) with the only limitation being that the Regents and the Personnel Commission "shall jointly adopt general policies governing the designation of positions to be exempt from the classified service as academic staff..." s.36.09(1)(i), Stats.

2. Neither Section 230.44(1)(b) or 230.44(1)(d), nor any other section, gives the Personnel Commission the authority to hear appeals of actions by the UW Board of Regents in designating positions in the University of Wisconsin System as academic staff positions.

3. The Commission lacks jurisdiction over the subject matter of this appeal and it must be dismissed.

OPINION

Respondent argues that the Personnel Commission lacks jurisdiction to hear appeals challenging the respondent's authority under Chapter 36, Wis. Stats., to designate positions exempted from the classified service as academic staff. Appellant contends that s.36.09(1)(i), Wis. Stats., gives the Commission authority to review these decisions. The union also contends that s.230.44(1)(b) and (d), Wis. Stats., permits the Commission to review all actions alleging illegal conduct or abuse of discretion. Section 36.09(1)(i), gives the Commission authority only to assist the UW-Board of Regents is adopting "general policies" relating to the Regents' authority to exempt positions from the classified service. This section also does not grant the Commission the point to review appeals of actions

by the University in specific cases.

The Personnel Commission has already ruled in WSEU v. UW-System, Case No. 74-100 (2/15/80) that, "The Commission cannot conceive any authority for the Personnel Board (to whom this original appeal was made) to review an action taken by Board of Regents under Chapter 36 of the statutes..."

Section 230.44(1)(b), Stats., permits appeals to the Commission of actions delegated to an appointing authority by the administrator of the Division of Personnel. Since we have already noted that the Board of Regents has exclusive authority to designate positions as academic staff, this is not an action which could be delegated by the administrator of the Division of Personnel.

Section 230.44(1)(d), Stats., gives the Commission authority to hear appeals of personnel actions after certification related to the hiring process in the classified service. This is clearly not an action related to the hiring process in the classified service since it is the designation of position as unclassified.

Respondent has also raised objections in its brief to the Commission's jurisdiction as to the question of the timeliness of the filing of this appeal and as to its contention that all parties to this dispute are not properly part of this proceeding. The Commission will not rule on these objections because it has already decided it lacks jurisdiction over this type of appeal.

ORDER

The Personnel Commission grants respondent's motion to dismiss this case because the Commission lacks subject matter jurisdiction and this appeal is hereby dismissed.

Dated August 19, 1980

STATE PERSONNEL COMMISSION

Charlotte M. Higbee

Charlotte M. Higbee
Chairperson

Donald R. Murphy

Donald R. Murphy
Commissioner

Gordon H. Brehm

Gordon H. Brehm
Commissioner