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 In the Matter of \*  
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 JOHN A. RAUP \*  
 \*  
 Request for Investigation \*  
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 Case No. 76-17-I \*  
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**OFFICIAL**

OPINION AND ORDER

Before: JULIAN, Chairperson, SERPE, WILSON and DEWITT, Board Members.

This matter is a request for investigation. The complainant is a Real Estate Agent 2 employed by the Department of Transportation. His complaint concerns the reclassification or reallocation of another Real Estate Agent, Michael T. Gallagher, from the 2 to the 3 level without a promotional, competitive examination. At our request the Department of Transportation has filed a response to the request for investigation. The complainant has filed a reply.

The complainant contends that this transaction is illegal, citing this Board's decision in Stoltz v. Bakke, No. 216, 8/31/67. The Department of Transportation argues, and we agree, that the precedential value of that decision has been eroded by the subsequent enactment of S. 16.07(2)(d), Wis. Stats., Chapter 270, Laws of 1971:

"If after review of a filled position the director reclassifies or reallocates the position, he shall determine whether the incumbent shall be regraded or whether the position shall be opened to other applicants."

The Department further argues that the transaction involving Mr. Gallagher was an appropriate reclassification as defined in S. Pers. 3.02(4), Wisconsin Administrative Code:

"Reclassification. The reallocation of a filled position to a different class and the subsequent regrading of the incumbent by the director as provided in Section 16.07(2), Wis. Stats., based upon:

(a) A logical and gradual change to the duties and responsibilities of a position.

(b) Attainment of specified training and experience, and demonstrated performance by an incumbent in a position identified in a classification series where the class levels are differentiated on this basis."

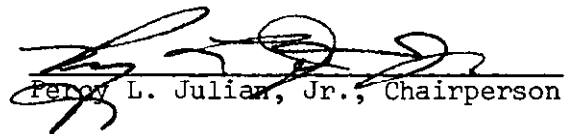
In Schwartz v. Schmidt, 74-18, 1/17/75, we held that the investigatory powers conferred by S. 16.05(4), Wis. Stats., are discretionary, and that "The purpose of the section seems to be directed to broad policy matters related to the enforcement and effect of the civil service law." In the case before us we do not find "broad policy matters" presented by the question of Mr. Gallagher's advancement. In the exercise of our discretion we decline to conduct the requested investigation. We do not intimate any opinion as to the correctness of the personnel transaction involved here.

ORDER

IT IS HEREBY ORDERED that the request for investigation is denied.

Dated April 19, 1976.

STATE PERSONNEL BOARD

  
Percy L. Julian, Jr., Chairperson