

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2024-069

YVETTE GEORGE

APPELLANT

V. **FINAL ORDER
SUSTAINING HEARING OFFICER'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

FINANCE AND ADMINISTRATON CABINET

APPELLEE

*** *** *** *** ***

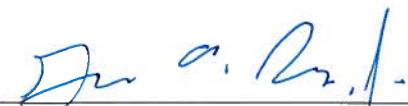
The Board, at its regular December 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated October 29, 2025, and being duly advised,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer are approved, adopted, and incorporated herein by reference as a part of this Order, and the Appellant's appeal is therefore **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

SO ORDERED this 19th day of December, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:

Yvette George, Appellant
Hon. Shan Dutta, counsel for Appellee
Hon. Cary Bishop, counsel for Appellee
Hon. Ashley Daily, counsel for Appellee
Hon. Rosemary Holbrook (Personnel Cabinet)
Laura Sharp

COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2024-069

YVETTE GEORGE

APPELLANT

v.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
RECOMMENDED ORDER

FINANCE AND ADMINISTRATION CABINET

APPELLEE

* * * * *

This matter is before the Hearing Officer on the appellee Finance and Administration Cabinet's (the "Appellee") Motion for Summary Judgment [and Amended Motion for Summary Judgment]. The appeal last came before the Hearing Officer in a pre-hearing conference on February 18, 2025, which was held at 10:30 a.m., ET, at 1025 Capital Center Drive, Suite 105, Frankfort, Kentucky, before the Hon. Gordon A. Rowe, Jr. The proceedings were recorded by audio/video equipment and were authorized by virtue of KRS Chapter 18A.

The appellant, Yvette George (the "Appellant"), was present at the pre-hearing conference, appearing in person, and was not represented by legal counsel. The Appellee, Finance and Administration Cabinet (the "Appellee"), was present by telephone and was represented by the Hon. Cary Bishop, the Hon. Shan Dutta, and the Hon. Ashley Daily.

During the pre-hearing conference, the parties discussed the Appellee's Motion for Summary Judgment, which was filed on November 12, 2024. Despite having been provided an opportunity to file a response to the Appellee's Motion for Summary Judgment [by Interim Order dated September 26, 2024], the Appellant failed to do so.. However, the Appellant had previously alleged that she did not receive a salary increase in retaliation for complaints she filed against other employees. After the pre-hearing conference, the Appellee filed an Amended Motion for Summary Judgment, which addressed the Appellant's complaints of retaliation. For the reasons set forth herein, the Hearing Officer finds the Appellee's Amended Motion for Summary Judgment well-taken and recommends the Appellant's claims be dismissed by the Personnel Board for lack of jurisdiction.

PROCEDURAL BACKGROUND

1. This appeal was filed by the Appellant on May 22, 2024. The Appellant is a classified employee with status.

2. In her appeal form (the "Appeal Form"), the Appellant alleged that her salary is "below recently hired employees." She requested salary commensurate with her "colleagues as an Auditor III." She complained that the Appellee violated her rights under KRS 18A.095 by paying her less than what her colleagues are paid. [See Appeal Form at p. 2.]

3. On November 12, 2024, the Appellee filed a motion for summary judgment, in which it argued that the Personnel Board did not have jurisdiction to hear the appeal essentially because no action had been taken against the Appellant which violated KRS 18A.095 or any other provision of KRS Chapter 18A.

4. The Appellant did not file a response to the Appellee's Motion for Summary Judgment or the Amended Motion for Summary Judgment.

FINDINGS OF FACT

1. The Appellant is employed as a Revenue Auditor III by the Department of Revenue, which is part of the Finance and Administration Cabinet. The Appellant has been an employee of the Revenue Department since 2015. Her current annual salary is \$51,951.80.

2. The Appellant filed this appeal with the Personnel Board on May 22, 2024. In her appeal form (the "Appeal Form"), the Appellant alleged the Appellee violated KRS 18A.095 and checked the "Other/Claim not listed" box for the type of personnel action she was appealing. The Appellant further explained the reasons for her appeal in the Appeal Form:

"I've been working with the DOR for at least 8 years and my pay of \$51,951.80 is below recently hired employees. All I'm asking for is decent salary compensation to my colleague as an Auditor III and make life easier for me."

[See Appeal Form.]

3. The Appellant also alleged specifically that one coworker who is also a Revenue Auditor, Mr. Pickard, makes a salary of \$59,256.88 and she argued that her salary should be raised to a "comparable salary." [See Grievance Form at p.1, which was attached to the Appeal Form.] Notably, she did not set forth any evidence as to how many years of experience Mr. Pickard had with the Appellee (or in state government) or any of his other credentials or accomplishments.

4. The Appellant has not been demoted, suspended, involuntarily transferred, or dismissed by Appellee nor has Appellant's salary been reduced by Appellee.

5. The Appellant did not allege (nor has any evidence been presented to show) that the challenged salary inequity/salary compression issue is based upon her membership in any protected class.

6. As stated in the Hearing Officer's September 26, 2024 Interim Order, the Appellant claimed in a letter dated August 29, 2024 (read aloud during the initial August 29, 2024 pre-hearing conference and later submitted to the Board's staff on September 5, 2024) that she believed the Appellee was refusing to raise her salary in retaliation for three (3) previous complaints she made about harassment from her coworkers. [See Exhibit B to Appellee's Amended Motion for Summary Judgment.] However, despite numerous opportunities to do so, the Appellant has not produced any evidence to connect her salary disparity with coworkers to her complaints about coworker harassment.

7. The timing of the complaints does not support the Appellant's contention of retaliatory conduct. One complaint, against coworker Mark Smith, was filed over a year prior to the Appellant filing her salary disparity grievance and this appeal. The second complaint, made against her branch manager, was filed months after the Appellant filed this appeal with the Personnel Board. It should also be noted that this same branch manager, subject of the second complaint, recommended Appellant receive a raise¹. The third complaint involved an unidentified male who, on unspecified dates, allegedly walked close to the Appellant's cubicle and, on one occasion, coughed on her back. There is nothing in the Appellant's description of her complaints about her coworkers tying any of these incidents, or her complaints about them, to the Appellee's alleged refusal to give her a raise (or to any particular form of prohibited discrimination).

8. Other than disputing her claims of harassment, which are not the subject of this appeal and which the Appellee contends it investigated and concluded there was no harassment, the Appellee has not disputed the facts asserted by the Appellant. Instead, the Appellee contends that the basis of the appeal, a request for a salary adjustment to midpoint, is outside the jurisdiction of the Personnel Board due to the passage of Senate Bill 153 ("SB 153") in 2023. As the Appellee has argued, Senate Bill 153 eliminated the Board's jurisdiction to hear appeals of "other penalizations" and limited the Board's jurisdiction under KRS 18A.095 primarily to appeals of demotions, suspensions, involuntary transfers, dismissals, and discrimination actions. *See* KRS 18A.095.

CONCLUSIONS OF LAW

1. Summary judgment should be entered when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Kentucky Rules of Civil Procedure ("CR") 56.03; *Steelvest, Inc. v. Scansteel Service Center, Inc.*, 807 S.W.2d 476, 482 (Ky. 1991). The movant should only be granted summary judgment when the right to judgment as a matter of law is "shown with such clarity that there is no room left for controversy." *Steelvest*, 807 S.W.2d at 482.

2. A party opposing a motion for summary judgment must present "at least some affirmative evidence showing that there is a genuine issue of material fact for trial." *Id.* at 482.

3. There is no genuine issue of material fact in this case. The facts relevant to the issue of jurisdiction are not disputed. The only question before the Personnel Board at this juncture is a question of law: whether the Board has jurisdiction to hear an appeal of a classified employee who requests a salary adjustment to make her salary equivalent to coworkers in the same job classification. That question must be answered in the negative.

4. The Personnel Board does not have authority to hear any appeal not specifically authorized by KRS Chapter 18A. In fact, the Personnel Board is **required** to dismiss any appeal in which it determines "it lacks jurisdiction to grant relief." KRS 18A.095(16)(a).

¹ See copy of May 2024 Grievance Form at p.2, which was attached to the Appeal Form and is part of Exhibit B to Appellee's Motion for Summary Judgment.

5. The Appellant has not established that the Appellee violated any part of KRS 18A.095 regarding her employment.

6. Under the version of KRS Chapter 18A in effect at the time Appellant filed her appeal,² the Personnel Board only has jurisdiction to hear the following types of actions involving state employees: an “employee who is dismissed, demoted, suspended without pay, or involuntarily transferred may, within thirty (30) calendar days” of those specific personnel actions, appeal the action to the Personnel Board. KRS 18A.095(9). In addition, an employee who has been subjected to employment discrimination based on their protected class status may appeal any such action to the Personnel Board within thirty (30) calendar days of the action. KRS 18A.095(11).

7. The Appellant has not been dismissed, demoted, suspended without pay, involuntarily transferred, or denied any other rights she is entitled to under KRS 18A.095. The Appellant has not claimed any type of protected class discrimination and no evidence has been presented to show that any such discrimination exists in relation to the Appellee’s denial of the requested salary adjustment.

8. The Appellant has also failed to show any retaliation. At the summary judgment stage, the party opposing summary judgment must produce some affirmative evidence to show that there is a genuine issue of material fact. *Steelvest*, 807 S.W.2d at 482. In this appeal, the Appellant has done no more than to make a bare allegation of retaliation; she has failed to point to any affirmative evidence showing her harassment complaints were in any way connected to the alleged salary inequity (nor did she connect them to any type of prohibited discrimination).

9. After passage of SB 153, it is clear the Personnel Board cannot hear appeals involving salary inequity claims, salary adjustments, or other salary disputes, unless otherwise specifically authorized. *Christopher Banks, Appellant v. Justice and Public Safety Cabinet, Department of Juvenile Justice, Appellee*, 2024 WL 1765101, at *2 (KY PB 2023-0134).

10. Even prior to passage of SB 153, the Personnel Board consistently held that there is no regulation or statute that mandates similarly situated state employees be paid at the same rate. *Michael Frost et al. v. Transportation Cabinet, et al.*, 2019 WL 5212758 (KY PB 2015-143, et al.); *George Fortune v Cabinet for Health and Family Services*, 2008 WL 4329627 (KY PB 2006-381, 2006-384). The Franklin Circuit Court has also found that there is no statute or regulation which requires uniformity of pay, even in Kentucky’s merit system. *Adkins, et al. v. Energy and Environment Cabinet, et al.*, Civ. Action No. 18-CI-00027 (Franklin Cir. Ct. Feb. 4, 2020).

11. Based on the foregoing, the Appellee’s decision not to give the Appellant a salary adjustment equivalent to a coworker does not amount to the type of impermissible employment action the Personnel Board can review under KRS 18A.095. The Personnel Board is without jurisdiction in this appeal and the Appellee is entitled to judgment as a matter of law.

² KRS Chapter 18A was amended by the Kentucky Legislature, effective June 29, 2023. Among other changes, the category of other penalizations was removed from KRS 18A.095 as a basis for the Personnel Board’s jurisdiction.

RECOMMENDED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Hearing Officer recommends to the Personnel Board that the appeal of **YVETTE GEORGE V. FINANCE AND ADMINISTRATION CABINET (APPEAL NO. 2024-069)** be DISMISSED.

NOTICE OF EXCEPTION AND APPEAL RIGHTS

Pursuant to KRS 13B.110(4), each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file exceptions to the Recommended Order with the Personnel Board. In addition, the Kentucky Personnel Board allows each party to file a response to any exceptions that are filed by the other party within fifteen (15) days of the date on which the exceptions are filed with the Kentucky Personnel Board. 101 KAR 1:365, Section 8(1). Failure to file exceptions will result in preclusion of judicial review of those issues not specifically excepted to. On appeal, a circuit court will consider only the issues a party raised in written exceptions. See *Rapier v. Philpot*, 130 S.W.3d 560 (Ky. 2004)

The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

The parties are strongly encouraged to send any exceptions and/or requests for oral argument by email to: PersonnelBoard@ky.gov.

Each party has thirty (30) days after the date the Personnel Board issues a Final Order in which to appeal to the Franklin Circuit Court pursuant to KRS 13B.140 and KRS 18A.100.

Any document filed with the Personnel Board shall be served on the opposing party.

SO ORDERED at the direction of the Hearing Officer this 29th day of October, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR.
EXECUTIVE DIRECTOR

A copy hereof was emailed and mailed to the following persons at their respective addresses as provided to the Personnel Board on this 29th day of October, 2025:

Yvette George, Appellant
Hon. Shandee Dutta, Counsel for Appellee
Hon. Cary Bishop, Counsel for Appellee
Hon. Ashley Daily, Counsel for Appellee
Hon. Rosemary Holbrook, Personnel Cabinet