

**COMMONWEALTH OF KENTUCKY
PERSONNEL BOARD
APPEAL NO. 2024-088**

KENDELYNN PARKS

APPELLANT

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

FINANCE AND ADMINISTRATION CABINET

APPELLEE

*** **

The Board, at its regular September 2025 meeting, having considered the record, including the Findings of Fact, Conclusions of Law, and Recommended Order of the Hearing Officer dated August 20, 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 18th day of September, 2025.

KENTUCKY PERSONNEL BOARD



GORDON A. ROWE, JR., SECRETARY

Copies hereof this day emailed and mailed to:

Kendelynn Parks
Hon. Shan Dutta
Hon. Cary Bishop
Hon. Ashley Daily
Hon. Rosemary Holbrook (Personnel Cabinet)
Laura Sharp

**COMMONWEALTH OF KENTUCKY
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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. The appeal last came before the Hearing Officer in a pre-hearing conference on January 23, 2025, which was held at 11:00 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, Kendelynn Parks (the "Appellant"), was present at the pre-hearing conference, appearing by Zoom videoconferencing, and was not represented by legal counsel. The Appellee, Finance and Administration Cabinet, was present via Zoom videoconferencing and was represented by the Hon. Cary Bishop, the Hon. Shan Dutta, and the Hon. Ashley Daily.

During the January 23, 2025 pre-hearing conference, the parties discussed the Appellee's Motion for Summary Judgment, which was filed on November 12, 2024. The Hearing Officer noted that the Appellant filed a response to the Motion for Summary Judgment on November 13, 2024 and asked the Appellant during the pre-hearing conference whether she wanted to raise any additional arguments or cite to any facts that might preclude judgment as a matter of law on the issue of jurisdiction. The Appellant responded in the negative. The Hearing Officer informed the parties that he was considering the motion for summary judgment and would render a decision based on the arguments in the Appellee's motion and the Appellant's responsive brief and any material facts which had become part of the record. For the reasons set forth herein, the Hearing Officer finds the Appellee's Motion for Summary Judgment well-taken on the issue of jurisdiction and recommends the Appellant's claims be dismissed by the Personnel Board.

STATEMENT OF FACTS

1. The Appellant is a classified employee with status. She is employed by the Appellee as a Taxpayer Services Specialist III. She has alleged that another employee in her job classification "who does not have the same amount of work" is paid an annual salary of \$65,168, which is significantly more than her annual salary of \$51,971. [See attachment to Appeal Form, including employee grievance statement and Appellee's May 29, 2024 response to employee grievance].

2. This appeal was filed by the Appellant on June 17, 2024. The Appellant has alleged that she has been penalized by the Appellee reclassifying or promoting another employee from a Taxpayer Services Specialist II to a Taxpayer Services Specialist III in 2023 and raising that employee's salary to \$65,168 during that process. The Appellant has also alleged that she asked for her salary to be raised to midpoint so that it would be commensurate with the salary of the reclassified employee but her request was denied. She also requested that the Personnel Cabinet conduct a desk audit of her position to show that her "Position Description, Job Classification, Job Class Specifications and daily duties do not align." [See Appellant's November 8, 2024 response to Motion for Summary Judgment (the "Response")].

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 filed a response to the Appellee's Motion for Summary Judgment on November 8, 2024. In her Response, the Appellant conceded that the "Personnel Board may not have the authority to hear cases on salary inequities" but should hear how the merit system is not being protected in regard to 101 KAR 2:020. [See Appellant's Response at ¶ 10.]

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

6. On her Appeal Form, the Appellant checked the box for "Other Penalization." She has never alleged that the salary inequity she has complained about was the result of protected class discrimination.

7. The Appellee has not disputed the facts asserted by the Appellant. Instead, the Appellee contends that the basis of the appeal is outside the jurisdiction of the Personnel Board.

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. There is no genuine issue of material fact in this case. The facts are not disputed at all. The only question before the Personnel Board at this juncture is whether the Board has jurisdiction to hear the appeal, which is a question of law.

3. The Appellant has not established that the Appellee has violated KRS 18A.095 in regard to her employment. The Appellant has not been subjected to any of the personnel actions specifically listed under KRS 18A.095 for review by the Board, which include: a) dismissal, b) demotion, c) suspension, d) involuntary transfer, and e) protected class discrimination.

4. Under the version of KRS Chapter 18A in effect at the time the Appellant filed her appeal,¹ the Personnel Board only has jurisdiction over the following types of action 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 a discriminatory action 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).

5. 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).

6. 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.

7. The Appellee had the discretion to adjust the Appellant’s salary but was not required to do so.

8. Senate Bill 153 of the 2023 Kentucky legislative session expressly removed the Personnel Board’s authority to hear appeals involving “salary adjustments” and the catch-all category of “other penalizations.”

9. Even prior to passage of SB 153, the Board repeatedly found that an Appellant is not penalized by other employees’ salaries being raised, as long as her own pay is unaffected. *See Vicki Allen v. Justice and Public Safety Cabinet, Department of Corrections*, 2023 WL 4404751 at *3 (KY PB 2023) (holding that the Appellant did not suffer a penalization or an adverse employment action when other co-employees, some in lower grade classifications, received raises while she did not); and *see Chris Southworth et al. v. Finance and Administration Cabinet*, 2020 WL 7426176 at *7, 8 (KY PB 2020) (Board found no penalization when some employees were allowed to resign and reinstate, which triggered salary increases, and other employees were not allowed to do so); and *see Scott Huddleston et al. v. Transportation Cabinet and Personnel Cabinet*, 2018 WL 4037967 at *4, 5 (KY PB 2018) (no penalization where the Appellants failed to show any statute or regulation entitled them to a raise, even though other employees received raises through resign and reinstate personnel actions).

10. Finding no violation of KRS 18A.095, the Personnel Board does not have jurisdiction to grant the relief sought by the Appellant.

11. The salary inequity issue alleged by the Appellant does not amount to the type of unlawful conduct the Personnel Board can review under KRS 18A.095. Therefore, this Board is without jurisdiction and the Appellee is entitled to judgment as a matter of law, pursuant to KRS 18A.095.

¹ 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 **KENDELYNN PARKS V. FINANCE AND ADMINISTRATION CABINET (APPEAL NO. 2024-088)** 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).

[Hearing Officer Note: Any document filed with the Personnel Board shall also be served on the opposing party.]

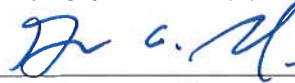
The Personnel Board also provides that each party shall have fifteen (15) days from the date this Recommended Order is mailed within which to file a Request for Oral Argument with the Personnel Board. 101 KAR 1:365, Section 8(2).

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.

SO ORDERED at the direction of the Hearing Officer this 20th day of August, 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 20th day of August, 2025:

Kendelynn Parks, Appellant
Hon. Shandeep Dutta, Counsel for Appellee
Hon. Cary Bishop, Counsel for Appellee
Hon. Ashley Daily, Counsel for Appellee
Hon. Rosemary Holbrook, Personnel Cabinet