

**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Trenee L. Pruitt,

Appellant,

v.

Case No. 08-LAY-06-0427

Department of Job and Family Services,

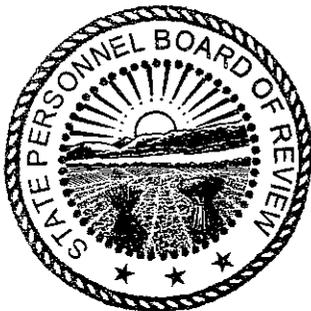
Appellee.

ORDER

This matter came on for consideration on the Report and Recommendation of the Administrative Law Judge in the above-captioned appeal.

After a thorough examination of the record and a review of the Report and Recommendation of the Administrative Law Judge, along with any objections to that report which have been timely and properly filed, the Board hereby adopts the Recommendation of the Administrative Law Judge.

Wherefore, it is hereby **ORDERED** that Appellant's layoff be **AFFIRMED**, pursuant to O.R.C. §§ 124.321 to 124.327 and O.A.C. § 123:1-41 *et seq.*



Lumpe - Aye
Sfalcin - Aye
Tillery - Aye

J. Richard Lumpe, *Chairman*

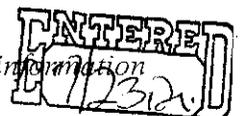
CERTIFICATION

The State of Ohio, State Personnel Board of Review, ss:

I, the undersigned clerk of the State Personnel Board of Review, hereby certify that this document and any attachment thereto constitute ~~the original~~ a true copy of the original) order or resolution of the State Personnel Board of Review as entered upon the Board's Journal, a copy of which has been forwarded to the parties this date, July 23, 2009.

Clerk

NOTE: Please see the reverse side of this Order or the attachment to this Order for information regarding your appeal rights.



**STATE OF OHIO
STATE PERSONNEL BOARD OF REVIEW**

Trenee L. Pruitt,

Case No. 08-LAY-06-0427

Appellant

v.

May 21, 2009

Ohio Department of Job and Family Services,

Elaine K. Stevenson

Appellee

Hearing Officer

REPORT AND RECOMMENDATION

To the Honorable State Personnel Board of Review:

This cause came on for a record hearing on January 12 and 13, 2009. The two-day record hearing encompassed the non-consolidated appeals of the following four Appellants: R. Renee Kuhn (SPBR Case Nos. 08-ABL-06-0413 and 08-LAY-06-0414); Ryan A. Spindler (SPBR Case No. 08-LAY-06-0416); and Tonya Hamilton (SPBR Case No. 08-LAY-06-0404). Appellant Kuhn, Appellant Spindler, and Appellant Hamilton were present at both days of record hearing and they appeared *pro se*. Appellant Trenee L. Pruitt (SPBR Case No. 08-LAY-06-0427) was present at the first day of record hearing and was represented by Kendall D. Issac, Attorney at Law. Appellee was present through its designee Janet M. Kaplan, Human Capital Management Administrator, and was represented by Timothy A. Lecklider, Principal Assistant Attorney General.

Prior to the record hearing, Appellants stipulated that Appellee had substantially complied with the relevant procedural and notice requirements of the Ohio Revised Code and Ohio Administrative Code in implementing the 2008 abolishments and layoffs. The parties also stipulated to the jurisdiction of the Board to hear these appeals.

STATEMENT OF THE CASE

On January 12, 2009, Appellee began its presentation of its case-in-chief regarding its rationale for the abolishment of positions and the appeals of *R. Renee Kuhn v. Ohio Department of Job and Family Services* (SPBR Case Nos. 08-ABL-06-0413 and 08-LAY-06-0414).

Appellee's Rationale for the Abolishment of Positions

Appellee called Noah Browning as its first witness. Mr. Browning testified that he is employed by the Office of Budget and Management (OBM) as a Budget Management

Analyst. Mr. Browning indicated that, as a Budget Management Analyst, he is assigned to monitor the budgets of specific agencies. Mr. Browning confirmed that the Ohio Department of Job and Family Services (Appellee) was one of the agencies he monitored. Mr. Browning further confirmed that he is familiar with the Executive Order issued by the Governor of Ohio in January 2008. Mr. Browning explained that the Governor's Executive Order instructed agencies to implement budget reductions due to an impending state budget shortfall. He indicated that the Governor also instructed OBM to issue directives to guide agencies in implementing such reductions. Mr. Browning identified Appellee's Exhibit A as a copy of the January 31, 2008 Executive Order 2008-01S.

Mr. Browning identified Appellee's Exhibit I, which contained copies of three budget directives from J. Pari Sabety, the Director of OBM. Specifically: OBM's February 7, 2008 Budget Directive #1, which implemented Executive Order 2008-01S; OBM's March 19, 2008 Budget Directive #3, approving Appellee's plan to reduce its expenditures; and OBM's July 11, 2008 Budget Directive #5, which authorized Appellee's budget reduction plan to occur in Fiscal Year 2009. Mr. Browning confirmed that Fiscal Year 2009 began July 1, 2008.

Appellee called Janet M. Histed as its next witness. Ms. Histed testified that she is employed by Appellee in the Office of Fiscal Services. Ms. Histed stated that her job title is Chief of the Bureau of Budget Management and Fiscal Analysis, and she indicated that her job duties include monitoring and analyzing budgets and establishing budget allotments. Ms. Histed was asked to review the three OBM budget directives contained in Appellee's Exhibit I. Ms. Histed confirmed that she received all three budget directives, and she indicated that she participated in establishing and implementing Appellee's budget reduction plan for Fiscal Year 2009.

Upon further questioning, Ms. Histed confirmed that Appellee offered an Early Retirement Incentive Plan (ERIP) as part of its cost saving measures. Ms. Histed identified Appellee's Exhibit H as a copy of Appellee's "Revised Plan B Staff Reduction," which showed the ERIP projected cost savings by office. Ms. Histed identified Appellee's Exhibit B as a copy of Appellee's rationale for job abolishments and supporting documentation. Ms. Histed indicated that she was involved in gathering numbers and preparing some of the documents submitted with the rationale. Ms. Histed indicated that she prepared Attachment B of Appellee's Exhibit B, which sets forth the line items the agency planned to reduce. Ms. Histed stated that Attachment C of Appellee's Exhibit B is an estimate of the cost of attrition. Ms. Histed identified Attachment F of Appellee's Exhibit B as a copy of different ERIP scenarios.

Upon cross examination by Appellant Kuhn, Ms. Histed recalled that the ERIP offered by Appellee became effective July 1, 2008. With regard to Appellee's budget

reduction plan, Ms. Histed indicated that Appellee began working on the plan in February 2008. Ms. Histed stated that plan was implemented in Fiscal Year 2009, which began July 1, 2008. Upon further cross examination, Ms. Histed confirmed that some of Appellee's offices were not identified for staff reductions. Ms. Histed explained that Appellee's goal was to reduce spending from the state's General Revenue Fund (GRF), consequently, Appellee focused on reducing staff in the offices that were funded primarily by the GRF. Ms. Histed noted that Appellee contacted the federal government to discuss Appellee's ERIP and was informed that the federal government would not participate in the ERIP. Ms. Histed reiterated that Appellee focused on offices with staff members whose salaries were funded by the GRF and did not select labor grant-funded positions for abolishment. Ms. Histed indicated that to her knowledge the deputy directors were not given specific dollar amounts regarding spending reductions.

Appellee called Ronn L. Kolbash as its next witness. Mr. Kolbash testified that he has been employed by Appellee since June 2000 but he is currently "on loan" to OBM for the "Ohio Shared Services Project," which the witness indicated is a project to expand the Ohio Administrative Knowledge System (OAKS). Mr. Kolbash stated that he was the Assistant Deputy Director of Appellee's Office of Employee and Business Services (EBS) during Appellee's 2008 budget reduction efforts, which included the June 2008 job abolishments and layoffs.

Mr. Kolbash testified that he was a member of Appellee's management team charged with implementing the June 2008 staff reductions. Mr. Kolbash recalled that Brenda Gerhardstein, who was the Director of EBS, and Labor Relations Administrator Carol Borden-Collins were also part of that team. Mr. Kolbash identified Appellee's Exhibit B as copy of Appellee's rationale for the job abolishments and resultant layoffs submitted to the Ohio Department of Administrative Services (ODAS) for review and approval. Mr. Kolbash indicated that Appellee's rationale contained several documents, and he confirmed that he gathered information and assisted in writing Appellee's rationale. Mr. Kolbash explained that Appellee's organizational structure is designed to carry out the core missions of the agency through four primary areas of services/functions: Administration, Operations, Services to Families, and Services to Employers. Mr. Kolbash indicated that page 2 of Appellee's job abolishment rationale shows that Appellee looked at funding streams and focused on GRF-funded areas with respect to making staff reductions. He noted that Appellee offered an ERIP only to employees in positions that would realize a cost savings to the agency, specifically, positions funded by the GRF. The witness further noted that cutting positions funded by the Federal Department of Labor would not realize a cost savings to the agency. Mr. Kolbash stated that the job abolishments implemented by Appellee impacted Administration, Operations, and Services to Families. With regard to Services to Employers, Mr. Kolbash stated that Appellee generally did not implement job abolishments in this area because the positions in this area were funded by the Department of Labor.

Mr. Kolbash testified that Appellee's job abolishments rationale included the agency's internal guidelines for its deputy directors and assistant deputy directors to follow when identifying positions for abolishment. Mr. Kolbash explained that the deputy directors and assistant deputy directors in the offices affected by the job abolishments were instructed to consider the following key factors when identifying a position for abolishment: (1) Was there a duplication of services involved? (2) Was there an outdated classification related to the duties assigned to the position? (3) Was there an appropriate supervisor to employee ratio? Mr. Kolbash recalled that, throughout the abolishment/layoff process, the executive management team held meetings with the deputy directors and assistant deputy directors of the offices affected by the job abolishments. Mr. Kolbash identified Appellee's Exhibit D as containing a section entitled "FAQs Regarding Early Retirement Incentive Plan and Layoffs." Mr. Kolbash indicated that this resource document provided information to employees regarding the job abolishment and layoff process.

On cross examination by Appellant Kuhn, Mr. Kolbash confirmed his prior testimony regarding the instructions for identifying positions for abolishment that were given to Appellee's deputy directors and assistant deputy directors. The witness indicated that the executive management team conducted follow-up meetings with the deputy directors and assistant deputy directors and the team reviewed the deputy directors' submissions of positions selected for abolishment in their respective offices. Mr. Kolbash indicated that the management team asked the deputy directors and assistant deputy directors to give their reasons for the selections they made. Mr. Kolbash indicated that the management team deferred to the assessments made by the deputy directors and assistant deputy directors because these individuals knew the needs of their respective offices and how their offices functioned better than did the executive management team. Mr. Kolbash noted that, ultimately, the Director of the Ohio Department of Job and Family Services approved the agency's job abolishments and the rationale submitted to ODAS. Upon further questioning, Mr. Kolbash explained that the job duties assigned to an exempt position slated for abolishment can be redistributed to another exempt position. Mr. Kolbash noted that positions in a bargaining unit present a different situation, in that the job duties assigned to a bargaining unit position that is slated for abolishment generally cannot be given to an exempt position. Mr. Kolbash indicated that the difference in the abolishment/layoff process of exempt employees as compared to bargaining unit employees is the result of the collective bargaining agreement governing the process for bargaining unit employees. Mr. Kolbash stated that the general rule applied was to keep bargaining unit work in the bargaining unit and exempt work with exempt staff positions.

On redirect examination, Mr. Kolbash stated that Appellee's deputy directors and assistant deputy directors were advised to keep in mind the basic principle that positions are abolished, not employees. Mr. Kolbash explained that layoffs that occur as a result of job abolishments must follow the relevant Ohio Revised Code and Administrative Code

provisions and any relevant collective bargaining agreement. Mr. Kolbash indicated that the deputy directors and assistant deputy directors were instructed to look at the work assigned to the position and the criteria he previously mentioned in his testimony.

Appellee called Carolyn Borden-Collins as its next witness. Ms. Borden-Collins testified that she is employed by Appellee as a Labor Relations Administrator 2. Ms. Borden-Collins stated that she is responsible for Appellee's Labor Relations Program, Civil Rights Program, and its Equal Employment Opportunity Program. Ms. Borden-Collins confirmed that she was part of the executive management team that implemented the job abolishment process in 2008. Ms. Borden-Collins indicated that she assisted in writing the rationale for the agency's job abolishments and she handled the labor issues related to the job abolishments that impacted collective bargaining. The witness identified Appellee's Exhibit B as a copy of Appellee's "Rationale for Job Abolishments." Ms. Borden-Collins confirmed that Appellee's reason for the job abolishments was to reduce costs. The witness further confirmed that the deputy directors and assistant deputy directors were instructed to consider three key factors in identifying a position for abolishment. The witness indicated that the three factors are those listed on page 3 of Appellee's Rationale for Job Abolishments (Appellee's Exhibit B). Ms. Borden-Collins indicated that the deputy directors and assistant deputy directors were also instructed to look at positions for abolishment and to focus on assigned job duties rather than the employees assigned to the positions. Ms. Borden-Collins indicated that the deputy directors and assistant deputy directors were instructed to determine whether duties could be realigned and a position could be abolished without impacting core agency missions. Ms. Borden-Collins indicated that several meetings took place throughout the process to answer questions and to review abolishment decisions. Ms. Borden-Collins identified Appellee's Exhibit B2 as a copy of the rationale for Appellee's job abolishments.

On cross examination by Appellant Kuhn, Ms. Borden-Collins indicated that the executive management team participated in meetings with the deputy directors and assistant deputy directors throughout the job abolishment process. Ms. Borden-Collins indicated that there were no meeting minutes. Ms. Borden-Collins confirmed that the deputy directors and assistant deputy directors were instructed to look at the duties of positions to identify positions where the job duties could be eliminated or absorbed and redistributed. Ms. Borden-Collins noted that an exempt position's job duties could not go from an exempt position to a bargaining unit position, or vice versa. Upon further questioning, Ms. Borden-Collins indicated that the executive management team reviewed the documents submitted by the deputy directors and asked the deputy directors to explain their programmatic needs as they related to the positions they identified for abolishment. Ms. Borden-Collins explained that the executive management team's assignment was to make sure the process for selecting positions for abolishment was followed. Ms. Borden-Collins stated that the executive management team did not substitute its judgment for the

judgment of the deputy directors with respect the programmatic needs of their offices. Ms. Borden-Collins reiterated that in selecting positions for abolishment, the deputy directors and assistant deputy directors were specifically instructed to analyze positions and their functions.

On redirect examination, Ms. Borden-Collins confirmed that the bumping/layoff process stemming from the abolishment of positions was a lengthy process.

On cross examination by Appellant Pruitt's representative, Ms. Borden-Collins stated that Appellee identified 180 positions for abolishment in the rationale submitted to ODAS. Ms. Borden-Collins confirmed that there were 180 positions abolished in 2008. Ms. Borden-Collins indicated that she believed that there were a couple of positions abolished in the bargaining unit assigned to the Civil Rights Bureau. Ms. Borden-Collins stated that Appellant Pruitt's position was not abolished, rather, she was displaced through the bumping process. Ms. Borden-Collins recalled that one secretary position in the Civil Rights Bureau was abolished. Ms. Borden-Collins indicated that no EEO Regional/Program Administrator positions were abolished in the Civil Rights Bureau.

Job Abolishment and Layoff Processes

Appellee called Michelle C. McMillon as its next witness. Ms. McMillon testified that she is employed by Appellee as a Human Capital Management Manager assigned to the Bureau of Human Resources. Ms. McMillon stated that her job duties include overseeing activities related to job audits, position descriptions, and reorganizations. Ms. McMillon stated that her immediate supervisor is Human Capital Management Administrator Janet Kaplan.

Upon questioning regarding Appellee's 2008 job abolishments, Ms. McMillon confirmed that she oversaw the verification of employees' retention points and the preparation of the layoff roster of employees who were to be laid off as a result of the job abolishments. Ms. McMillon explained that Appellee submitted a list of positions with assigned classifications that could possibly be affected by the job abolishments, the names of the employees who encumbered the positions, and the employees' respective employment histories, including dates of service. Ms. McMillon indicated that this information was utilized to calculate the retention points of each employee who could possibly be affected by the job abolishments. Ms. McMillon identified Appellee's Exhibit B3 as a copy of a retention point calculation form for Appellant Kuhn. Ms. McMillon confirmed that a retention point calculation form would have been completed for each employee affected by the abolishment/layoff process. Ms. McMillon noted that this exhibit also contained a copy of the employee's verification and retention point checklist form and the employee's OAKS employee history report. The witness confirmed that each affected

employee would have a retention point verification and checklist form and an OAKS employee history report.

Ms. McMillon identified Appellee's Exhibit C as a copy of the May 23, 2008 letter from ODAS approving Appellee's rationale for the proposed abolishments and layoffs. Ms. McMillon identified page 2 of Appellee's Exhibit C as a copy of the master retention point roster for Layoff Jurisdiction 07. Ms. McMillon identified Appellee's Exhibit C1 as a copy of Appellee's exempt layoff roster with retention points, dated May 23, 2008, and Appellee's Exhibit C2 as a copy of Appellee's Exempt Layoff Roster, dated June 20, 2008. Ms. McMillon indicated that the layoff rosters were submitted to ODAS. Ms. McMillon confirmed that the June 20, 2008 layoff roster was the final approved layoff roster that Appellee posted on its "Interweb."

Appellee called Charlotte Bridges as its next witness. Ms. Bridges testified that she is employed by ODAS as a Human Resources Analyst 2 assigned to the Division of State Services. Ms. Bridges confirmed that she verified Appellee's retention point calculations and she processed the layoff lists for Appellee's 2008 job abolishments and layoffs. Ms. Bridges identified Appellee's Exhibit C as the May 23, 2008 letter from ODAS, approving Appellee's rationale for the 2008 layoffs. Ms. Bridges indicated that Appellee's Exhibit 2 contains a copy of the Exempt Layoff Roster for specific positions. Ms. Bridges indicated that the minor differences in retention points that appear on the layoff rosters were due to the dates the retention points were calculated. She indicated that ODAS began with the first date of the pay period and in this case Appellee may have utilized a different start date. Ms. Bridges stated that she reviewed each employee's OAKS employee history report and the information and documents submitted by Appellee to verify retention points. Ms. Bridges reviewed the documents contained in Appellee's Exhibit B3. She indicated that the retention point calculations form and OAKS employee history report are the types of documents she reviewed for each affected employee.

On cross examination by Appellant Kuhn, Ms. Bridges was referred to the retention point totals for Appellant Kuhn contained Appellee's Exhibit B3 and Appellee's Exhibit C. Ms. Bridges indicated that she did not know why these documents contained different retention point totals for Ms. Kuhn.

Appellee called James K. Lowe as its next witness. Mr. Lowe testified that he is employed by Appellee as a Project Manager assigned to the Office of Employee and Business Services, Human Resources Section. The witness stated that he supervises a team of five employees who manage Human Resources data, and he indicated that the team's activities included creating databases and preparing reports to support management. Mr. Lowe confirmed that his team assisted in the preparation of employee layoff rosters. He noted that his team assisted with the bumping process by creating a

database that included the job abolishments and the bumping and layoff information. He also noted that his team assisted with the ERIP. Mr. Lowe identified Appellee's Exhibit B1 as a copy of Appellee's master roster that showed the positions that were abolished and the resulting bumping and layoffs that occurred. He indicated that roster also included those employees who chose to participate in the ERIP. Mr. Lowe confirmed that the master layoff roster contained in Appellee's Exhibit B1 was generated on October 28, 2008. Mr. Lowe indicated that the roster was the master tracking document for abolished positions and the subsequent actions that took place as a result of the abolishment of positions.

Mr. Lowe reviewed the exhibits in Appellee's Exhibit C. He identified the copy of the master retention point roster for the Training Supervisor classification. Mr. Lowe also identified Appellee's Exhibit C1 as a copy of the exempt layoff roster with retention points, and he indicated that this roster was generated on May 27, 2008. Mr. Lowe noted that his team maintained rosters and reports and updated information throughout the abolishment/layoff process. He then identified Appellee's Exhibit C2 as copy of the exempt layoff roster dated June 20, 2008. Mr. Lowe indicated that the June 20, 2008 roster would have been generated after ODAS approved Appellee's abolishment rationale and layoffs.

Mr. Lowe reviewed several tables of organization contained in Appellee's Exhibit E, taking particular note of the tables of organization dated June 23, 2008 and July 7, 2008. The witness confirmed that his team produced tables of organization during the abolishment/layoff process, and he indicated that the June 2008 table of organization was most likely a pre-abolishment table and the July 2008 table was most likely a post-abolishment table.

Mr. Lowe identified the remaining tables of organization contained in Appellee's Exhibit E specific to Appellants R. Renee Kuhn, Trenee L. Pruitt, Ryan A. Spindler, and Tonya Hamilton.

On cross examination by Appellant Kuhn, Mr. Lowe indicated that he was not certain why there was a difference in retention points for Appellant Kuhn in Appellee's Exhibit B3 and Appellee's Exhibit C. He indicated that the first exhibit contains Appellee's initial calculation of retention points and the second exhibit contains ODAS' determination regarding retention points, which occurred some time after Appellee's initial calculations. Mr. Lowe indicated that the dates on the reports indicate the dates the reports were generated/printed.

On redirect examination, Mr. Lowe indicated that Appellee had to calculate employee retention points from a specific date to a specific date. Mr. Lowe stated that he would need to recalculate the points himself to fully explain the 655 retention points versus 667 retention points noted for Appellant Kuhn. Mr. Lowe indicated that ODAS determined that Appellant Kuhn's retention points totaled 667.

Mr. Lowe was referred to Appellee's exhibit book for Appellant Trenee L. Pruitt. He identified Appellee's Exhibit E, which contained several tables of organization, including pre-abolishment and post-abolishment tables.

On cross examination by Appellant Pruitt's representative, Mr. Lowe stated that the information for the tables of organization and other documents related to the abolishment/layoff process came from several sources. Mr. Lowe noted that tables of organization are based on reporting structures within each office, and he indicated that the reporting structures are provided by each office and are updated when changes are made. Mr. Lowe stated that, as far as he knows, the July 7, 2008 table of organization for Appellee's Civil Rights Unit contained in Appellee's Exhibit E is accurate.

Mr. Lowe was referred to Appellee's exhibit book for Appellant Ryan A. Spindler. He identified Appellee's Exhibit E, which contained several tables of organization, including pre-abolishment and post-abolishment tables. Appellant Spindler had no questions regarding the tables of organization contained in Appellee's Exhibit E.

Mr. Lowe was referred to Appellee's exhibit book for Appellant Tonya Hamilton. He identified Appellee's Exhibit E, which contained several tables of organization, including pre-abolishment and post-abolishment tables. Upon cross examination by Appellant Hamilton, Mr. Lowe stated that, as far as he knows, the table of organization dated July 7, 2008 is accurate. Mr. Lowe noted that without copies of the pertinent employee rosters for the same period as the tables of organization, he cannot definitively attest to the accuracy of any of these tables of organization. Mr. Lowe explained that the reporting structures of each office are provided by each offices' management. Mr. Lowe stated that he could not recall the name of the personnel liaison for the Office of Child Support.

Appellant Hamilton referred the witness to Appellee's Exhibit C1, which was previously identified as an exempt retention point roster dated May 27, 2008. Mr. Lowe reiterated that he and his team were charged with providing administrative support for Appellee's 2008 abolishment/layoff process. Mr. Lowe explained that, because he knew that Appellee would need various reports to assist with the abolishment/layoff process, he and his team created a working database to generate these reports and employee rosters. Mr. Lowe stated that Brenda Gerhardstein's team and Labor Relations managed the abolishment/layoff process and his team provided the reports upon request. Mr. Lowe stated that he did not keep track of the reports requested and he did not recall whether or not he received a request for a specific report from Appellee's Office of Child Support. Mr. Lowe stated that his team produced the reports that were posted on the "Interweb" but he could not recall the dates such reports were posted by Appellee. Mr. Lowe indicated that it would not be appropriate to provide a report until the abolishment/layoff had been finalized. Mr. Lowe further indicated that the database created for the job abolishments

and layoffs was a working database and that this database was used throughout the entire process. Mr. Lowe stated that his team and four other managers in Human Resources were the only personnel with access to the abolishment/layoff database.

Appellee called Brenda Gerhardstein as its next witness. Ms. Gerhardstein testified that she was employed by Appellee as the Deputy Director of the Office of Employee and Business Services (EBS), until her retirement on October 1, 2008. Ms. Gerhardstein indicated that, as the Deputy Director of EBS, she was responsible for overseeing activities related to Human Resources and Operations. Ms. Gerhardstein confirmed that she was familiar with the state's budget shortfall and the directives that Appellee received from OBM regarding reducing expenditures in 2008. Ms. Gerhardstein confirmed that she is familiar with the documents contained in Appellee's Exhibit A and Appellee's Exhibit I. Ms. Gerhardstein stated that her office was responsible for implementing the job abolishments and resulting layoffs, and she indicated that her team assisted the deputy directors to ensure that they identified positions for abolishment that fit within the parameters set by the agency. Ms. Gerhardstein stated that her office also was responsible for gathering all the appropriate paperwork for the abolishments and resulting layoffs and submitting that paperwork to ODAS. Ms. Gerhardstein explained that the agency calculated retention points for exempt employees and submitted those calculations to ODAS for verification and certification. Ms. Gerhardstein identified Appellee's Exhibits C, C1, and C2, and she explained the purpose of these documents with respect to the bumping and layoff process. Ms. Gerhardstein stated that, pursuant to administrative rules, the agency is required to post a layoff roster with employees' retention points that have been certified by ODAS. Ms. Gerhardstein indicated that no roster with retention points would have been posted until the retention points were certified by ODAS.

Ms. Gerhardstein identified Appellee's Exhibit B3 as Appellant Kuhn's retention points calculations form that showed 655 retention points. The witness noted that the calculation date was February 29, 2008. Ms. Gerhardstein indicated that the retention points were calculated to the nearest pay period ending date, which, in this case, was February 16, 2008. Ms. Gerhardstein explained how retention points are accumulated. Ms. Gerhardstein reviewed page 2 of Appellee's Exhibit C, which was identified as a retention point roster for Layoff Jurisdiction 07. Ms. Gerhardstein confirmed that this document indicates that Appellant Kuhn's retention points totaled 667. The witness indicated that the difference in retention point totals was due to the accumulation of points during the pay periods from February 16, 2008 through May 2008.

Upon cross examination by Appellant Hamilton, Ms. Gerhardstein recalled that Appellee's certified layoff roster was posted on or about May 27, 2008. Upon further questioning, Ms. Gerhardstein explained that her executive management team provided guidance to Appellee's deputy directors in identifying positions for abolishment. Ms. Gerhardstein noted that her team was responsible for ensuring that the deputy directors'

selections of positions for abolishment were compliant with the agency's guidelines and with the relevant code provisions and applicable collective bargaining agreements. Ms. Gerhardstein stated that the executive management did not take meeting minutes or notes.

Upon further cross examination by Appellant Hamilton, Ms. Gerhardstein testified that, prior to the abolishment/layoff process, Appellee reviewed several positions and submitted requests to ODAS to have certain positions designated as unclassified positions. Ms. Gerhardstein stated that she believed that positions classified as Administrative Assistant 3 or Administrative Assistant 4 that reported to a deputy director were designated as unclassified positions.

Upon redirect examination, Ms. Gerhardstein explained that Appellee had several positions that were not designated as unclassified positions but should have been based upon the assigned job duties. Ms. Gerhardstein indicated that, prior to the beginning of the abolishment/layoff process, Appellee submitted a list of those positions to ODAS, requesting that the positions be designated as unclassified.

Upon re-cross examination, Ms. Gerhardstein indicated that changing a position from classified to unclassified is accomplished by a revocation process. Ms. Gerhardstein indicated that she was not familiar with the specifics of the Administrative Assistant 3 position noted by Appellant Hamilton.

SPBR Case No. 08-LAY-06-0427

On January 12, 2009, Appellee presented its case-in-chief regarding the appeal of *Trenee L. Pruitt v. Ohio Department of Job and Family Services* (SPBR Case No. 08-LAY-06-0427). Appellee called Brenda Gerhardstein as its first witness.

Previous testimony established that Ms. Gerhardstein was employed by Appellee as the Deputy Director of the Office of Employee and Business Services (EBS), until her retirement on October 1, 2008. Ms. Gerhardstein was responsible for overseeing functions and activities related to Human Resources and Operations. Upon direct examination, Ms. Gerhardstein stated that Appellant Pruitt was employed by Appellee in its Bureau of Civil Rights. Ms. Gerhardstein testified that Appellant Pruitt's position was not abolished, rather, she was displaced from her position and laid off during the bumping and layoff process. Ms. Gerhardstein was asked to review Appellee's Exhibit B2. Ms. Gerhardstein confirmed that the EEO Regional/Program Administrator position occupied by Shelba Bradley was abolished and Ms. Bradley bumped into the EEO Regional/Program Administrator position occupied by Appellant Pruitt.

Ms. Gerhardstein was asked to review several documents contained in Appellee's Exhibit D and to explain the bumping process that occurred in Appellant Pruitt's case. The witness explained that there was an employee in the Civil Rights Bureau (Jorge Irizarry) who held the same job classification as Appellant Pruitt but who had less retention points than Appellant Pruitt. Ms. Gerhardstein stated that the employee whose position was abolished, Shelba Bradley, could not bump into Jorge Irizarry's position because his position was a position with Position-Specific Minimum Qualifications (PSMQ). Ms. Gerhardstein identified several documents contained in Appellee's Exhibit D that pertained to the PSMQ position, including a job posting for the PSMQ position. Ms. Gerhardstein indicated that the immediate supervisor of that position at that time was Shanna Bagner. Ms. Gerhardstein explained that a PSMQ position is a position that an agency has determined requires specific minimum qualifications in addition to the minimum qualifications of the assigned job classification. Ms. Gerhardstein noted that an agency must submit a rationale and make a request to ODAS to designate a position as a PSMQ position. She indicated that once ODAS has approved a position's PSMQ, an approval letter is issued identifying the PSMQ position. Ms. Gerhardstein identified the January 26, 2005 letter from ODAS (Appellee's Exhibit D) as the letter of approval for the PSMQ for Appellee's EEO Regional/Program Administrator, Class 69133, position control number 24101.0. Ms. Gerhardstein noted that the PSMQ requirement was that the incumbent be fluent in written and spoken Spanish. Ms. Gerhardstein confirmed that the EEO Regional/Program Administrator position with the position control number of 24101.0 was the position held by Jorge Irizarry and that Mr. Irizarry was and is fluent in written and spoken Spanish. Ms. Gerhardstein noted that because Ms. Bradley was not fluent in Spanish, she could not bump into the position held by Mr. Irizarry, and, consequently, the next position Ms. Bradley was able to bump into based upon retention points was the EEO Regional/Program Administrator position occupied by Appellant Pruitt.

Upon cross examination by Appellant Pruitt's representative, Ms. Gerhardstein stated that she did not participate in the approval process to have the EEO Regional/Program Administrator position approved as a position with PSMQ requirements.

Upon redirect and re-cross, the parties questioned the witness regarding the need for fluency in Spanish for the EEO Regional/Program Administrator position occupied by Mr. Irizarry. Ms. Gerhardstein described the various job duties assigned to different employees in the Bureau of Civil Rights. Ms. Gerhardstein identified Appellant Pruitt's displacement form contained in Appellee's Exhibit D, and she confirmed that Appellant Pruitt checked the box on the form indicating that she was not fluent in written and spoken Spanish.

At the conclusion of Ms. Gerhardstein's testimony, Appellee rested its case and moved to dismiss Appellant Pruitt's appeal because it appeared to be an appeal challenging the PSMQ established in 2005 for the EEO Regional/Program Administrator

position occupied by Jorge Irizarry. Appellant Pruitt's representative argued that his client's appeal was a challenge to the order of layoff. Appellee's motion to dismiss was denied and Appellant Pruitt proceeded to present her case-in-chief.

Appellant Pruitt called Shanna Bagner as her first witness. Ms. Bagner testified that she is employed by Appellee as an EEO Manager. Ms. Bagner confirmed that she was the immediate supervisor of Appellant Pruitt, Jorge Irizarry, and Paul Van Pelt. She indicated that Mr. Irizarry's job title was EEO Investigator (Bilingual). Ms. Bagner was asked to review the table of organization contained in Appellee's Exhibit E. Ms. Bagner confirmed that she supervised the positions contained in the table of organization for the Bureau of Civil Rights. Ms. Bagner further confirmed that all of the positions she supervised were assigned the job classification of EEO Regional/Program Administrator. Ms. Bagner confirmed that Appellant Pruitt had more retention points than Jorge Irizarry.

The witness was referred to the June 23, 2008 table of organization contained in Appellee's Exhibit E. The witness was then asked a series of questions regarding her experiences as an EEO Regional/Program Administrator. Ms. Bagner indicated that she could not recall if she handled any calls from Spanish-speaking individuals during the time period she was an EEO Regional/Program Administrator. Ms. Bagner stated that she did handle one investigation in which she used the assistance of another individual to communicate with the wife of the complainant and she also utilized a language interpretation service provided by another agency. The witness stated that she did not use this service much, but from what she could recall, the service was helpful. Ms. Bagner was asked to review the July 7, 2008 table of organization contained in Appellee's Exhibit E. Ms. Bagner indicated that she believed that this table of organization reflected the organization of the bureau after the abolishments and layoffs. Ms. Bagner confirmed that Jorge Irizarry's name appears on this table of organization and that no bilingual designation appears by his name on this particular document.

Ms. Bagner was asked to review the layoff rationale contained in Appellee's Exhibit B2. Ms. Bagner confirmed that the layoff rationale form indicated that the duties of the position held by Shelba Bradley were to be equally redistributed to the EEO Regional/Program Administrator positions, as listed in Appellee's Exhibit B2. Ms. Bagner stated that she was not involved in the redistribution of job duties. Upon further questioning, Ms. Bagner recalled that Mr. Van Pelt retired on August 30, 2008. Ms. Bagner indicated that she did not make a request to fill Mr. Van Pelt's EEO Regional/Program Administrator position.

Appellant Pruitt's representative then asked Ms. Bagner a series of questions regarding office activities that occurred during the time she held an EEO Regional/Program Administrator position, prior to becoming an EEO Manager. Ms. Bagner stated that she had no idea of the average number of calls she handled when she was an EEO Regional/

Program Administrator. When asked if the number of calls could have exceeded ten, the witness indicated that they could have exceeded that number. When asked the average number of calls she fielded from individuals with limited proficiency in English, the witness stated that she had no idea. When asked if it would be fair to say that a day could go by without fielding a call from an individual with limited proficiency in English, the witness stated that a day could go by. When asked if it was a true statement that a week could go by without fielding a call from an individual with limited proficiency in English, the witness stated that she could not answer that question.

Upon further questioning by Appellant Pruitt's representative, Ms. Bagner stated that she does not keep statistics on the calls received by the Bureau of Civil Rights, nor does she keep statistics on the calls handled by Jorge Irizarry. Ms. Bagner stated that she was not involved in the decision-making process regarding the selection of positions for abolishment. Ms. Bagner further stated that she was not involved in any specific budget reduction actions for the Civil Rights Bureau.

Appellant Pruitt testified that she was employed by Appellee and held a position classified as EEO Regional/Program Administrator. Appellant Pruitt stated that she was assigned to the Bureau of Civil Rights. Ms. Pruitt indicated that she held the EEO Regional/Program Administrator position for approximately seven and one-half years, until she was displaced from her position during the bumping and layoff process that occurred after Appellee abolished a number of positions. Appellant Pruitt stated that she did conduct investigations that involved individuals with limited proficiency in English, and she indicated that she utilized a language interpretation service to assist her with language barrier issues. Appellant Pruitt noted that she also asked Julia Carbonnel to assist as an interpreter for her during the one investigation. Appellant Pruitt stated that, on average, she handled 10 to 15 investigations each year and very rarely did a case that she handled involve language barrier issues. Appellant Pruitt stated that a year could go by where she would not have an investigation that involved a language proficiency problem.

When asked to give statistics on the number of cases handled each year by the Bureau of Civil Rights, Appellant Pruitt stated that she handled primarily only Title VI cases, and, on average, there were 37 to 55 of these types of cases. Appellant confirmed that she requested a number of documents from Appellee. Appellant Pruitt stated that her review of those documents indicated to her that very few investigations required a person fluent in Spanish to handle the investigation. Appellant Pruitt confirmed that she was informed that she could not bump into the position held by Jorge Irizarry because the position was a PSMQ position. Appellant Pruitt also confirmed that Appellee did not have any other positions available for her to bump into.

Upon questioning regarding Paul Van Pelt, Appellant Pruitt indicated that Mr. Van Pelt intended to retire in 2008. When asked if she made any inquiries regarding Mr. Van

Pelt's EEO Regional/Program Administrator position, Appellant stated that she did not. When asked if Mr. Van Pelt was still working in his position at the time Appellant Pruitt was displaced from her position, Appellant Pruitt confirmed that Mr. Van Pelt was still working at that time. When asked if anyone communicated with her regarding Mr. Van Pelt's retirement on August 30, 2008, Appellant Pruitt indicated that no one communicated with her regarding Mr. Van Pelt's position.

On cross examination, Appellant Pruitt acknowledged that she was aware that Appellee offered qualifying employees the opportunity to retire through an Early Retirement Incentive Plan (ERIP) established prior to the 2008 job abolishments. Appellant Pruitt confirmed that she recalled the testimony of Ronn Kolbash regarding Appellee's ERIP. Appellant acknowledged that she had no information which indicated that all of the positions that became vacant due to Appellee's ERIP were to be filled.

Upon further cross examination, Appellant Pruitt confirmed that she was familiar with the "FAQs" that were posted by Appellee for employees to review to obtain answers to their questions regarding the abolishment/layoff process. Appellant was asked to review the document containing the "FAQs" in Appellee's Exhibit D. Appellant Pruitt confirmed that "FAQ" #7 states that positions which become vacant through the ERIP will not automatically be backfilled and that any request to fill a position so vacated must be approved by the agency director.

At the conclusion of Appellant Pruitt's testimony, Appellant Pruitt rested her case. No rebuttal witnesses were called by Appellee. Appellee's Exhibits A through I for Appellant Pruitt were admitted into evidence. Appellant Pruitt's documents filed prior to the record hearing were confirmed as part of the record in SPBR Case No. 08-LAY-06-0427.

FINDINGS OF FACT

Based upon the testimony and evidence presented at record hearing, and the entirety of the information contained in the record of SPBR Case No. 08-LAY-06-0427, I make the following findings of fact:

1. As previously noted, the parties stipulated that Appellee complied with the relevant procedural and notice requirements of the Ohio Revised Code and Ohio Administrative Code in implementing Appellant Pruitt's layoff
2. On January 31, 2008, the Governor of Ohio issued Executive Order 2008-10S, which instructed state agencies to implement spending reductions within their agencies due to an impending state budget shortfall. The Governor also instructed

the Office of Budget and Management (OBM) to issue directives to guide agencies in implementing spending reductions.

3. On May 2, 2008, Appellee submitted its "Rationale for Job Abolishments for Reasons of Economy" to the Ohio Department of Administrative Services (ODAS). Appellee's rationale contained the agency's background information and budget background information, general cost savings measures, the agency's adoption of an early retirement incentive plan, the proposed abolishment of 180 positions to save salary and benefits, and an analysis of cost considerations. Appellee's rationale contained several tables that outlined projected General Revenue Fund (GRF) savings based upon staff reductions and other cost savings measures.
4. Appellee calculated retention points for those employees affected by the job abolishments and resultant layoffs. The Ohio Department of Administrative Services verified Appellee's calculation of retention points for all affected employees and authorized Appellee to proceed with the layoffs that resulted from the abolishment of positions.
5. Appellant Pruitt held a position classified as EEO Regional/Program Administrator, classification number 69133. Appellant Pruitt worked in Appellee's Bureau of Civil Rights, which is located in Layoff Jurisdiction 07. At the time of the 2008 job abolishments and resultant layoffs, there were six employees, including Appellant Pruitt, who held positions classified as EEO Regional/Program Administrator in Layoff Jurisdiction 07. The following three employees and their retention points are relevant to this appeal: Shelba Bradley, who had 701 retention points; Appellant Pruitt, who had 542 retention points; and Jorge Irizarry, who had 258 retention points. Appellant Pruitt and Mr. Irizarry had the lowest retention points within the EEO Regional/Program Administrator classification in Layoff Jurisdiction 07. Shelba Bradley's EEO Regional/Program Administrator was abolished.
6. Mr. Irizarry was assigned to Appellee's Bureau of Civil Rights and held the position of EEO Regional/Program Administrator, position control number 24101.0. The EEO Regional/Program Administrator position held by Mr. Irizarry was designated as position with position-specific minimum qualifications that required the incumbent to be fluent in written and spoken Spanish. Approval for the position-specific minimum qualifications was obtained in January 2005, as set forth below.
7. On January 24, 2005, Appellee submitted the EEO Regional/Program Administrator position, classification number 69133, position control number 24101.0 to the Ohio Department of Administrative Services requesting that position-specific minimum qualification be approved for the position. The position-specific minimum qualifications requested were that the incumbent be fluent in written and spoken Spanish.

8. On January 26, 2005, the Ohio Department of Administrative Services approved Appellee's position-specific minimum qualifications for EEO Regional/Program Administrator, classification number 69133, position control number 24101.0.
9. During the relevant time period, Jorge Irizarry was fluent in written and spoken Spanish.
10. During the relevant time period, Shelba Bradley was not fluent in written and spoken Spanish.
11. During the relevant time period, Appellant Pruitt was not fluent in written and spoken Spanish. Appellant Pruitt signed and submitted a form to Appellee indicating that she was not fluent in written and spoken Spanish.
12. Shelba Bradley displaced into the EEO/Regional Program Administrator position held by Appellant Pruitt. Appellant Pruitt was laid off on July 5, 2008.
13. In 2008, Paul Van Pelt, held a position classified as EEO Regional/Program Administrator in Appellee's Bureau of Civil Rights. At the time of the July 2008 job abolishment and resultant layoffs, Mr. Van Pelt had 863 retention points. Mr. Van Pelt participated in Appellee's Early Retirement Incentive Plan and retired on August 30, 2008.
14. Appellee's Early Retirement Incentive Plan (ERIP) was a cost savings measure. Appellee determined that only a certain percentage of positions vacated due to the ERIP could be backfilled. Appellee established a policy that positions which become vacant through the ERIP would not automatically be backfilled and that any request to fill a position so vacated must be approved by the agency director.

CONCLUSIONS OF LAW

Appellant Pruitt filed a notice of appeal from her layoff. Section 124.321 of the Ohio Revised Code governs the layoff of employees. The pertinent part of the statute reads as follows:

- (A) Whenever it becomes necessary for an appointing authority to reduce its work force, the appointing authority shall lay off employees or abolish their positions in accordance with sections 124.321 to 124.327 of the Revised Code and the rules of the director of administrative services.

(D)(1) Employees may be laid off as a result of abolishment of positions. As used in this division, "abolishment" means the deletion of a position or positions from the organization or structure of an appointing authority . . .

For purposes of this division, an appointing authority may abolish positions for any one or any combination of the following reasons: as a result of a reorganization for the efficient operation of the appointing authority, for reasons of economy, or for lack of work.

. . .

If an abolishment results in a reduction of the work force, the appointing authority shall follow the procedures for laying off employees . . .

* * * *

Prior to the record hearing, Appellant Pruitt stipulated that Appellee complied with the relevant procedural and notice requirements of the Ohio Revised Code and Ohio Administrative Code in implementing her layoff. Appellant Pruitt's primary arguments at record hearing were that she should not have been displaced from her EEO Regional/Program Administrator position or that she should have been recalled to fill the EEO Regional/Program Administrator position held by an employee in Appellee's Bureau of Civil Rights who retired on August 30, 2008.

The testimony and evidence established that Appellee complied with sections 124.321 to 124.327 of the Ohio Revised Code and the rules of Ohio Administrative Code Chapter 123:1-41 when the agency abolished 180 positions for reasons of economy. The job abolishments resulted in a reduction of Appellee's work force. As noted above, if an abolishment results in a reduction of the appointing authority's workforce, the appointing authority is required to lay off employees in accordance with sections 124.321 to 124.327 of the Ohio Revised Code and the rules of Ohio Administrative Code Chapter 123:1-41 *et seq.*

The testimony and evidence established that, at the time of the 2008 job abolishments and layoffs, there were six employees, including Appellant Pruitt, who held positions classified as EEO Regional/Program Administrator in Layoff Jurisdiction 07. The following three employees and their respective retention point totals are relevant to this appeal: Shelba Bradley, who had 701 retention points; Appellant Pruitt, who had 542

retention points; and Jorge Irizarry, who had 258 retention points. Appellant Pruitt and Mr. Irizarry had the least retention points of the six employees in the EEO Regional/Program Administrator classification in Layoff Jurisdiction 07. Shelba Bradley's EEO Regional/Program Administrator position was abolished. Although Mr. Irizarry held the same classification as Appellant Pruitt and he had less retention points than Appellant Pruitt, the testimony and evidence established that Ms. Bradley bumped into the EEO Regional/Program Administrator position occupied by Appellant Pruitt. As a result of that action, Appellant Pruitt was displaced from her EEO Regional/Program Administrator position in the Bureau of Civil Rights and was subsequently laid off. The testimony and evidence further established that neither Ms. Bradley nor Appellant Pruitt could have bumped into the EEO Regional/Program Administrator position held by Mr. Irizarry because this position had position-specific minimum qualifications that Ms. Bradley and Appellant Pruitt did not possess.

Pursuant to O.A.C. 123:1-7-04, an appointing authority may request minimum qualifications for certain positions that differ from the minimum qualifications of classification specifications established by the Ohio Department of Administrative Services (ODAS). An appointing authority's position-specific minimum qualifications must be rationally related to the performance of the essential functions of the classification and validated based on the results of a job analysis. Prior to implementation, the job analysis procedures and position-specific minimum qualifications must be approved by ODAS.

Pursuant to O.A.C. 123:1-41-11(F), no employee shall displace an employee whose position or classification requires special minimum qualifications, unless the employee desiring to displace another employee possesses the requisite minimum qualifications or bona fide occupational qualifications for the position or the classification. The special qualifications must be established by a position description for the position, or by a classification specification minimum qualifications statement, or by bona fide occupational qualifications for the position(s) or classification. The appointing authority is responsible for establishing the necessity of special qualifications for a position.

The testimony and documentary evidence established that ODAS approved Appellee's request to designate the EEO Regional/Program Administrator position, position control number 24101.0, as a position with position-specific minimum qualifications pursuant to O.A.C. 123:1-7-04. It is noted that Appellee submitted its request to impose position-specific minimum qualifications on the EEO Regional/Program Administrator position to ODAS on January 24, 2005, and, on January 26, 2005, ODAS issued a letter to Appellee approving that request. The position-specific minimum qualifications are as follows: "**Fluent in written and spoken Spanish.**" The documentary evidence presented by Appellee demonstrated that the position-specific minimum qualifications of the EEO Regional/Program Administrator position, position control number 24101.0, were

established by a position description for the position. The testimony established that Jorge Irizarry was, and apparently, still is, fluent in written and spoken Spanish. The testimony and documentary evidence presented established that Shelba Bradley and Appellant Pruitt were not fluent in written and spoken Spanish at the time of the 2008 layoffs. Accordingly, neither Ms. Bradley nor Appellant Pruitt could displace into the EEO Regional/Program Administrator position occupied by Mr. Irizarry, pursuant to O.A.C. 123:1-41-11(F).

Notwithstanding the above analysis of the position-specific minimum qualifications approved for the EEO Regional/Administrator position occupied by Mr. Irizarry, Appellant Pruitt argues that Ms. Bradley should have displaced into this EEO Regional/Program Administrator position because there was no need for an employee fluent in written and spoken Spanish to perform the job duties of the position. While Appellant Pruitt is entitled to her opinion regarding the necessity of the position-specific minimum qualifications approved for the EEO Regional/Program Administrator position occupied by Mr. Irizarry, this Board has no statutory authority to review that process or ODAS's decision to approve those position-specific minimum qualifications. Additionally, I note that no evidence was presented by Appellant Pruitt to establish that the position-specific minimum qualifications approved in 2005 for the EEO Regional/ Program Administrator position in question were established by Appellee in an attempt to subvert the civil service system in any manner or to target Appellant Pruitt for a layoff three years later in July of 2008.

Appellant Pruitt further argues that although she was laid off effective July 5, 2008, she should have been given the opportunity to fill the EEO Regional/Program Administrator position that Paul Van Pelt vacated upon his retirement on August 30, 2008.

The testimony presented indicated that Mr. Van Pelt participated in Appellee's Early Retirement Incentive Plan (ERIP), retiring on August 30, 2008. The testimony and evidence established that Appellee's ERIP was a cost savings measure and therefore Appellee did not plan to fill all the positions that became vacant through the ERIP. Appellee established a policy regarding positions so vacated, specifically, positions that became vacant through the ERIP would not be filled automatically, and, any request to fill such a position must be approved by the agency director. No testimony or evidence was presented to establish that Appellee intended to fill the EEO Regional/ Program Administrator position held by Mr. Van Pelt. No testimony or evidence was presented by Appellant Pruitt to establish that she had a statutory right to displace into or to fill the EEO Regional/Program Administrator position that Paul Van Pelt held until his August 2008 retirement.

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Based on the foregoing, I find that the testimony and documentary evidence presented at record hearing and the entirety of the information contained in the record clearly established that Appellant Pruitt's layoff was effectuated in accordance with sections 124.321 to 124.327 of the Ohio Revised Code and Ohio Administrative Code Chapter 123:1-41 *et seq.* Accordingly, I respectfully **RECOMMEND** that Appellant Pruitt's layoff be **AFFIRMED**.


Elaine K. Stevenson
Hearing Officer

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