

OPINION NO. 71-077

Syllabus:

The Ohio Department of State Personnel has the legal authority, required of a State Agency as defined in the Intergovernmental Personnel Act, to develop and administer a statewide plan pursuant to the Act.

To: Paul A. Corey, Director, Dept. of State Personnel, Columbus, Ohio
By: William J. Brown, Attorney General, November 12, 1971

I am in receipt of your request for my opinion on the following question:

"Does the Department of State Personnel, established by Chapter 143 of the Ohio Revised Code, meet the requirements, in terms of legal authority, of a State agency established pursuant to law, as defined in Sections 203(a)(2) and 303(c)(2) of the Intergovernmental Personnel Act?"

Both of the cited sections of the Intergovernmental Personnel Act define a State agency eligible to receive a Federal grant under the Act as one "* * * designated or established pursuant to State law which provides such agency with adequate authority, administrative organization, and staffing to develop and administer such a statewide plan, and to provide technical assistance and other appropriate support in carrying out the local components of the plan, * * *." (42 U.S.C. 4723(a)(2) and 4723(c)(2).)

Chapter 143, Revised Code, provides for the establishment of such an agency in the State of Ohio. It creates the Department of State Personnel, which is composed of the Board of Review and the Director of State Personnel. Section 143.012, Revised Code, provides as follows:

"The state personnel board of review shall exercise the following powers and perform the following duties of the department of state personnel:

"(A) Hear appeals, as provided by law, of employees in the classified state service from final decisions of appointing authorities or the director of state personnel relative to reduction in pay or position, layoff, suspension, discharge, assignment or reassignment to a new or different position classification: the board may affirm, disaffirm, or modify the decisions of the appointing authorities or the director of state personnel, as the case may be, and its decision is final;

"(B) Hear appeals, as provided by law, of appointing authorities from final decisions of the

director of state personnel relative to the classification or reclassification of any position or positions in the classified state service under the jurisdiction of such appointing authority; the board may affirm, disaffirm, or modify the decisions of the director of state personnel, and its decision is final;

"(C) To exercise the authority provided for by section 143.30 of the Revised Code, for appointment, removal, and supervision of municipal civil service commissions;

"(D) To appoint a secretary and such other employees necessary in the exercise of the powers and performance of the duties and functions which the board is by law authorized and required to exercise and perform and to prescribe the duties of such secretary and employees;

"(E) To maintain a journal which shall be open to public inspection, in which it shall keep a record of all its proceedings and of the vote of each of its members upon every action taken by it;

"(F) To adopt and promulgate rules and regulations, in accordance with the provisions of sections 119.01 to 119.13, inclusive, of the Revised Code, relating to the procedure of the board in administering the laws which it has authority or duty to administer and for the purpose of invoking the jurisdiction of the board in hearing appeals of appointing authorities and employees in matters set forth in divisions (A) and (B) of this section;

"(G) To subpoena and require the attendance and testimony of witnesses and the production of books, papers, public records and other documentary evidence pertinent to any matter which it has authority to investigate, inquire into or hear in the same manner and to the same extent as provided by division (E) of section 143.07 of the Revised Code and all witness fees shall be paid in the manner set forth in said paragraph."

And Section 143.013, Revised Code, provides as follows:

"All powers, duties and functions of the department of state personnel not specifically vested in and assigned to, or to be performed by, the state personnel board of review are hereby vested in and assigned to, and shall be performed by the director of state personnel, which powers, duties and functions shall include, but shall not be limited to the following powers, duties and functions:

"(A) To prepare, conduct, and grade all competitive examinations for positions in the classified state service;

"(B) To prepare, conduct and grade all noncom-

petitive examinations for positions in the classified state service;

"(C) To prepare eligible lists containing the names of persons qualified for appointment to positions in the classified state service;

"(D) To prepare or amend, in accordance with section 143.09 of the Revised Code, specifications descriptive of duties, responsibilities, requirements and desirable qualifications of the various classifications of positions in the state service;

"(E) To allocate and reallocate upon his own motion or upon request of an appointing authority and in accordance with section 143.09 of the Revised Code, any position, office or employment in the state service to the appropriate classification on the basis of the duties, responsibilities, requirements and qualifications of such position, office or employment;

"(F) To develop and conduct personnel recruitment services for positions in the state service;

"(G) To conduct research on specifications, classifications and salaries of positions in the state service;

"(H) To develop and conduct personnel training programs in cooperation with appointing authorities;

"(I) To enter into agreements with universities and colleges for in service training of personnel in the state service;

"(J) To appoint such examiners, inspectors, clerks and other assistants as are necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform and to prescribe the duties of all such employees;

"(K) To maintain a journal, which shall be open to public inspection, in which he shall keep a record of his final decision pertaining to the classification or reclassification of positions in the state classified service, assignment or reassignment of employees in the state classified service to specific position classifications."

It is my opinion that the Ohio Department of State Personnel was created pursuant to State law and that it has the authority meeting the requirements of the Intergovernmental Personnel Act to develop a statewide plan and to administer and provide technical assistance and other appropriate support to improve this State's personnel administration and to strengthen the training and development of the State and local government employees and officials.

In specific answer to your question it is my opinion, and you

are so advised, that the Ohio Department of State Personnel has the legal authority, required of a State Agency as defined in the Inter-governmental Personnel Act, to develop and administer a statewide plan pursuant to the Act.