BEFORE THE MERIT EMPLOYEE RELATIONS BOARD
OF THE STATE OF DELAWARE

COPY

DR. DIANNE BINGHAM **Grievant** **v.** **DEPARTMENT OF HEALTH and SOCIAL SERVICES, STATE OF DELAWARE, Agency**	))))))))	**DOCKET NO. 98-06-157** **ORDER OF DISMISSAL**

BEFORE Susan L. Parker, Chairperson, Robert Burns, Vice Chairperson, John F. Schmutz, John W. Pitts and Dallas Green, Members, constituting a quorum of the Merit Employee Relations Board pursuant to 29 Del. C. Section 5908(a).

AND NOW, this 15th day of April, 1999, it appearing to the Board that the Grievant, Dr. Dianne Bingham, through her representative, Michael W. Modica, Esquire, has withdrawn her grievance and the Department of Health and Social Services, through their representative, Marc Niedzielski, Deputy Attorney General, does not object to this withdrawal.

IT IS ORDERED that the grievance is withdrawn and this matter is **DISMISSED**.

Susan L. Parker, Chairperson

Robert Burns, Vice Chairperson

John F. Schmutz, Member

John W. Pitts, Member

Dallas Green, Member

Original: File
Copies: Grievant
Agency
Agency's Representative
Merit Employee Relations Board
State Personnel Office (3 copies)

DATE MAILED May 5, 1999

MICHAEL W. MODICA

ATTORNEY AT LAW
715 N. KING STREET, SUITE 300
WILMINGTON, DE 19801

TELEPHONE (302) 425-3600
FACSIMILE (302) 425-5712
E-Mail: MODICALAW@aol.com

RECEIVED
MERIT EMPLOYEE
RELATIONS BOARD
99 MAR 30 AM 9:49

March 25, 1999

Ms. Jean Turner
Merit Employee Relations Board
P.O. Box 1401
Tatnall Bldg., Lower Level
William Penn Street
Dover, DE 19903

RE: Dr. Dianne Bingham v. DHSS
98-00041-HSS-ST4
Hearing Date: 4/1/99

Dear Mrs. Turner:

This is to confirm that Dr. Bingham withdraws her grievance against DHSS. The hearing scheduled for April 1, 1999 should be removed from the calendar.

I also want to take this opportunity to explain the basis for Dr. Bingham's decision. Dr. Bingham feels strongly that she was treated unfairly by Dr. Galliani, and that her treatment can be attributed to sex discrimination. However, even though she feels strongly that she could have proven that Dr. Galliani discriminated against her based on sex, she does not believe that the MERB has power to grant her requested relief under the Delaware Code. Basically, the MERB has power to grant relief when there has been a change of position. In this case, Dr. Galliani changed Dr. Bingham's assignment, but not her position, therefore, we do not believe that the MERB has the power to grant the requested relief. Thus, her decison should not be construed as an admission that her claim did not have merit, but rather a recognition that the MERB did not have the power to grant her relief even if she proved her claim.

Very truly yours,

Michael W. Modica

MWM/ksc

cc: Marc Niedzielski, Esq.
Dr. Diane Bingham
Victor Battaglia, Esq.