



# State of New Hampshire

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DIVISION OF PERSONNEL

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## NEW HAMPSHIRE PERSONNEL APPEALS BOARD FREQUENTLY ASKED QUESTIONS

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## **1. What is a personnel appeal?**

A personnel appeal is the formal process employees can use to challenge various personnel actions, including written warnings, disciplinary demotions and suspensions, involuntary transfers, non-selection decisions, involuntary separations from service (i.e. dismissals), and classification decisions issued by the Director of Personnel. An employee who properly files an appeal is entitled to a hearing in front of the Personnel Appeals Board (PAB): **RSA 21-I:46 Powers and Duties of Board**  
<http://www.gencourt.state.nh.us/rsa/html/i/21-i/21-i-mrg.htm>

## **2. When can I file an appeal?**

If you have been dismissed, demoted, suspended or involuntarily transferred, or if you have been "affected" by an application of the Personnel Administrative Rules, you can file an appeal within fifteen (15) calendar days of that action. By law **RSA 21-I:58**, <http://www.gencourt.state.nh.us/rsa/html/i/21-i/21-i-mrg.htm> appeals must be received by the by the Personnel Appeals Board (PAB) by the close of business on the fifteenth (15) calendar day from the date of the action being appealed

If employees are dissatisfied with a classification decision, they have fifteen (15) calendar days from the date of the Director's decision to file an appeal **RSA 21-I:57 Allocation Review**  
<http://www.gencourt.state.nh.us/rsa/html/i/21-i/21-i-mrg.htm>

## **3. What if my agency says that it is willing to waive the fifteenth day deadline?**

The dates for filing an appeal are imposed by State law. Neither the agency nor the Personnel Appeals Board (PAB) can extend that deadline. Untimely appeals will be dismissed.

## **4. Where do I file my appeal?**

Appeals can be filed with the PAB Administrator to the Board by addressing the appeal as follows:

NH Personnel Appeals Board  
54 Regional Drive; Suite 5  
Concord, NH 03301

## **5. Do I have to have a lawyer if I want to file an appeal?**

No. Although many employees feel more comfortable with a legal representative, any employee can appeal without representation, or may choose to be represented in an appeal by a union steward, a union staff person, or someone else the employee trusts to represent the employee.

## **6. What forms do I need to use to file an appeal?**

There are no particular forms required. Employees wishing to file an appeal must file their appeal in writing, and must comply with the New Hampshire Personnel Appeals Board's procedural rules. A Notice of Appearance is available at <https://das.nh.gov/hr/pab/forms.html> if you are to be represented by someone else.

## **7. What information do I have to include in my appeal?**

According to the Personnel Board Administrative Rules, the following information must be included:

- 7.1. Provide your name, address and telephone number. Include email addresses and fax numbers, if possible. Should your contact information change, it is your responsibility to notify the PAB and any other parties to the appeal, including your agency, of the change.

- 7.2. If someone else is representing you, provide the name; address and telephone number, fax number and email address of the person representing you. If you should change representatives; it is your responsibility to notify the PAB and any other parties to the appeal, including your agency.
- 7.3. Who made the decision that you are appealing? You must provide that person's name and mailing address. You should also provide the phone number, email address and fax number; if known.
- 7.4. Attach a copy of the letter, decision or order that you are appealing.
- 7.5. Give the date of the action that you are appealing.
- 7.6. Provide a statement listing the Division of Personnel Administrative Rule(s) that you believe were applied incorrectly.
- 7.7. List the specific reason(s) you for the appeal.
- 7.8. Provide a detailed statement of facts supporting your claim that the action taken was inappropriate.
- 7.9. Include a signed statement attesting to the truthfulness of any statement(s) or representation(s) that have been made in conjunction with the appeal.
- 7.10. Include a signed statement certifying that you have provided a complete copy of the appeal (including any additional document or attachments) to your agency's human resources administrator or human resources representative, along with information about how your appeal was delivered to that person.

Ensure that you give the PAB an original and five copies (six copies total) of anything you submit to them, and be sure to provide your agency with a complete set of any documents you file with the Board.

## **8. How long will it take before I am scheduled for a hearing?**

There are a number of factors that affect a hearing to be scheduled:

- 8.1. The PAB always tries to give scheduling priority to those cases that involve an immediate loss of compensation, including terminations, unpaid disciplinary suspensions and disciplinary demotions.
- 8.2. It is sometimes difficult to arrange a speedy hearing because one or more of the people involved may not be readily available, or the employee and employer may have unresolved issues regarding exchanging information or documents before scheduling a hearing.
- 8.3. The law required that the PAB provide at least fourteen (14) days' notice before any scheduled hearing, but it may take several months to schedule due to the number of appeals already scheduled for hearings.

## **9. How often does the PAB hear cases?**

The law requires the PAB to meet at least once each month as long as there is any appeal pending. Generally, the PAB meets once a week.

## **10. Who makes up the Personnel Appeals Board?**

The PAB consists of five regular members. Either the Chairman or Vice-Chairman must be a trained attorney. Members may not be State employees and may not hold, or be a candidate for, a remunerative, elective public office. The members are appointed by the Governor with the consent of the Executive Council, and they serve terms of three years each **RSA 21-I:45 Composition of Board-Compensation & Removal** <http://www.gencourt.state.nh.us/rsa/html/i/21-i/21-i-mrg.htm>

## **11. What kind of relief can the PAB provide?**

The PAB has broad authority to reverse, amend or modify any decision of an Appointing Authority or the Director of Personnel. If an employee is terminated from employment, and if the PAB finds that the termination violated the law or a Personnel Administrative Rule, the law requires the employee to be reinstated without loss of seniority, status or pay.

## **12. Where are PAB hearings held?**

The Personnel Appeals Board does not have a designated space; it usually holds its hearings at:

The Public Utilities Commission  
Walker Building  
21 Fruit Street; Hearing Room B  
Concord, NH

## **13. Are hearings open to the public?**

Yes, hearings are open to the public. In most cases, the documents that are filed or evidence in an appeal become public records. As such, appellants need to be cognizant in regards to documents that they are filing with the appeal that they do not want published and available to the general public.

## **14. What if I change my mind and decide that I do not want to proceed with a hearing after I have filed an appeal?**

At any point prior to the PAB issuing a final decision, an employee may decide to withdraw their appeal, or the Parties may reach an agreement that resolves the case for both the employee and the agency. If a case is settled, it is the employee's or the employee's, responsibility to notify the PAB of the settlement and withdraw the appeal. Otherwise, the PAB may dismiss the appeal "with prejudice".

## **15. What if I am not satisfied with the result of the appeal?**

New Hampshire State law provides for an appeal to the NH Supreme Court if either party to an appeal is dissatisfied with the PAB's decision. Although Supreme Court appeals are not common, it is not unusual for either party to file a Supreme Court appeal.

## **16. Is an appeal the same as a grievance?**

No. The appeals process involves the application of the Division of Personnel Administrative Rules that affect an employee's employment status. Grievances are part of the process of resolving disputes involving the interpretation or application of the Collective Bargaining Agreements. Employees may find additional information on the Collective Bargaining Agreements on the **Employee Relations** page at <https://apps.das.nh.gov/laborrelations/> .

### **17. What if I would prefer to file a grievance instead of an appeal?**

Grievances are limited to the terms and conditions set forth in the various Collective Bargaining Agreements. Those agreements generally do not include provisions related to job performance, workplace conduct or discipline. As a result, grievances cannot be substituted for an appeal for those issues involving an application of the Division of Personnel Administrative Rules.

### **18. Can I appeal an unsatisfactory performance evaluation?**

No. The law specifically excludes performance evaluations from the appeal process. If an employee is disciplined or suffers some other adverse action as a result of receiving a poor evaluation, the evaluation itself can be used as evidence in an appeal proceeding.

### **19. Can I appeal a counseling letter or memo?**

There is no provision in any of the Collective Bargaining Agreements addressing counseling memos. As such, they are not a valid subject for a grievance.

Counseling memos are considered part of the performance management and performance evaluation process. Performance evaluations may not be the sole basis for an appeal, and counseling memos are not disciplinary in nature, they are not valid subjects for appeal.

### **20. Where can I get additional information about the appeals process?**

Additional information on the personnel appeals process can be found at **Personnel Appeals Board Rules** [http://www.gencourt.state.nh.us/rules/state\\_agencies/per-a.html](http://www.gencourt.state.nh.us/rules/state_agencies/per-a.html)