

State of New Hampshire

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PERSONNEL APPEALS BOARD

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Concord, New Hampshire 03301
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APPEAL OF NEAL S. BOUTIN
Docket #90-0-3
Certification Appeal
Department of Health and Human Services

dated: September 20, 1990

The New Hampshire Personnel Appeals Board (McNicholas, Cushman and Johnson) met Wednesday, August 22, 1990, to hear the certification appeal of Neal S. Boutin concerning his certification for the position of Director of Human Resources, New Hampshire Hospital. Chris Henchey, SEA Chief Negotiator, appeared on behalf of the appellant. Personnel Director Virginia Vogel represented the Division of Personnel.

Mr. Boutin's appeal arises from the March 22, 1990 decision of the Director of Personnel refusing to certify Mr. Boutin as meeting the minimum qualifications for the classification "Director of Human Resources, New Hampshire Hospital". Mr. Boutin had made application for that position following his notice of lay-off from his position of Regional Administrator, Division of Human Services.

After considering the evidence and testimony presented, the Board ruled as follows on the Division of Personnel's Requests for Findings of Fact and Rulings of Law:

Requests for Findings of Fact #1 - 3 and 5 - 17 are granted.
#4 is neither granted nor denied
No request #15 was submitted

Requests for Rulings of Law #1 - 5, and 7 - 10 are granted
#6 is neither granted nor denied.

Generally, non-certification appeals turn on the question of whether or not an employee meets the minimum qualifications for inclusion on a list of candidates or "eligibles" for a posted vacancy. In fact, Per 101.06 of the Rules of the Division of Personnel defines "Certification" as "...the forwarding of the names of eligibles by the director at the request of an appointing authority to fill a vacancy."

The Rules of the Division of Personnel provide, in part, "When seniority is the basis for layoff, demotion (bumping) to a lower class in the ~~same~~ department will be authorized only if the employee to be displaced has less seniority and the person exercising this privilege is qualified." [See Per 308.05 (b)(1)]. Per 308.05 does not, however, define in any detail how an employee's qualifications are assessed. Per 308.05 (b)(1) does, however, consider bumping to be demotion to a lower class, which is addressed at some length in Per 308.02 of the rules.

"An appointing authority may at his discretion demote an employee in lieu of layoff or discharge, for inefficient performance of his duties or for other good cause if the new position is in the ~~same~~ class series, and/or if the qualifications for the new position are such that the employee may be presumed to have established his qualifications by examination for the employment register from which he gained his permanent status. In the event that the lower class to which said employee is demoted is not in the same series and he has not otherwise established his qualifications, a determination must be made that he meets the minimum qualifications and an additional examination may be required."

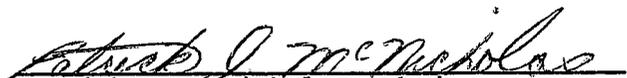
Mr. Boutin was not seeking to bump into a class in the "Administrator" class series, nor had Mr. Boutin previously established his qualifications by holding the title "Director of Human Resources" or any comparable classification. Mr. Boutin's previous job titles, as supplied on his resume, include Teacher, Administrative Assistant, Head Salesperson, Food Stamp Agent, Quality Control Reviewer, Program Planner, District Director, and Regional Administrator. With the exception of his positions as a teacher, and as the head salesperson for New England Cycle Sales, all of his previous positions have been associated with client services in a variety of health and human service programs.

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Neither the information on Mr. Boutin's applications nor his resume are indicative of extensive personnel or human resource experience. Mr. Boutin's educational background is not reflective of study in the areas of public or business administration, personnel management, industrial relations, or a related field.

Mr. Boutin's credentials as they relate to administration of health and human service programs are impressive. They do not, however, appear sufficiently similar to conclude that the appellant would be deemed qualified for demotion into the position of Director of Human Resources, under the terms of Per 308.02. Accordingly, Mr. Boutin's appeal is denied.

THE PERSONNEL APPEALS BOARD


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cc: Chris Henchey, Chief Negotiator
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