

# State of New Hampshire



**PERSONNEL APPEALS BOARD**  
25 Capitol Street  
Concord, New Hampshire 03301  
Telephone (603)271-3261

## *Appeal of Dorotlzy Chicaderis*

*Docket #2007-O-001*

*Department of Health and Human Services, Office of Alcohol and Drug Policy*

*October 18, 2007*

By letter dated June 15, 2007, Dorothy Chicaderis, an employee of the Department of Health and Human Services, requested a hearing to appeal the department's alleged violation of Per 101 and Per 800 in issuing her performance evaluation. In her appeal, Ms. Chicaderis acknowledges that Per 205.08(e) specifically excludes the contents of an employee's performance evaluation from the appeals process. However, she argues that it is not the content, but the manner in which the evaluation was conducted to which she takes exception.

RSA 21-I:46, I (a) states, "The personnel appeals board shall hear and decide appeals as provided by RSA 21-I:57 and 21-I:58 and appeals of decisions arising out of application of the rules adopted by the director of personnel except those related to: (a) Performance evaluations of classified employees; provided, however, that an employee who is disciplined or has other adverse action taken against him as the result of an evaluation may appeal that action."

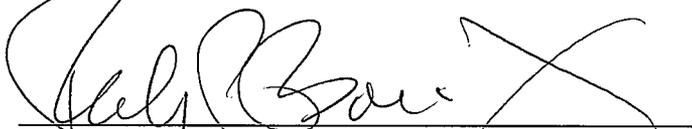
After reviewing the notice of appeal, the Board determined that the basis for appeal is outside the Board's subject matter jurisdiction. The Board determined that Ms. Chicaderis is appealing the substance of her performance evaluation. As such, that appeal is excluded under the provisions of RSA 21-I:46, I (a).

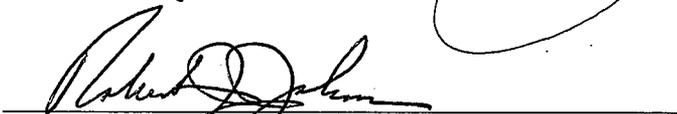
In her notice of appeal, Ms. Chicaderis argued that there is "an inextricable link" between a letter of warning issued to her on January 26, 2006 (PAB Docket #2007-D-007) and the performance evaluation issued to her approximately one month later on February 22, 2006. While there may be similar issues noted in the letter of warning and the evaluation, the warning was issued before the evaluation. The Board does not agree that the warning was issued as a result of the performance evaluation.

For all the reasons set forth above, the Board voted to dismiss Ms. Chicaderis' appeal of her performance evaluation (PAB Docket #2007-O-001) as a matter outside the Board's subject matter jurisdiction.

THE PERSONNEL APPEALS BOARD

  
Patrick Wood, Chairman

  
Philip Bonafide, Commissioner

  
Robert Johnson, Commissioner

cc: Karen Hutchins, Director of Personnel  
Lynne Mitchell, Legal Coordinator, Department of Health and Human Services  
Dorothy and Arthur Chicaderis

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## *Appeal of Non-Selection for Child Protective Service Worker Coordinator Division for children Youth and Families, Position #11908*

**June 11,1997**

The New Hampshire Personnel Appeals Board (Bennett, Rule and Barry) met on Wednesday, June 4, 1997, and reviewed a number pending appeals, including that filed on March 26, 1997, by SEA Field Representative Margo Steeves on behalf of the individuals named below:

Barbara Blue -- #97-P-3

David Hedge -- #97-P-7

Sylvia Gale 97 -- #97-P-4

Marilyn Murphy -- #97-P-8

Tracey Gubbins -- #97-P-5

Robin O'Brien -- #97-P-9

Carol Healy -- #97-P-6

Ms. Steeves argued that by failing to promote one of the in-house candidates who met the minimum qualifications for selection, the agency violated the intent of the Personnel Rules and ignored sound management principles. She asked the Board to order the agency to vacate the position and, after hearing the appeal, order one of the seven appellants promoted to fill the position.

The request to hear the appellants as a group, and to consider the remedy that they requested, is denied. If the Board were to grant either request, the Board would be undermining the appointing authority's discretion in selecting the candidate who is best suited for appointment to the vacancy.

Per 602.03 (a) states that selection to fill a vacancy shall be made from within the agency whenever possible. However, Per 603.02 (c) also provides that, "Candidates may be denied

selection if, in the opinion of the appointing authority, they are deemed to lack personal or professional qualifications for promotion." Appellants' Attachment 1, identified as "Non-selection letters to appellants, March 11, 1997," states that "Based upon [the appellant's] responses to the Structured Oral Examination questions for this position, [the appellant was] not selected. It has been determined that the resultant score indicates that you did not demonstrate the requisite knowledge, skills, and attributes required for this position currently."

Clearly, the appellants disapprove of the appointing authority's decision not to select a candidate from within the agency. Their disapproval, however, does not prove that the appointing authority violated the Rules of the Division of Personnel or abused his discretion in deciding to seek candidates from outside of the agency.

The Board will permit each of the individual appellants ten days from the date of this order in which to file a new appeal in proper form, setting forth the basis for the appeal and the specific reason(s) why the individual believes the decision of the appointing authority denying him or her promotion was inappropriate. The Board shall dismiss, with prejudice, any appeal listed above which has not filed in proper form within ten days of the date of this order.

FOR THE PERSONNEL APPEALS BOARD

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Mary Ann Steele, Executive Secretary

cc: Virginia A. Lambertson, Director of Personnel, 25 Capitol St., Concord, NH 03301  
Sandra Platt, Human Resources Administrator, Health and Human Services  
6 Hazen Dr., Concord, NH 03305  
Margo Steeves, SEA Field Representative, State Employees' Association  
PO Box 3303, Concord, NH 03302-3303