

# State of New Hampshire



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

## Personnel Appeals Board Decision to Dismiss on State's Motion to Dismiss

Patrick Curran Docket #2015-D-006

March 12, 2015

The New Hampshire Personnel Appeals Board (Casey, Patenaudé, Stevens and Goldstein) met in non-public session on Wednesday, March 4, 2015, under the authority of RSA 91-A:3, II, to consider the Motion to Dismiss due to Lack of Subject Matter Jurisdiction in reference to the above stated appeal. On November 19, 2014 a Memo of Counsel was issued to the appellant addressing three violation of Extra Duty Details Policy, Chapter 22-E of The Professional Standards of Conduct. The Memo of Counsel also addressed a Corrective Action Plan that stated that Mr. Curran was suspended from the Detail Eligibility List, for a period of 30 days.

The Personnel Appeals Board can only hear matters as outlined in the Code of Administrative Rules pursuant to RSA 21-I:58. Per 1002 DISCIPLINE states as follows:

Per 1002.01 Forms of Discipline. The following disciplinary measures shall exist for full-time employees within the state system:

- (a) Dismissal during initial probationary period;
- (b) Written warning;
- (c) Withholding salary increment;
- (d) Disciplinary suspension without pay;
- (e) Demotion; and

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(f) Dismissal.

The Board concludes that a Memo of Counsel does not constitute a documented form of discipline as outlined in Per 1002.01 and therefore the Board does not have jurisdiction in the matter.

The Board also finds that per Per 102.40 "Overtime means authorized work in excess of an established basic workweek." It is understood that the Detail Eligibility List is not related to regular duties of a state police trooper as described in the supplemental job descriptions and therefore is not protected by Per 102.40. Again, the Board does not have jurisdiction in the matter.

For the reasons set forth above, the Board voted unanimously to GRANT the State's Motion to Dismiss for Lack of Jurisdiction. Therefore, Docket 2015-D-006 is hereby dismissed.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD

Presiding: Joseph Casey, Norman Patenaude, Charla Stevens and David Goldstein



Joseph Casey, Chairman



Norman Patenaude, Vice-Chairman



Charla Stevens



David Goldstein

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