

State of New Hampshire



PERSONNEL APPEALS BOARD

25 Capitol Street
Concord, New Hampshire 03301
Telephone (603)271-3261

Anna-Maria Tremblay

Docket #2009-O-003

Board's Decision on Petitioner's Request for a Declaratory Ruling
Regarding the Correct Interpretation of Per 901.04 Regarding Leave Without Pay
October 8, 2008

By letter dated September 23, 2008, Anna Maria Tremblay requested that the Board issue a declaratory ruling regarding the correct interpretation of Per 901.04 of the NH Code of Administrative Rules.

Having carefully reviewed the pleadings and supporting documentation submitted by Ms. Tremblay in connection with her request, the Board found as follows:

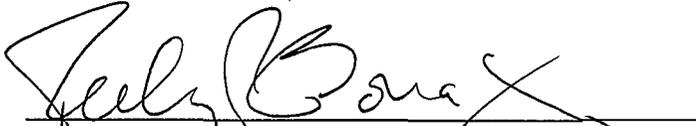
- I. Per-A 201.03 (a) of the Board's rules states, "(a) Any person may petition the board for a declaratory ruling on matters within the board's jurisdiction by filing an original and 3 copies of the petition in accordance with Per-A 204.02."
- II. Per-A 102.08 of the Board's rules defines "Declaratory ruling" as meaning, "...a decision by the board as to the specific applicability of any statutory provision or of any rule or order of the board in accordance with RSA 541-A:1, V."
- III. The relevant statutes, rules and legal authority cited in the petitioner's request for a declaratory ruling in this case are not matters within the Board's jurisdiction, but instead pertain to the Personnel Director's authority to adopt and interpret Rules under the authority of RSA 21-I:42.
- IV. RSA 21-I:46 authorizes the Board to "...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."
- V. The petitioner's request dated September 23, 2008, received by the Board on September 30, 2008, involves a decision of the appointing authority regarding the application of Per 901.04 of the NH

Code of Administrative Rules resulting in an adjustment of the employee's leave accrual date following her return from an approved, unpaid personal leave.

- VI. RSA 21-I:58 states, in pertinent part, "Any permanent employee who is affected by any application of the personnel rules, except for those rules enumerated in RSA 21-I:46, I and the application of rules in classification decisions appealable under RSA 21-I:57, may appeal to the personnel appeals board within 15 calendar days of the action giving rise to the appeal."

For all the reasons set forth above, the Board voted unanimously to allow the petitioner ten days in which to file an appeal in accordance with Per-A 206.01 of the Board's rules. The petitioner shall include information pertaining to the date of the action under appeal so that the Board may determine whether or not the appeal was timely filed in accordance with RSA 21-I:58 and Chapters Per-A 100-200 of the Board's rules. The petitioner shall ensure that the other party(s) to the appeal receive copies of any and all documents filed with the Board for their consideration. The petitioner's failure to properly file an appeal as specified above within ten calendar days of the date of this order will result in the appeal being dismissed.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD



Philip Bonafide, Vice Chairman



Robert Johnston, Commissioner

cc: Karen Hutchins, Director of Personnel, 25 Capitol St., Concord, NH 03301

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