

The absence that the Developmental disabilities Council has ever been established as "an agency" within the meaning of RSA 21-G, the Board finds that those persons who report to the Council as administrative staff are employees of the Department of Health and Human Services. As such, persons so employed were subject to the same rules and regulations as all other employees of the Department of Health and Human Services in matters related to lay-off and bumping. Therefore, the appeals of Thomas Pryor (90-L-5), Thomas Slayton (90-L-11), Nita Tomaszewski (90-L-6), David R. Ayotte (90-L-9), Rebecca Bukowski (90-L-10) and Elizabeth Donahue-Davis (90-L-12) are granted. Even if the board were to consider the Developmental Disabilities Council to be an agency administratively attached to the Department of Health and Human Services, the outcome would remain unchanged. RSA 21-G:10, I provides that "An agency administratively attached to a department shall: (a) Exercise its powers, duties, functions and responsibilities independently of the department without approval or control of the department, except as specifically provided by statute ..." Further, at paragraph III, RSA 21-G:10 states, "Unless otherwise provided by law, the administratively attached agency shall hire personnel in accordance with state personnel laws." The Board finds the Council's claim of violation of PL100-146 Sec. 122(b)(4)(D) to be without merit. In reviewing the evidence submitted, as well as the parties' Joint Partial Stipulation of Facts and the parties' Memoranda of Law, the Board finds nothing to support the Council's claim that the reassignment of classified staff would constitute a conflict of interest.

Denied. In its decision, the Board found that Governor Gregg's decision exempting the employees of the Developmental disabilities Council from bumping as a result of lay-offs in the Department of Health and Human Services was improper, and the appeals of Pryor, Slayton, Tomaszewski, Ayotte, Bukowski and Donahue-Davis were granted. Ms. Hunt argues that she may be one of the parties affected. Absent a reasonable representation that Ms. Hunt is a person "directly affected" by the Board's January 10, 1991 decision, Ms. Hunt appears to have no standing to appeal from such decision. Further, although Ms. Hunt's Request is timely filed, she has offered no grounds upon which a finding might be made that the January 10, 1991 decision was either unreasonable or unlawful.

5/17/91 Request for Clarification and Enforcement. The Board's findings in its order of January 10, 1991 were strictly limited to the Developmental Disabilities Council's relationship to the Department of Health and Human Services for the purposes of lay-off and bumping. The Board made no findings related to the individual position selections or assignments, and issued no order requiring any of the original bumping decisions to be implemented. By allowing the original appellant's to bump into positions in the Developmental disabilities Council if they so chose, the Department of Health and Human Services has complied with the board's original order. For the Board to respond by "clarifying" or ordering "enforcement" of any conditions not previously imposed would, for all practical purposes, constitute a reconsideration of the Board's January 10, 1991 order. Therefore, the Board must find that Ms. Bukowski's and Ms. Donahue-Davis' request for clarification of the Board's January 10, 1991 order is an untimely filed Motion for Reconsideration. The Board voted to deny the Motion, finding that it is untimely and fails to provide grounds upon which to argue that the Board's order of 1/10/91 was either unreasonable or unlawful.