

# State of New Hampshire



## PERSONNEL APPEALS BOARD

25 Capitol Street  
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Date: May 29, 2012

From:   
MaryAnn Steele, Executive Secretary  
Personnel Appeals Board

Subject: Appeal – Ronald Huppe, Docket # 2012-D-014

As noted in my email, the NH Personnel Appeals Board voted to grant the State's Motion to Dismiss for the above mentioned appeal. A copy of the motion signed by Chairman Wood is attached

STATE OF NEW HAMPSHIRE  
PERSONNEL APPEALS BOARD

Appeal of Ronald Huppe

Docket No. 2012-D-014

DEPARTMENT'S MOTION TO DISMISS

NOW COMES the Respondent, the State of New Hampshire, Department of Administrative Services ("Department"), by and through counsel, the Office of the Attorney General, and moves this Personnel Appeals Board (PAB or "Board") to dismiss the above-captioned appeal. In support thereof, the Department states:

1. There is no matter before this Board that is capable of being adjudicated. Mr. Huppe does not have standing to appeal the letter of warning issued on March 28, 2012 and the matter is moot.
2. On March 28, 2012, Ronald Huppe was issued his third written warning. Mr. Huppe had also received letters of warning for the same type of offenses and conduct on July 21, 2011 and February 8, 2012.
3. On April 4, 2012, the Department notified Mr. Huppe of its intent to dismiss him.
4. On April 6, 2012, the Department met with Mr. Huppe and his representative to discuss the reasons for its decision and to provide Mr. Huppe an opportunity to refute the evidence.
5. On April 10, 2012, Mr. Huppe appealed the Letter of Warning dated March 28, 2012 to this Board.
6. On April 12, 2012, the Department issued its Notice of Dismissal to Mr. Huppe.
7. Mr. Huppe did not appeal his dismissal.

8. Because Mr. Huppe is not a state employee and did not appeal his termination (the deadline for filing an appeal of his dismissal has passed), he does not have standing to challenge the letter of warning. The right to appeal a disciplinary action to the PAB and, indeed, the PAB's jurisdiction, extends only to permanent employees affected by the application of the personnel rules. RSA 21-I:58, I. Because Mr. Huppe did not appeal his termination, he is no longer a state employee and no longer has a right to seek reinstatement of his employee status. It necessarily follows that he has no standing to challenge a letter of warning that related only to his performance when he was an employee.

9. Moreover, the issue is moot. A letter of warning is the "least severe form of discipline used by an appointing authority in order to correct an employee's unsatisfactory work performance or conduct." *N.H. Admin. Rules*, Per 1002.04(a). Where a person is no longer an employee, a letter of warning can no longer constitute a disciplinary action. As such, Mr. Huppe's appeal is moot.

10. In sum, there is no justiciable issue before this Board.

WHEREFORE, the State of New Hampshire, Department of Administrative Services requests that this Board:

- A. Dismiss this appeal for being untimely; and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF  
ADMINISTRATIVE SERVICES

By its attorneys,

MICHAEL A. DELANEY  
ATTORNEY GENERAL

May 7, 2012

/s/ Rosemary Wiant  
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CERTIFICATION

I hereby certify that a copy of the foregoing Response to Allegations and Motion to Dismiss has been served via email this 7th day of May 2012 to Ronald Huppe, Jr., appellant, at ron.huppe@valley.net.

/s/ Rosemary Wiant  
Rosemary Wiant

*Motion Granted*

*23 May 2012*

*Salvatore J. Amodeo*