

# State of New Hampshire

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## PERSONNEL APPEALS BOARD

State House Annex

Concord, New Hampshire 03301

Telephone (603)271-3261

### Appeals of:

Sheila Heath (Docket #90-P-7)  
Charles Dyer (Docket #90-P-8)  
Joanne Slawski (Docket #90-P-9)

Department of Environmental Services

July 18, 1991

The New Hampshire Personnel Appeals Board (McNicholas, Bennett and Rule) met Wednesday, June 5, 1991, to consider the appeals of Sheila Heath, Charles Dyer and Joanne Slawski concerning their non-selection to the position of Laboratory Scientist V on April 5, 1990. The appeals were received by the Board on April 12, 1990. In each case the appellant requested that the Board, pursuant to Per-A 202.04(a)(1), decide the matter without evidentiary hearing.

The appellants argued that there are currently employees classified as Laboratory Scientist V who do not hold Masters Degrees. They argued that if such employees can be upgraded to Laboratory Scientist V, then similarly qualified employees who do not hold a Masters Degree should be eligible for promotion to that class.

The Department of Environmental Services, by letter dated April 16, 1990, objected to the Board hearing these appeals, arguing that the appeals should be deemed invalid. In that letter, Human Resource Coordinator John Roller stated, "According to the job specification, this position requires a masters degree with no equivalency." They were not considered for promotion because they did not possess the Master's Degree required by the class specification for the position of Laboratory Scientist V.

By letter dated April 30, 1990, SEA Field Representative Margo Hurley reiterated the appellants' position, that they were barred from promotion for failure to meet the minimum qualifications, while other employees with similar educational qualifications occupied positions classified as Laboratory Scientist V.

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The Board voted to grant the appellants' request for disposition without evidentiary hearing, finding that there are no material facts in dispute. The appellants each applied for promotion to Laboratory Scientist V. None of the appellants possessed the required Masters Degree. Each of the appellants was denied certification for such promotion based on failure to meet the minimum educational qualifications. The only issue in dispute is whether or not Department of Environmental Services should have provided the appellants an opportunity for promotion by allowing them to substitute relevant experience for the required education when the job specification makes no such provision for an equivalency.

John Roller, in his April 16, 1990 letter to the Board, stated, "According to the job specification, this position requires a masters degree with no equivalency. All three applicants were not certified because they did not have a masters degree. I can only certify based on what's in the job specification and can't arbitrarily allow equivalencies."

The Board agrees. The Department of Environmental Services was correct in refusing to certify the appellant's as meeting the minimum qualifications based upon an equivalency in education and experience where none is allowed by the class specification. Sole authority for determining which classes of positions may substitute experience for education is vested in the Director of Personnel [See Per 303.02 (d)]. The Department of Environmental Services would have acted in violation of the Rules of the Division of Personnel if it had certified that the appellants met the minimum qualifications for this class by virtue of an education/experience equivalency where no such equivalency is approved by the Director.

The appellants asked the Board to find that strict adherence to the minimum educational qualifications, without any equivalency for experience, is an artificial barrier to employment. The Board found no evidence to support such a conclusion. (See: Appeal of Mary Maggioncalda, PAB Docket #90-0-28, #90-0-26, September 17, 1990; Appeal of Robert Field, PAB Docket #90-0-6, May 24, 1991; Appeal of Child Protective Service Workers III, PAB Docket #89-C-34, December 6, 1990). Therefore, the appellants' request is denied, and the Board again finds that the Department of Environmental Services correctly denied them promotion on the basis of their failing to satisfy the minimum entrance qualifications for the class Laboratory Scientist V.

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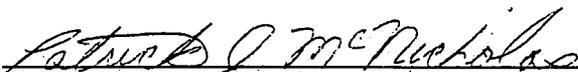
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Accordingly, the appeals of Sheila Heath, Charles Dyer and Joanne Slawski are denied.

THE PERSONNEL APPEALS BOARD

  
Patrick J. McNicholas, Chairman

  
Mark J. Bennett

  
Lisa A. Rule

cc: Virginia A. Vogel, Director of Personnel  
Margo Hurley, SEA Field Representative  
John Roller, Human Resource Coordinator, Dept. of Environmental Services  
Civil Bureau - Office of the Attorney General