

State of New Hampshire

PERSONNEL APPEALS BOARD
Edward J. Haseltine, Chairman
Gerald Allard
Loretta Platt



EXECUTIVE SECRETARY
Mary Ann Steele

PERSONNEL APPEALS BOARD
State House Annex
Concord, New Hampshire 03301
Telephone (603) 271-3261

APPEAL OF THEODORE PASHAINICK

August 2, 1988

The Promotional Appeals Tribunal has reviewed the materials submitted by the parties in the above - captioned matter. Some of those materials appear to identify Laconia State School residents by name. Because the records of Appeals established by the Tribunal are generally available for public inspection, unless specifically closed by protective order, the Tribunal hereby orders that the parties review the materials and if necessary submit within 15 days of the date of this order, with such identifying information deleted or "whited out."

FOR THE PERSONNEL APPEALS BOARD

A handwritten signature in cursive script that reads "Mary Ann Steele".

MARY ANN STEELE
Executive Secretary

Lisa Currier
Human Resources Coordinator

Richard Crocker, Superintendent
Laconia State School

Virginia A. Vogel
Director of Personnel

State of New Hampshire

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APPEAL OF THEODORE PASHAINICK

October 10, 1988

On June 13, 1988, the Promotional Appeals Tribunal, consisting of Chairman Loretta S. Platt, Shelia Marr, Human Resource Specialist (Division of Personnel), and Joan Day, Human Resource Coordinator (Department of Employment Security) heard the Appeal of Theodore Pashainick. Mr. Pashainick was appealing his non-selection to the position of Senior Psychiatric Social Worker at Laconia Developmental Services (formerly Laconia State School). Mr. Pashainick was represented by Attorney Andru Volinsky. Lisa Currier, Human Resource Coordinator at Laconia Developmental Services, represented that agency.

Mr. Pashainick contended that contrary to the allegations contained in his supervisor's letter of January 22, 1988, he had both supervisory experience and substantial communication skills. He further argued that his non-selection to the position was a ruse to effect his lay-off.

Upon review of the evidence presented, the Tribunal made the following findings of fact and rulings of law. In January, 1988, the Laconia State School posted the position of Senior Psychiatric Social Worker. Two applications were received; both candidates were certified as qualified for the position for the position. The selection for the position was made by the department head based on the supervisory experience and communication skills possessed by the applicants.

The successful applicant had worked in other social service agencies where she supervised individuals. Mr. Pashainick contended that his experience in training a blind social worker and his temporary coverage during his supervisor's absence in a past position provided comparable experience.

Mr. Pashainick also disagreed with his supervisor's assessment of his communication skills. The Board found that Mr. Pashainick had been counselled by his supervisor in the past for spending too much time on case notes and not enough time in interaction with staff and residents. His former supervisor described him as erudite and noted that the staff level of education was tenth or eleventh grade. His present supervisor indicated that Mr. Pashainick had trouble communicating with all levels of staff. He was also concerned about the appellant's interaction with guardians.

Given his limited supervisory experience and the concerns about his communication skills which the administration had previously discussed with him, the Board concluded that no violation of the rules of the Division of Personnel had occurred. The Board noted that both candidates were qualified

Appeal of Theodore Pashainick
October 10, 1988

page 2

and that the agency was given substantial discretion in selecting from qualified candidates the best individual to fill the a position. See Per 302.03. Although Mr. Pashainick contended that at the time of the promotion, the administration thought that one of the position incumbents might be laid off and therefore used the promotion to protect the successful applicant from lay-off¹, the Board did not find that the evidence supported such a finding. The administration had a position to fiil and selected that individual whom they felt best qualified to assume the responsibilities of that position.

Based on the foregoing, the Board voted to deny the appeal.

¹ Lay-offs are done on the basis of seniority, while seniority is but one of several factors to be considered in promotions.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE
Executive Secretary

cc: Andru H. Volinsky
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Laconia Developmental Services

Virginia A. Vogel, Director
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