



The State Employees' Association of New Hampshire, Inc.

Service Employees International Union, Local 1984

CTW, CLC

June 17, 2010

Ms. Mary Ann Steele
Executive Secretary
NH PERSONNEL APPEALS BOARD
State House Annex
25 Capitol Street
Concord, NH 03301

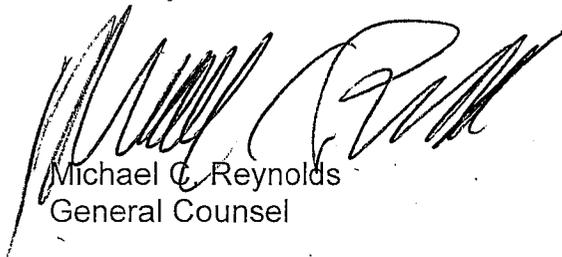
RE: Appeal of Collette Guimond - #2010-T-033

Dear Ms. Steele:

Based upon the parties' settlement of this matter, and the Board's adoption of said settlement as an Order of the Board, on behalf of Ms. Guimond, I hereby withdraw, with prejudice, the termination appeal filed on July 27, 2009, Docket #2010-T-033.

Thank you for your attention to this matter.

Sincerely,



Michael C. Reynolds
General Counsel

MCR/ba

cc: Collette Guimond
Lynne Mitchell, Esq., NH DHHS



Nicholas A. Toumpas
Acting Commissioner

Mary P. Castelli
Senior Division Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF OPERATIONS SUPPORT

BUREAU OF LEGAL SERVICES

129 PLEASANT STREET, CONCORD, NH 03301-3867
603-271-4699 1-800-852-3345 Ext. 4699
FAX: 603-271-5590 TDD Access: 1-800-735-2964

AGREEMENT, WAIVER, AND RELEASE

This Agreement, Waiver, and Release (the "*Release*") is made and entered into by *Collette Guimond* (hereinafter "*Guimond*") and the New Hampshire Department of Health and Human Services, State of New Hampshire ("*State*"). In order to amicably conclude the personnel appeals board action, docket #2010-T-003, between *Guimond* and the *State*, *Guimond* and the *State* agree as follows:

1. General Release: In consideration of the *State's* right to proceed against *Guimond's* appeal to the Personnel Appeals Board for her July 13, 2009 removal for non-disciplinary reasons from her position as a Registered Nurse II, for allegedly being of such physical condition that she was no longer able to perform the essential functions of her position, and the mutual promises, covenants, agreements, and representation contained herein, *Guimond*, on behalf of herself, her representatives, heirs and assigns, fully releases the *State*, its officers, administrators, agents, and employees, from all claims, causes of action, suits and demands, including claims for damages, wages, attorney's fees, and any other form of relief available at law or in equity, which *Guimond* has or may have arising out of her employment with the *State* up to the execution of this Agreement. Without limiting the generality of the foregoing, this release includes all matters arising out of or in connection with *Guimond's* employment and separation from employment with the *State*, including, but not limited to, claims set forth in PAB docket #2010-T-003, any rights or claims alleging violation of Title VII of the Civil Rights Act, the Equal Pay Act of 1963, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act, New Hampshire RSA Chapter 354-A, New Hampshire personnel rules, any claims of constructive discharge, wrongful termination, intentional or negligent infliction of emotional distress, defamation and breach of contract.

2. Release of Appeal Rights. *Guimond* acknowledges that pursuant to this agreement, she waives any and all appeal rights under the personnel rules and/or the statutes for classified *State* employees, and expressly agrees that she waives any and all rights of appeal she has or may have pursuant to the personnel rules and/or RSA 21-I:58. See PER 1002.08(g) (effective October 2006).

3. Consideration:

Guimond's status between July 13, 2009 and June 18, 2010, shall be "leave without pay." *Guimond* shall be considered a continuing employee and will be treated in all respects as if she had taken a voluntary, approved leave of absence without pay from July 13, 2009 until her return to work pursuant to this Agreement. *Guimond* acknowledges that she is not entitled to any further financial payment or reimbursement from the *State* upon her reinstatement.

The parties agree that this Agreement and the rights and obligations hereunder shall constitute the consideration for this Agreement.

4. Employment: *Guimond* shall report for duty on June 18, 2010, at New Hampshire Hospital, 36 Clinton Street, Concord, NH at 6:45am and resume her position as a day-shift Registered Nurse II assigned, at this time, to "J" unit, position # 30834. The *State* shall therefore void the July 13, 2009 removal for non-disciplinary reasons letter issued to *Guimond*. The *Removal* letter and all material concerning the investigation or this appeal shall be removed from the official personnel files of *Guimond* and will not be considered part of the personnel file. These documents shall be kept separately under seal. The Department shall ensure that the appropriate paperwork is immediately sent to the New Hampshire Division of Personnel, and to the department's files, to ensure that the July 13, 2009 separation from employment is voided and that the period of time from July 13, 2009 until *Guimond's* return to work pursuant this Agreement is factually and legally considered a leave of absence without pay.

NHH will provide training as may be necessary for any duties Guimond is required to perform.

5. No Admission: The parties agree that any consideration given or paid with respect to this *Release* is in compromise of disputed claims and that the giving or payment of consideration in exchange for the general release of claims is not, and is not to be construed as, an admission of liability or wrongdoing on the part of either party.

6. Voluntary Waiver: *Guimond* hereby acknowledges that she has read and understands the foregoing *Release* and that she signs it voluntarily and

without coercion. *Guimond* acknowledges that she has had the opportunity to review the foregoing *Release* with her attorney.

7. Integration Clause, Amendment, and Governing Law: This *Release* contains the entire understanding among the parties. There are no other representations, agreements or understandings, contingencies or requirements, oral or written, between and among the parties relating to the subject matter of this *Release*. No amendment of this *Release* shall be valid or effective unless made in writing and executed by the parties hereto subsequent to the date of this *Release*. This *Release* shall be enforced in accordance with the laws of the State of New Hampshire, and the parties agree that any litigation to enforce the provisions of this *Release* will take place in New Hampshire. In the event of litigation regarding this *Release*, the parties expressly submit to the jurisdiction of the state courts located in New Hampshire. If any provision of this Agreement is held to be unenforceable by the New Hampshire Courts, such provision shall be considered separate, distinct, and severable from the other remaining provisions of this Agreement, and shall not affect the validity or enforceability of such other remaining provision; and in all other aspects, this Agreement shall remain in full force and effect; unless such unenforceable provision is a material part of this agreement, in which case either party may void this agreement. If any provision of this Agreement is held to be unenforceable as written but may be made to be enforceable by limitation thereof, then such provision shall be enforceable to the maximum extent permitted by applicable law. The language of all parts of this *Release* shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties.

8. The parties shall request that the Personnel Appeals Board accept this Agreement as an order of the Board, but this paragraph shall not affect the enforceability of this Agreement.

Date: 6/10/10

Collette W. Guimond
Collette Guimond, RN

Date: 6/10/10

Michael Reynolds
Michael Reynolds
Attorney for Collette Guimond

Date: 6/10/10

Paula Mattis
Paula Mattis,
Acting Chief Executive Officer for NHH

Date: 6/10/10

Lynne S. Mitchell
Lynne S. Mitchell, Attorney for DHHS

DM
affect the enforceability of this Agreement.
ME/CB