

NEW HAMPSHIRE PERSONNEL APPEALS BOARD

FREQUENTLY ASKED QUESTIONS

What is a personnel appeal?

A personnel appeal is the formal process employees can use to challenge various personnel actions, including written warnings, disciplinary demotions and suspensions, involuntary transfers, non-selection decisions, involuntary separations from service, and classification decisions issued by the Director of Personnel. An employee who properly files an appeal is entitled to a hearing in front of the Personnel Appeals Board. [Section 21-I:46 Powers and Duties of Board.](#)

When can I file an appeal?

If you have been dismissed, demoted, suspended or involuntarily transferred, or if you have been “affected” by an application of the Personnel Rules, you can file an appeal within fifteen (15) calendar days of that action. By law, appeals must be received by the Board by the close of business on the fifteenth calendar day from the date of the action being appealed. In other words, if you received a written warning or you were dismissed from service on March 1st, the Appeals Board would have to receive your appeal by March 16th, otherwise it would be dismissed as untimely. [Section 21-I:58 Appeals.](#) If the fifteenth calendar day falls on a Saturday, a Sunday or a legal holiday, the Appeals Board will accept the appeal up to the close of business on the next regular business day.

If employees are dissatisfied with a classification decision, they have 15 calendar days from the date of the Director’s decision to file an appeal. [Section 21-I:57 Allocation Review.](#) Again, if the fifteenth calendar day falls on a Saturday, a Sunday or a legal holiday, the Appeals Board will accept the appeal up to the close of business on the next regular business day.

What if my agency says that it’s willing to waive the fifteen day deadline?

The deadline for filing an appeal is imposed by State law. Neither the agency nor the Appeals Board can extend that deadline. Untimely appeals must be dismissed.

Where can I file my appeal?

Appeals can be filed with the Executive Secretary to the Board by addressing the appeal as follows:

NH Personnel Appeals Board
State House Annex, Room 12
25 Capitol Street
Concord, NH 03301

Do I have to have a lawyer if I want to file an appeal?

No. Although many employees feel more comfortable with a legal representative, any employee can appeal without representation, or may choose to be represented in an

appeal by a union steward, a union staff person, or someone else the employee trusts to represent the employee.

What kind of forms do I need to use to file an appeal?

There are no particular forms required, although employees wishing to file an appeal must file their appeal in writing, and must comply with the New Hampshire Personnel Appeals Board's procedural rules. [Personnel Appeals Board, State of New Hampshire](http://admin.state.nh.us/hr/pab/forms.html). Forms for filing an appeal, as well as a Notice of Appearance if you are to be represented by someone else can be found at <http://admin.state.nh.us/hr/pab/forms.html>.

What information do I have to include in my appeal?

According to the Personnel Appeals Board's rules, if you wish to file an appeal, you have to include the following information.

1. Provide your name, address and telephone number. Include email addresses and fax numbers if possible. Should your contact information change, it is your responsibility to notify the Personnel Appeals Board and any other parties to the appeal, including your agency, of the change.
2. If someone else is representing you, provide the name, address and telephone number, fax number and email address of the person representing you. If you should change representatives, it is your responsibility to notify the Board and any other parties to the appeal, including your agency.
3. Who made the decision you are appealing? You must provide that person's name and address. You should also provide the phone number, email address and fax number if known.
4. Attach a copy of the letter, decision or order that you are appealing.
5. Give the date of the action you are appealing.
6. Provide a statement listing the personnel rule(s) that you think were applied incorrectly.
7. List the specific reason(s) that you believe the action that you have appealed was inappropriate.
8. Provide a detailed statement of facts supporting your claim that the action taken was inappropriate;
9. Include a signed statement attesting to the truthfulness of any statement(s) or representation(s) that have been made in conjunction with the appeal.
10. Include a signed statement certifying that you have provided a complete copy of the appeal (including any additional document or attachments) to your agency's human resources administrator or human resources representative, along with information about how your appeal was delivered to that person .

Make sure that you give the Personnel Appeals Board an original and five copies (six copies total) of anything you submit to them, and be sure to provide your agency with a complete set of any documents you file with the Board.

How long will it take before I'm scheduled for a hearing?

That depends on a number of factors. The Appeals Board always tries to give scheduling priority to those cases that involve an immediate loss of compensation,

including terminations, unpaid disciplinary suspensions and disciplinary demotions. The Board also tries to schedule promotional appeals as quickly as possible. However, it is sometimes difficult to arrange a speedy hearing because one or more of the people involved may not be readily available, or the employee and employer may have unresolved issues about exchanging information or documents before scheduling a hearing.

At the very least, the law requires the Board to provide at least fourteen days notice before any scheduled hearing, but it may take several months before anything can be scheduled because of the number of appeals already scheduled for hearing.

How often does the Appeals Board hear cases?

The law requires the Board to meet at least once each month as long as there is any appeal pending. Generally, the Board meets as often as once a week.

Who makes up the Personnel Appeals Board?

The Board consists of three regular members and two alternate members. Either the Chairman or Vice-Chairman must be a trained attorney. Members may not be State employees and may not hold, or be a candidate for, a remunerative, elective public office. The members are appointed by the Governor with the consent of the Executive Council, and they serve terms of three years each. [Section 21-I:45 Composition of Board; Compensation; Removal.](#)

What kind of relief can the Appeals Board provide?

The Personnel Appeals Board has broad authority to reverse, amend or modify any decision of an appointing authority or the Director of Personnel. If an employee is terminated from employment, and if the Board finds that the termination violated the law or violated a Rule of the Division of Personnel, the law requires the employee to be reinstated without loss of seniority, status or pay. [Section 21-I:58 Appeals.](#)

Where are hearings held?

The Personnel Appeals Board usually holds its hearings in the State House Annex, Room 411, 25 Capitol Street, Concord, NH.

Are hearings open to the public?

Hearings are open to the public. In most cases, documents that a person files as an attachment to an original appeal, or as evidence in an appeal, become public records. As such, agencies and employees filing appeals need to be careful about releasing any documents that they would not want published and available to the general public

What if I change my mind and decide that I don't want a hearing after I have filed an appeal?

At any point before the Personnel Appeals Board issues a final decision, an employee can decide to withdraw his or her appeal, or the employee may be able to reach a settlement agreement with the agency that meets the employee's and the agency's

needs to resolve the case. If a case is settled, it is the employee's, or the employee's representative's, responsibility to notify the Board of the settlement and withdraw the appeal. Otherwise, the Board may dismiss the appeal "with prejudice."

Can I get copies of decisions that the Appeals Board has issued?

Copies of decisions can be obtained by contacting the Personnel Appeals Board during regular business hours. As permitted by RSA 91-A, the Board charges reasonable fees for providing copies of decisions. That rate is currently \$.20 per page.

What if I am not satisfied with the result of the appeal?

New Hampshire State law provides for an appeal to the NH Supreme Court if either party to an appeal is dissatisfied with the Board's decision. Although Supreme Court appeals are not common, it is not unusual for either party to file a Supreme Court appeal.

Isn't an appeal the same thing as a grievance?

No. The appeals process involves an application of the Rules of the Division of Personnel that affects an employee's status as an employee. Grievances are part of the process of resolving disputes involving the interpretation or application of the Collective Bargaining Agreement or contract. For more information on filing grievances, employees should refer to their respective Collective Bargaining Agreements. [Collective Bargaining Agreements, State of New Hampshire Human Resources](#)

What if I would prefer to file a grievance instead of an appeal?

Grievances are limited to the terms and conditions set forth in the various contracts (Collective Bargaining Agreements). Those agreements generally do not include provisions related to job performance, workplace conduct or discipline. As a result, grievances can not be substituted for an appeal for those issues involving an application of the personnel rules.

I got an unsatisfactory performance evaluation. Can I appeal that?

No. The law specifically excludes performance evaluations from the appeals process. However, if an employee is disciplined or suffers some other adverse action as a result of receiving a poor evaluation, the evaluation itself can be used as evidence in an appeal proceeding.

I received a counseling letter or memo. Can I file an appeal or a grievance?

There is no provision in any of the Collective Bargaining Agreements addressing counseling memos. As such, they are not a valid subject for a grievance.

Similarly, counseling memos are considered part of the performance management/performance evaluation process. Since performance evaluations may not be the sole basis for an appeal, and counseling memos are not disciplinary in nature, they are not valid subjects for appeal.

Where can I get additional information about the appeals process?

You can review the complete Rules of the Personnel Appeals Board on-line by visiting <http://www.gencourt.state.nh.us/rules/per-a.html>