

# State of New Hampshire



## PERSONNEL APPEALS BOARD

25 Capitol Street  
Concord, New Hampshire 03301  
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### APPEAL OF PAUL CALS

Docket #93-O-4

August 17, 1993

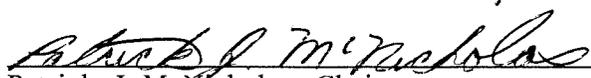
The New Hampshire Personnel Appeals Board is in receipt of Ms. Hurley's July 12, 1993 request for reconsideration of the Board's June 23, 1993 decision dismissing Mr. Cals appeal of a performance evaluation received by him after he had received a letter of warning. The Board dismissed the matter, citing RSA 21-I:46, which precludes the Board from hearing appeals involving performance evaluations, except that "...an employee who is disciplined or has other adverse action taken against him as a result of an evaluation may appeal that action." Ms. Hurley then defined the "adverse action" as follows:

"Mr. Cals has been 'disciplined' or has had other adverse action taken against him as a result of an evaluation. The Appointing Authority will use the allegations in the new retaliatory evaluation to deny Mr. Cals' appeal of the letter of warning dated November 5, 1992...."

The alleged adverse action cited by Ms. Hurley is described by her as something she expects to occur, not something which has occurred. The possibility that the evaluation will result in discipline or other adverse action does not qualify as an action subject to appeal under the provisions of RSA 21-I:46 or 58. The letter of warning to which Ms. Hurley refers has already been appealed to this Board (Docket #93-D-18). If the evaluation is a factor in that appeal, Ms. Hurley will have an opportunity to address that issue when the letter of warning appeal is heard.

Inasmuch as the appellant has failed to offer any compelling reason why the Board's June 23, 1993 decision should be considered unreasonable or unlawful, the Motion for Reconsideration is hereby denied.

THE PERSONNEL APPEALS BOARD

  
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Patrick J. McNicholas, Chairman

  
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Mark J. Bennett, Commissioner

  
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Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel  
Margo Hurley, SEA Field Representative  
Charles H. Bradley, III, Esq., Department of Employment Security  
Joan Day, Human Resources Administrator, Department of Employment Security