

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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

### Appeal of Occupational Therapists Motion for Reconsideration

*Handwritten:* , 4/10/89

At its meeting of February 22, 1989, the Personnel Appeals Board, Commissioners McNicholas and Cushman sitting, reviewed the reconsideration request filed by SEA Field Representative Ann Spear on behalf of employees in the Occupational Therapy unit at Laconia Developmental Services (formerly Laconia State School).

Upon consideration of the motion filed and the record before it, the Board voted unanimously to deny the request that Occupational Therapists be compensated at a higher rate of pay for the period of March 29, 1984 to the beginning of the pay period following June 23, 1987. The appellants failed to provide evidence or argurnents to support such a decision.

The Board voted to affirm its original findings that the Occupational Therapy employees at Laconia Developmental Services were not part of the reclassification request filed by New Hampshire Hospital; there was no material submitted to the Director of Personnel by the appointing authority or the employees at Laconia at the time of the O.T. review at New Hampshire Hospital to document that the work performed by employees at Laconia Developmental Services had materially changed, and therefore there was no justification to reclassify or upgrade those positions effective March 29, 1984.

The request to compensate Occupational Therapy employees at Laconia Developmental Services at a higher rate of pay effective March 29, 1984 through the beginning of the first pay period following June 23, 1987, is therefore denied.

Dated: March 15, 1989

*Patrick J. McNicholas*  
Patrick J. McNicholas, Chairman

*George C. Cushman, Jr.*  
George C. Cushman, Jr., Commissioner

APPEAL OF OCCUPATIONAL THERAPISTS - Laconia Developmental Services  
Request for Reconsideration  
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cc: Virginia A Vogel  
Director of Personnel

Ann Spear  
SEA Field Representative

March 15, 1989

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### APPEAL OF HARLOW, BARKER, HANSEN AND WHEELER OCCUPATIONAL THERAPISTS Laconia Developmental Services

December 28, 1988

On Tuesday, December 13, 1988, the New Hampshire Personnel Appeals Board, Commissioners Brickett, Cushman and Platt sitting, heard the retroactive pay appeal of Occupational Therapists from Laconia Developmental Services. The appellants were represented at the hearing by SEA Field Representative Ann Spear. Assistant Attorney General Daniel J. Mullen and Personnel Director Virginia Vogel appeared on behalf of the State.

The above-named employees of Laconia Developmental Services (formerly Laconia State School) originally filed their appeal before the Board by letter dated November 25, 1987, from SEA Representative Spear. In that request, the appellants argued that they should be compensated retroactive to March 29, 1984 for work performed as Occupational Therapists as had positions in that classification at New Hampshire Hospital. The appellants argued that, "if those employees at one State institution holding a particular job title were made whole from being improperly compensated for their duties since March 29, 1984, then those employees holding the same job title and performing the same duties at another State institution should be made equally whole."

In her September 22, 1988 response to the Board's Order of June 14, 1988, Personnel Director Vogel requested that the appeal of Harlow, Barker, Hansen and Wheeler be denied. In support of that request, the Director argued that New Hampshire Hospital had requested review of Occupational Therapy positions in March of 1984. Initially, the upgrading request was denied by the former Director of Personnel. The incumbents at New Hampshire Hospital appealed that decision to the Personnel Appeals Board. Prior to hearing the matter, the Board received notification that the appeal had been withdrawn.

Based upon the information provided at the hearing, the Board voted unanimously to deny the request for retroactive compensation for the above-named appellants. In reaching this decision, the Board found that the emergency upgrading request for Occupational Therapists throughout state service to which the appellants referred was an entirely separate matter from the New Hampshire Hospital request for reclassification of Occupational Therapy positions at that institution.

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Correspondence between Occupational Therapy incumbents at Laconia State School (now Laconia Developmental Services) and other employees of that institution are irrelevant to the issue of whether or not a position reclassification request for Occupational Therapy positions at Laconia was pending in the Division of Personnel on the date the decision was made to reallocate O.T. positions at New Hampshire Hospital. The Board found no evidence that a request had been made by or on behalf of the Occupational Therapists at Laconia Developmental Services to request review of their positions.

On June 19, 1987, Personnel Director Virginia A. Vogel notified Jack E. Melton, Superintendent at New Hampshire Hospital, that Occupational Therapy positions at that institution would be reclassified effective March 29, 1984, the date of former Superintendent Townsend's request for review of those positions was received by the Director of Personnel. That request does not refer to positions at Laconia, nor is there any indication that a copy of that correspondence was forwarded to Laconia Developmental Services.

Based upon the foregoing, the Board voted unanimously to deny the appeal of Occupational Therapists at Laconia Developmental Services for award of additional compensation retroactive to March, 1984. Further, the Board voted to adopt Assistant Attorney General Mullen's request for findings of fact and rulings of law submitted on behalf of the Division of Personnel.

FOR THE PERSONNEL APPEALS BOARD



MARY ANN STEELE  
Executive Secretary

cc: Virginia A. Vogel, Director of Personnel  
Ann Spear, SEA Field Representative  
Lisa Carrier, Human Resource Coordinator, LDS