

# State of New Hampshire



## PERSONNEL APPEALS BOARD

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

### APPEAL OF CLAYTON LONGVER, RICHARD TULLY, GEOFFREY KRISTL Docket #89-0-9

August 18, 1989

On May 4, 1989, SEA Field Representative Stephen J. McCormack filed, on behalf of the above-named employees of the Department of Corrections, an appeal concerning denial of retroactive compensation as outlined in the Director of Personnel's April 20, 1989 letter to SEA Representative McCormack. (SEA Attachment)

On May 8, 1989, Personnel Director Virginia A. Vogel responded to the Board asking, "As there are no material facts in dispute, the Division of Personnel respectfully requests that the Board consider the merits of the case as presented by the appellants in documents submitted by their representative and, pursuant to the provisions of Per-A 202.04(a)(1), decide the appeal without an evidentiary hearing."

At its meeting of June 28, 1989, the Personnel Appeals Board (Commissioners McNicholas and Scott) reviewed the following documents filed by Appellants in support of their request:

1. April 20, 1989 letter from Personnel Director Vogel to SEA Representative McCormack;
2. March 30, 1989 letter with attachments (see below) from Representative McCormack to Personnel Director Vogel;

Attachment 1: March 2, 1989 letter from Commissioner Powell to Director Vogel

Attachment 2: March 27, 1989 memo from Richard A. Greenwood to Warden Michael Cunningham re: VT Instructor Upgrades

Attachment 3: April 30, 1986 letter from Clayton Longver to former Personnel Director Judy Bastian

Attachment 4: March 23, 1987 letter from Edward J. McCann to Commissioner Ronald Powell

Finding that there were no material facts in dispute, the Board voted to grant the request for disposition without evidentiary hearing, reviewing the case on the basis of the documents filed by Appellants and the Division of Personnel. The Board voted to deny the appeal. In so doing, the Board found the following:

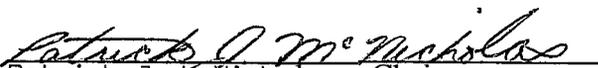
Mr. Longver's letter of April 30, 1986 to the former Personnel Director for possible upgrading did not satisfy the requirements of RSA 21-1:54 (Effective March 27, 1986) for filing a "completed request for reclassification or reallocation." There is no evidence of a completed request for reclassification being filed by Appellants or the Department of Corrections subsequent to Longver's letter of April 30, 1986.

The Board believes Mr. McCormack's contention that the incumbents were never instructed to complete classification questionnaires (March 30, 1989 letter to Vogel, page 2, ¶3) argues semantics rather than substance. Appellants essentially admit that they never completed or submitted a request for reclassification, despite the Division of Personnel's notification to both Commissioner Powell and Mr. Longver that classification questionnaires should be completed and submitted. "After your staff has completed its review and you have determined the appropriate organizational structure to be used in the education area, the incumbents of the positions should complete Position Classification Questionnaires for the review of this Division before a final decision is made. ... Would you please let this Division know in writing as to how you plan to resolve the Vocational Technical Instructor problem at the State Prison Complex." (See March 23, 1987 letter from Edward McCann to Ronald Powell, p. 2)

As in the appeal of Harlow, Barker, Hansen and Wheeler, the Board finds that absent a completed request for reclassification, neither the Director of Personnel nor the Personnel Appeals Board has the authority to award retroactive compensation without proof of a pending, completed request for reclassification.

Based upon the foregoing, the Board voted unanimously to deny the appeal.

FOR THE PERSONNEL APPEALS BOARD

  
Patrick J. McNicholas, Chairman

cc: Stephen J. McCormack, SEA Field Representative  
Virginia A. Vogel, Director of Personnel  
Ronald L. Powell, Corrections Commissioner

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### APPEAL OF CLAYTON LONGVER, RICHARD TULLY and GEOFFREY KRISTL Response to Request for Reconsideration Docket #89-0-9

By letter dated August 21, 1989, SEA Field Representative Stephen J. McCormack filed with the Board a request for reconsideration of the Board's August 18th decision in the retroactive pay appeal of Clayton Longver, Richard Tully, and Geoffrey Kristl, academic employees of the Department of Corrections. In that request, Appellants reiterate their original argument that they did not complete classification questionnaires, having "relied on proper guidance from both the Division of Personnel and the Department of Corrections." Appellants again argued that "...the Division of Personnel, State of New Hampshire, did not inform them of an alleged absolute requirement (completion of Position Classification Questionnaires)."

Appellants have provided no substantive argument to persuade the Board that its decision of August 18, 1989 is unreasonable or unlawful. Whether or not Appellants understood that they were required to complete classification questionnaires has no bearing upon the legal requirement for compliance with the provisions of RSA 21-I, 42 and 21-I:54, Chapter 12, Laws of 1986.

The Board voted unanimously to affirm its decision of August 18, 1989, denying the requested reconsideration.

THE PERSONNEL APPEALS BOARD

  
Patrick J. McNicholas, Chairman

George R. Cushman, Jr.



Mark J. Bennett, Esq., Alternate

DATED: November 15, 1989

cc: Stephen J. McCormack, SEA Field Representative  
Commissioner Ronald Powell, Department of Corrections  
Virginia A. Vogel, Director of Personnel