

# State of New Hampshire



**PERSONNEL APPEALS BOARD**  
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## **Appeal of Cecilia Stone - Docket # 2011-O-004**

### **NH Department of Corrections**

September 30, 2011

The New Hampshire Personnel Appeals Board (Wood, Johnson and Bonafide) met in public session on Wednesday, September 7, 2011, under the authority of RSA 21-I:58, and Chapters Per-A 100-200 of the NH Code of Administrative Rules, to hear the appeal of Cecilia Stone, an employee of the New Hampshire Department of Corrections. Ms. Stone, who was represented at the hearing by Attorney Kevin Buck, was appealing the department's January 25, 2011, decision not to certify her application as meeting the minimum qualifications for consideration as a Corrections Counselor/Case Manager. Lisa Currier, Human Resources Administrator, appeared on behalf of the Department of Corrections. This appeal was originally scheduled for hearing on August 24, 2011, but because of a change in representation, the Appellant was not prepared to go forward on that date and moved to postpone the hearing. The Board granted that motion and rescheduled the appeal hearing for September 7, 2011.

The hearing in this matter was conducted on offers of proof by the parties. The record of the hearing includes Ms. Stone's original notice of appeal, notices and orders issued by the Board, the audio tape recording of the hearing on the merits of the appeal, Ms. Currier's written offers of proof submitted on behalf of the Department of Corrections, and documents admitted into evidence without objection as follows:

#### State's Exhibits:

- 1a Position Vacancy Announcement – January 4, 2011, Corrections Counselor/Case Manager
- 1b Supplemental Job Description – Corrections Counselor/Case Manager, Correctional Line Unit CC/CM
- 1c-d Class Specification – Correctional Counselor/Case Manager
- 2a-d Cecilia Stone's Application for Employment dated 1/9/11
- 2e-f Cecilia Stone's résumé
- 2g-i Cecilia Stone's transcripts from Hesser College
- 2j Cecilia Stone's January 9, 2011, cover letter to Lisa Currier
- 3 January 25, 2011 letter from Lisa Currier to Cecilia Stone denying certification
- 4a-b Supplemental Job Description for "Corrections Officer"
- 5a-b Class Specification for Corrections Officer

The Appellant offered no additional documents.

After considering the parties' evidence and offers of proof, and after reviewing the Rules of the Division of Personnel regarding the establishment of minimum qualifications, and certification of applicants who meet the minimum qualifications for a position, the Board made the following findings of fact and rulings of law:

1. The class specification for position #42237, Correctional Counselor/Case Manager, includes a description of minimum qualifications for education and experience, as described in Per 301.02 (a) of the Rules of the Division of Personnel.
2. The supplemental job description for position #42237 also includes, "A section specifying the minimum qualifications for the position consistent with the class specification, including the minimum formal education, specific job experience and any licensure or certification requirements for entry into the position" as well as a statement indicating how much additional formal education an applicant might substitute for required work experience in order to certify as meeting the minimum qualifications for that position, as required by Per 301.03 (d)(9)
3. On or about January 9, 2011, in response to a position vacancy announcement dated January 4, 2011, the Appellant submitted her application for employment as a Corrections Counselor/Case Manager, position #42237. (Exhibits 1 and 2)
4. In order to certify as meeting the minimum qualifications for appointment as a Corrections Counselor/Case Manager, an applicant must possess a, "Bachelor's degree from a recognized college or university with a major study in social work, psychology, criminology, vocational rehabilitation, education, guidance or In a behavioral science involving emphasis on counseling and human relations. Each additional year of approved formal education may be substituted for one year of required work experience." (Exhibit 1d)
5. The Appellant holds a bachelor's degree in criminal justice, which is not one of the approved fields of study required in order to certify as meeting the minimum education requirements for the position of Corrections Counselor/Case Manager. (Exhibit 2b)
6. Although the Appellant's degree was not in one of the required fields of study, Human Resources staff at the Department of Corrections reviewed her college transcripts and determined that the Appellant had sufficient coursework in the appropriate disciplines to satisfy the minimum education requirements for certification. (Lisa Currier verbal offer of proof)
7. In order to certify as meeting the minimum qualifications for appointment as a Corrections Counselor/Case Manager, an applicant must have, "Three years' experience in the field of counseling, correctional administration, program development, parole or criminology. Work experience in law enforcement, prisons or working with juvenile or adult offenders preferred." (Exhibit 1d) The position vacancy announcement for position #2237 states that this particular position, "Requires knowledge of child development, parenting skills, and understanding/experience in the tenants of family support." (Exhibit 1a)

8. In her application for promotion to the position of Correctional Counselor/Case Manager, the Appellant described her work experience as a Corrections Officer as, "Supervising and managing inmates. Enforcing discipline and orderly behavior. Booking and releasing inmates. Being in charge of and running a housing unit by myself. Providing public and institutional safety. Performing searches of persons, housing areas, and prison grounds. Securely transporting inmates between different facilities, to and from work, to medical and other appointments. Providing reports on important information as well as completing required daily paperwork and filing it. Communicating with other Corrections and Law Enforcement personnel verbally, on paper and via email."  
(Exhibit 2c)
9. In her cover letter, the Appellant described her role while assigned to the Shea Farm facility as giving orientations, answering questions regarding the rules, assisting inmates with paperwork, assisting residents with making appointments and having contact with medical and mental health staff regarding the residents' needs. The Appellant indicated that although she does not have a background in professional counseling, she often helped inmates by talking them through "difficult times." She also indicated that she worked to calm inmates down or help them work through conflicts. (Exhibit 2j)
10. The Appellant's work as a Corrections Officer at the men's and women's prisons and at Shea Farm was not found to satisfy the minimum requirements for experience in the field of counseling, correctional administration, program development, parole or criminology. (Exhibit 3)
11. The Department of Corrections has a formal process for cross-training employees who are interested in gaining experience outside their normal job duties. (Lisa Currier's verbal offer of proof) Ms. Stone was aware of the opportunity for cross-training, but decided not to apply for cross-training or fill out the paperwork required to participate in the program for a job that she felt she would not get. (Appellant's verbal offer of proof)

#### Position of the parties

Attorney Buck argued that while working at Shea Farm, the Appellant worked hand-in-hand with case counselors, providing information and opinions about the inmates' family structures and whether or not the inmates had acted in accordance with the rules. He argued that while the Appellant may not have been responsible for actual case management, she did assist case managers by providing information that would then be sent to Parole to determine if an inmate was ready to go back into society. Attorney Buck argued that when the Case Manager was absent, the Appellant helped inmates with their homework and housing paperwork and functioned as the "de facto or default contact person for the inmates" whenever the Case Managers were not there. Attorney Buck argued that although those duties did not appear in the Appellant's job description, she performed those duties whenever necessary.

Attorney Buck argued that throughout her career, particularly at Shea Farm, the Appellant worked with case counselors and observed what they do. He argued that the Appellant engages in mediation with inmates on a daily basis, and although the Appellant does not provide mental health counseling as case managers may, the Appellant has experience coordinating with other outside agencies to ensure that inmates have access to proper counseling. Attorney Buck argued that the Appellant's work experience is sufficiently similar to that described in the Correctional Counselor/Case Manager job description to support certifying her application as meeting the minimum qualifications for that position classification.

The Appellant argued that her application should be certified so she can have the opportunity to go before a hiring board and show them that she wants the job and can do the job. The Appellant stated that by working as a Corrections Officer, she understands the security aspects of the position, which some case managers consider the hardest part of the job to learn. The Appellant said that Colleen Cook, her Unit Manager, would be willing to provide cross-training to help the Appellant develop the other skills that the position requires.

Ms. Currier argued that the Department of Corrections recognizes and appreciates the Appellant's hard work, and the steps she has taken to advance her career, including completion of a bachelor's degree. Nevertheless, Ms. Currier argued, the Appellant's own description of her work experience demonstrated that her background was in security, not in counseling, program development or case management. Ms. Currier stated that the Department of Corrections encourages and supports cross-training through a formal process designed to give employees the opportunity to gain experience in areas outside their usual job assignments. Ms. Currier stated that if the Appellant had provided evidence of cross-training consistent with the requirements of the position, it would have been considered when the Appellant's application was evaluated. She also noted that the department would give consideration to any cross-training that the Appellant might complete when evaluating the Appellant's education and experience on future applications. In this instance, Ms. Currier argued, the Appellant offered insufficient evidence of relevant experience, or of any formal or informal cross-training in counseling, program development, parole, criminology or correctional administration that would satisfy the required minimum of three years of experience in one or more of those disciplines.

In evaluating the documentary evidence and offers of proof, the Board reviewed the class specification for Correctional Counselor/Case Manager (Exhibit 1c) to determine whether or not there were similarities between the Appellant's stated work experience and the Characteristic Duties and Responsibilities listed on the class specification. Having compared the Appellant's employment application, cover letter, résumé, and transcripts to the class specification, the Board found that conducting orientations at Shea Farm, preparing reports and collaborating

with professional staff did not constitute counseling, program development or case management as required by the class specification. The Board also found that while the Appellant may have addressed school and family issues with inmates and residents at Shea Farm, that experience was not at a level consistent with the position vacancy as posted, which required "knowledge of child development, parenting skills, and understanding/experience in the tenants of family support" found in Exhibit 1a.

For the reasons set forth above, the Board found that the Department's decision that Appellant did not have the required three years of experience in the field of counseling, correctional administration, program development, parole or criminology was reasonable and supported by the evidence. Based upon that finding the Board determined that the Department's decision that the Appellant did not meet the minimum qualifications for certification as a Correctional Counselor/Case Manager should be upheld. Accordingly, the Board voted unanimously to DENY her appeal.

Despite its decision to deny the instant appeal, the Board recognizes the efforts that the Appellant has made to advance her career by enhancing her skills and seeking new challenges within the Department of Corrections. The Board is convinced that the level of commitment and individual initiative described by the Appellant will not go unnoticed in a department that encourages personal and professional growth through a formalized process of cross-training. The Board strongly recommends that the Appellant pursue those opportunities as they become available, and take full advantage of cross-training and mentoring whenever she can. The Board also commends the Department of Corrections for creating programs like formalized cross-training or mentoring that allow employees to expand their skills and advance their careers.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD

/s/ Patrick Wood

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Patrick Wood

/s/ Robert Johnson

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Robert Johnson

/s/ Philip Bonafide

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Philip Bonafide

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