

State of New Hampshire



PERSONNEL APPEALS BOARD
25 Capitol Street
Concord, New Hampshire 03301
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**NH PERSONNEL APPEALS BOARD DECISION ON
APPELLANTS' MOTION FOR RECONSIDERATION OF BOARD'S DECISION
DISMISSING APPEALS FOR LACK OF JURISDICTION IN THE APPEALS OF:**

Constance Beaudoin – Docket #2010-L-022
Kathleen Companion – Docket #2010-L-026
Lucien Poulette – Docket #2010-L-104
Wendy Carignan – Docket #2010-L-077
Michael Gagnon – Docket #2010-L-070
Evelyn Clark-Smith – Docket #2010-L-064
Ignacio Gandarilla – Docket #1010-L-094
Stephanie Kalipolites-Poulette – Docket #2010-L-051

Division for Juvenile Justice Services

May 5, 2010

On February 8, 2010, the NH Personnel Appeals Board issued its decision dismissing the above-titled appeals for lack of jurisdiction. In doing so, the Board found that the Appellants' layoffs were the result of a re-organization within the Division of Juvenile Justice Services effected under the authority of NH RSA 126-a:14, II and II-a, and that management decisions regarding the organization or re-organization of an agency was a matter outside the Board's jurisdiction. By letter dated March 3, 2010, SEA General Counsel Michael Reynolds filed the Appellants' Motion for Reconsideration of the Board's February 8, 2010, decision. Attorney Jonathan Gallo submitted the Department's Objection to Appellant's Motion for Reconsideration by letter dated March 12, 2010.

In accordance with Per-A 208.03 Rehearing, in the NH Code of Administrative Rules (Rules of the Personnel Appeals Board):

(a) Pursuant to RSA 541:3, within 30 days after the date of notice of any decision or order of the board, any party to the action or proceeding before the board, or any person directly affected thereby, may apply for rehearing in respect

to any matter determined in the action or proceeding, or covered or included in the order.

(b) In order to be considered, such request shall be delivered to the executive secretary of the board within the 30 day period specified in (a) above.

(c) Such motion for rehearing shall set forth fully every ground upon which it is claimed that the decision or order complained of is unlawful or unreasonable.

(d) The opposing party may file an objection within 5 days of the filing of the motion.

(e) The board shall not grant a motion for rehearing for 5 days after the motion is filed in order to permit the opposing party to respond. Thereafter the board shall, within 10 days of the filing of the motion, grant or deny the motion, whether or not it has received a response from the opposing party.

(f) A motion for rehearing in a case subject to appeal under RSA 541 shall be granted if it demonstrates that the board's decision is unlawful or unreasonable.

(g) Following the granting of a motion for rehearing, the board shall issue a notice as described in Per-A 206.11 (b).

First the Appellants requested that the Board clarify its ruling on the issue of contact with the agency, "...to explore the specifics of each individual appeal." The Board found, and continues to find, that the Appellants' repeated request for seniority lists, which the record reflects the agency had provided on more than one occasion and in more than one format, and for information related to reassignments, transfers, promotions, demotions, and/or reclassifications that occurred prior to the reorganization at DJJS, did not constitute a request for information specific to any individual Appellant regarding whether or not that Appellant's layoff was effected in accordance with rules adopted by the Director of Personnel.

In requesting that the Board reconsider its decision, the Appellants have simply reiterated those arguments raised in pleadings submitted to the Board, addressed by the parties in oral argument offered at four separate prehearing conferences, and fully considered by the Board in reaching its decision to dismiss the appeals. The Appellants have failed to offer any new evidence or argument to support their Motion for Reconsideration, or to demonstrate that the Board's order was unlawful or unreasonable. Therefore, for all the reasons set forth above, and for the reasons set forth in Attorney Gallo's March 12, 2010, Objection, the Board voted unanimously to DENY the Appellants' Motion for Reconsideration, and to AFFIRM its decision dismissing the instant appeals.

FOR THE PERSONNEL APPEALS BOARD



Patrick Wood, Chair

- cc: Karen Hutchins, Director of Personnel
Michael Reynolds, SEA General Counsel
Nicholas McGinty, SEA Grievance Representative
Jeffrey Brown, SEA Field Representative
Dennis Kinnan, SEA Contract and Field Operations Administrator
Jason Faria, SEA Grievance Representative
Michael Brown, Senior Assistant Attorney General
Rosemary Wiant, Assistant Attorney General
Frank Nachman, General Counsel, Department of Health and Human Services
Jonathan Gallo, Attorney, Department of Health and Human Services
Jennifer Jones, Attorney, Department of Health and Human Services
Nicholas Toumpas, Commissioner, Department of Health and Human Services
Mark Bussiere, HR Director, Department of Health and Human Services