

# State of New Hampshire



**PERSONNEL APPEALS BOARD**  
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**APPEAL OF NIKOLETA RYDER**  
**Docket #93 -D-9**  
**Department of Wealth and Human Services**

**October 21, 1993**

The New Hampshire Personnel Appeals Board (Bennett, Rule and Johnson) met Wednesday, September 15, 1993, to hear the appeal of Nikoleta Ryder, a Business Administrator III in the Bureau of Financial Services, Department of Health and Human Services. Ms. Ryder, who was represented at the hearing by SEA Field Representative Margo Hurley, was appealing a July 27, 1992 letter of warning, pursuant to Per 1001.03 of the Rules of the Division of Personnel, for uncooperative behavior and failure to meet the work standard. Sandra Platt, Administrator, appeared on behalf of the Department of Health and Human Services.

On the appellant's behalf, Ms. Hurley argued that the July 27, 1992 letter of warning, signed by Ms. Ryder's immediate supervisor, Lynn Beckwith, was unwarranted and that it arose from poor internal communications between Ms. Beckwith and employees of the unit. Ms. Hurley argued that the appellant had worked successfully and cooperatively with her previous supervisor for 10 years, and that any possible failure to meet the work standard on the appellant's part arose from poorly articulated work standards and performance expectations.

Ms. Platt argued that the Personnel Rules describe letters of warning as the least severe form of discipline to correct an employee's unsatisfactory work performance. She said the evidence would demonstrate that the July 27th letter of warning was issued by Ms. Beckwith only after repeated attempts to counsel the employee had failed.

Ms. Ryder, a 19 year employee of the State of New Hampshire, is assigned to the Bureau of Financial Services in the Department of Health and Human Services as a Business Administrator III, salary grade 26. Her current supervisor, Lynn Beckwith, is also a Business Administrator III, salary grade 26. Ms. Ryder described the current leadership style in her unit as "heavy-handed", and described herself as the kind of employee who should be "be handled in a friendly way" instead. She suggested that rather than telling her what to do, or disciplining her, Ms. Beckwith could have approached her by suggesting, "Next time, why won't you try it this way?" She testified that she had worked without complaint and without incident for approximately ten years when she was supervised by Rosemary Faretra, and felt that the letter of warning was issued out of anger on Ms. Beckwith's part rather than as an attempt to correct any real work problems.

Ms. Beckwith testified that she has been a Business Administrator in the Bureau of Financial Services since January 10, 1992. On January 22, 1992, she met with staff in the bureau and advised them that at the direction of the Assistant Commissioner, John Poirier, the bureau was

expected to become more "service oriented" in its approach and execution of tasks. To that end, to better manage the flow of information and payments, Ms. Beckwith advised her staff in a meeting on January 22, 1992, that all reports were to be submitted to and cleared by her prior to submission to the Commissioner's Office. She met individually with Ms. Ryder to explain the change in procedure. She also established weekly supervision meetings with the appellant in order to review the appellant's work assignments and progress, as well as to address any problems which the appellant might have uncovered during the week. She testified that Ms. Ryder displayed a "business as usual" attitude, and continued to submit her reports directly to the Commissioner's Office without consulting with her supervisor. Ms. Beckwith said she felt that she had to "ask the right question" in order to get any information from the appellant.

In June, 1992, Ms. Ryder gave information to employees of the Bureau of Accounting Services, Department of Administrative Services, about the manner in which to allocate funds appropriated in conjunction with HB 1414 (Chapter 176 of the Laws of 1992). The information she disseminated was inconsistent with the decision which had already been made by the Assistant Commissioner and passed along to the Department of Administrative Services.

Ms. Ryder testified that when she received an inquiry from the Bureau of Accounting Services about appropriation of Medicaid monies, she contacted Jim Fredyma, the person she believed to be the correct contact person for the question. Mr. Fredyma referred her to Barry Bodell, and the information the appellant got from Mr. Bodell, she relayed to the Bureau of Accounting. Ms. Ryder said that her contacts in this instance were typical of the way she had handled similar inquiries over the years. Ms. Ryder suggested that she was not disciplined for obtaining information and relaying it to another department, but that she had gotten "in the middle of a feud" between the Assistant Commissioner and Mr. Bodell. She argued that she should not be held accountable for relaying what the Assistant Commissioner believed to be misinformation about HB 1414, since no one in the department had bothered to make her aware of the legislation or to discuss any of the relevant funding issues.

Ms. Beckwith testified that Ms. Ryder's section of the Bureau was charged with making employee travel reimbursements, and that timely payment had been made a priority after a number of grievances had been filed. She testified that Ms. Ryder neglected to inform her of a growing backlog of late payments. She further testified that Ms. Ryder never apprised her of any staffing problems resulting from simultaneous processing of food stamps. Ms. Beckwith said that if the appellant had followed her instructions, work assignments could have been shifted to allow the bureau to handle both assignments in a timely fashion.

In her notice of appeal, Ms. Ryder argued that she should not have been disciplined for falling behind on payment of travel vouchers. Her representative stated that the assignment had been delegated to a subordinate employee, and it had fallen behind. She argued that since she had never been approached about how to "expedite" the process. She also testified that regardless of the priority status that might have been attached to processing travel vouchers, food stamps always took, and would continue to take, priority as needed. She testified that any errors or missed payments and failure to notify her supervisor of late payments were the result of an "oversight", not the intentional withholding of information.

Ms. Ryder said the same was true of the fiscal year end closing. The letter of warning cited Ms. Ryder's failure to apprise Ms. Beckwith of problems with the closing, as well as her failure to advise Ms. Beckwith that the initial fiscal closing reports would show the Commissioner's Office operating at approximately a \$465,000 deficit. She said the alleged "deficit" was nothing more than an improper accounting entry which simply needed to be reversed. Ms. Beckwith testified that during her meeting with the appellant on July 10, 1992, Ms. Ryder said she

wanted to bring forward some general fund encumbrances, but never mentioned any other difficulty with the closing figures. Ms. Beckwith said that on July 21, 1992, during a routine review of the closing documents, she discovered that unless the department began shifting monies between funds, the division would close the year with a substantial shortfall. She said Ryder should have known that the error, even if corrected, could cause a problem for the department and had an obligation to bring the matter to her supervisor's attention.

Ms. Ryder argued that she was doing her job precisely as she had done it for ten years, and she didn't understand how she could be disciplined for performance expectations that are not clearly delineated in her supplemental job description. She said she believed her weekly two-hours meetings with Ms. Beckwith were "one-way" and that her employer didn't want to hear her opinion or listen to her problems. Ms. Ryder said that neither the meetings with Ms. Beckwith nor the subsequent meetings with the Assistant Commissioner could be considered "disciplinary" since she was never given a work plan, and the word "discipline" was never used. She also argued that since she had undertaken the use of a "daily log" to record her actions, she should not be faulted for failing to communicate with her supervisor. She argued that her supplemental job description contained no "measurables" to use in assessing her level of performance.

After considering the testimony and evidence, the Board found that the letter of warning should be sustained. Regardless of their motives, the Department of Health and Human Services assigned Ms. Beckwith to supervise the Bureau of Financial Services. Ms. Beckwith informed the employees of that bureau, including Ms. Ryder, that there would be some procedural changes, one of which would entail reports being submitted to the Commissioner's Office through Ms. Beckwith, the work unit manager. Ms. Ryder simply continued to submit the reports to the Commissioner without review.

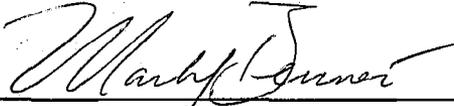
Ms. Ryder had been informed that processing travel vouchers was a priority. As a working supervisor, she assigned the processing of travel vouchers to another employee and apparently failed to follow-up on the assignment to make sure that payments were being made in a timely fashion. When asked if she ever brought her concerns about her own workload to her supervisor, or about assignments she had delegated to other employees and the possibility that she would be missing deadlines to her supervisor, Ms. Ryder responded, "No. Things slip."

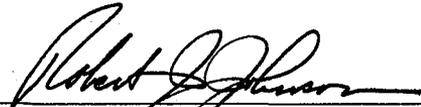
The Board found that Ms. Ryder understood the significance of each and every one of the work issues listed in the letter of warning, and approached each with the "business as usual" philosophy noted by her supervisor. Ms. Ryder continued to excuse her failure to meet her supervisor's work expectations as "communication problems" with her supervisor. She went so far as to suggest that if her supervisor had been less "heavy handed" and had tried another approach with her, replacing assignments and directives with friendly suggestions, the appellant might have been better able to comprehend and carry out her assignments in a cooperative fashion.

The Board found that Ms. Ryder conducted herself in an uncooperative manner and failed to perform her work assignments at the level of her classification and compensation. The Board further found that while management styles vary from supervisor to supervisor, Ms. Ryder's discomfort at being asked to do things differently than she had done them for 10 years, and being asked to report to someone she would have otherwise considered a peer does not excuse the appellant's reactions to directions which Ms. Beckwith gave her.

Accordingly, the Board voted unanimously to deny Ms. Ryder's appeal.

THE NEW HAMPSHIRE PERSONNEL APPEALS BOARD

  
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Mark J. Bennett, Acting Chairman

  
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Robert J. Johnson, Commissioner

  
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Lisa A. Rule, Commissioner

cc: Virginia A. Lamberton, Director of Personnel  
Sandra Platt, Administrator, Health and Human Services  
Margo Hurley, SEA Field Representative