

State of New Hampshire



PERSONNEL APPEALS BOARD

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

APPEAL OF JORGE OCHOA Docket #89-T-26

Notice of Prehearing Conference

January 11, 1990

By letter dated October 11, 1989, Jorge Ochoa, through his representative SEA General Counsel Michael Reynolds, requested a hearing before this Board to appeal his termination from employment at the New Hampshire Department of Corrections. Mr. Reynolds requested on the appellant's behalf that the record in this matter be sealed and that any hearing on the matter be closed to the public.

On November 13, 1989, Mr. Reynolds forwarded to the Board for inclusion in its file copies of the October 17, 1989 letter notifying Appellant that his employment had been terminated.

Warden Michael Cunningham's October 17th letter to Appellant stated

"This is a response to your October 10, 1989 letter requesting a leave of absence without pay for a period of three months.

After careful review of your circumstances and your late request for a leave of absence without pay, it is understood that you cannot get to work at this time and probably will not be able to for some time to come.

It has therefore been determined that your employment is terminated effective October 6, 1989, the day you ran out of any accrued leave time."

Upon review of the Board's file, it would appear that Mr. Ochoa was allowed to utilize his available accrued annual and sick leave from some time at the end of July, 1989, until all accrued leave was exhausted on October 6, 1989, at which time the Department of Corrections appears to have denied him an extended leave of absence without pay.

The Board, upon its own motion, has voted to direct the parties to appear at a prehearing conference on Wednesday, February 14, 1990, at 9:00 a.m. in Room 401, State House Annex, Concord, New Hampshire. The Board has allotted one hour for this conference.

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Preliminary Order

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RSA 21-I:46 I. (b) specifically prohibits the Personnel Appeals Board from considering appeals based upon "The refusal of an appointing authority to grant of leave of absence without pay". The appellant shall be prepared to address specifically the statutory prohibitions of RSA 21-I:46 I. (b). The Department of Corrections shall provide for the Board's review copies all correspondence between the department and the appellant, from Appellant's last day of work and the date of notice that he had been denied a leave of absence without pay, and had been discharged from employment.

FOR THE PERSONNEL APPEALS BOARD


Mary Ann Steele
Executive Secretary

cc: Michael C. Reynolds, SEA General Counsel
Warden Michael J. Cunningham, N.H. State Prison
Michael K. Brown, Staff Attorney, Department of Corrections
Virginia A. Vogel, Director of Personnel
David S. Peck, Assistant Attorney General