

State of New Hampshire

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APPEAL OF MICHAEL VAUGHNS

August 4, 1987

On June 9, 1987, the Personnel Appeals Board, Commissioners Haseltine and Platt sitting, heard the appeal of Michael Vaughns, formerly a Youth Counselor II at the Youth Development Center ("YDC"). Mr. Vaughns was discharged during his probationary period (by letter dated March 17, 1987) for unsatisfactory work. That letter cited several deficiencies in his work performance, including an incident which took place on February 22, 1987. Mr. Vaughns was represented at the hearing by SEA General Counsel Michael Reynolds. Ronald Adams, Superintendent, represented the YDC.

As grounds for his appeal, Mr. Vaughns alleged that his discharge was based on incorrect factual assumptions and was procedurally flawed. He further alleged that even "if [his] behavior did call for disciplinary action against him, a lesser penalty than termination would make more sense."

Neither party submitted requests for findings of fact and rulings of law. Accordingly, after considering all of the evidence presented, the Board made the following findings and rulings. Mr. Vaughns began employment at the YDC as a part-time Youth Counselor I in January, 1986. He became a full-time Youth Counselor I with probationary status in June 1986. In August, 1986, Mr. Vaughns was promoted to a Youth Counselor II position.

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Both the Youth Counselor I and Youth Counselor II job descriptions prepared by the Division of Personnel require that a one year probationary period be served prior to appointment to a permanent position.

On February 22, 1987, while on duty in Pinecrest Cottage, Mr. Vaughns became involved in an incident with a juvenile when the juvenile came up and "slapped him in the head." Mr. Vaughns went after the juvenile, who had in the interim picked up Mr. Vaughns' coat and put it in a cottage sink. Mr. Vaughns removed his coat, grabbed the juvenile and said he was going to put the juvenile's head in a bucket. A witness then saw him shove the juvenile's head into a set tub filled with water.

The juvenile then again attempted to put Mr. Vaughns' coat in the sink. Mr. Vaughns then grabbed two pairs of the juvenile's pants and threw them in the sink. The juvenile and Mr. Vaughns then became involved in a wet trouser fight, each of them snapping a pair of pants at the other. Mr. Vaughns also became involved in an altercation concerning his watch on the same evening, which had to be resolved by another staff member.

The Board also found that during the course of his employment, Mr. Vaughns borrowed money from residents, although this is contrary to YDC policy.

During cross-examination, Mr. Vaughns admitted that the horseplay had taken place, that he had attempted to put the juvenile's head in the bucket and that the wet trouser fight had taken place.¹ Although he argued that discharge from his position was too stringent a penalty to impose for these

¹ Given Mr. Vaughns' admission and the other corroborative evidence presented at the hearing, the Board found no merit in the appellant's contention that the alleged use of juvenile allegations against Mr. Vaughns was "procedurally inappropriate and, to some extent, unfair."

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incidents, the Board found such action warranted. As a Youth Counselor, Mr. Vaughns was expected to be a role model for the juveniles residing at the YDC. The actions of Mr. Vaughns could hardly be expected to foster the type of respect ordinarily due role models. Moreover, Mr. Vaughns' actions in shoving the juvenile's head into a bucket placed the juvenile at substantial risk of serious injury. No evidence was presented that Mr. Vaughns felt that he was at risk. Rather, his action was taken in retaliation for the incident involving Mr. Vaughns' coat.²

The Board also found disturbing Mr. Vaughns' practice of borrowing money, however minimal the amount, from the residents of the YDC. In that setting, many of the juveniles may have believed that they had no recourse but to respond positively to a request by an authority figure for money.

Finally, the Board noted that there was some dispute as to which staff member had the responsibility to intervene in the altercation. It would appear that all staff members have an obligation to intervene when a child is placed at risk by any other individual. Although the Board found that this in no way excused Mr. Vaughns' actions, good management would dictate that one individual be designated to resolve issues arising in the cottages on each shift and that staff members be directed to contact that individual when problems arise. It may be that such a system is in place but needs refinement. The Board recommended that the administration review this issue and take corrective steps if warranted.

Based on the foregoing, the Board voted to uphold Mr. Vaughns' termination and deny his appeal.

² Even if Mr. Vaughns had been a permanent employee, which the Board did not find, his actions would have supported his discharge.

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FOR THE PERSONNEL APPEALS BOARD

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