

# State of New Hampshire

PERSONNEL APPEALS BOARD  
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## APPEAL OF DIANA WALLACE

July 27, 1988

On July 12, 1988, the Personnel Appeals Board, Commissioners Cushman, Allard and Platt sitting, heard the appeal of Diana Wallace, formerly an employee of the Laconia State School. Ms. Wallace had been discharged from state service on April 30, 1988, for allegedly drinking alcohol while on duty. Ms. Wallace appeared pro se. Attorney Martha Pyle Farrell represented the Laconia State School,

Neither party submitted requests for findings of fact and rulings of law. After considering all of the evidence presented, the Board made the following findings and rulings. On April 23, 1988, Ms. Wallace was on duty at Peterson Cottage. She left with another employee, Laura Maynard, to pick up Chinese food for dinner. While on this supper break, each employee had a wine cooler. This consumption of alcohol, however, did not result in any disciplinary action because both employees were "off duty" and presumably not impaired when they returned to duty. When they returned to the cottage, Ms. Maynard brought in a container filled with orange juice and peach Schnapps. Both employees then went to the living room of the cottage to watch a movie with drinks poured from this container. Another employee asked for some Ms. Wallace's drink. She found that it tasted of alcohol. That employee, Michelle Costin, was the acting supervisor at the time. She did not report the incident, however, until several days later. After an investigation of the incident, Ms. Maynard and Ms. Wallace were discharged from state service and Ms. Costin was relieved of her acting supervisor responsibilities.

Although the appellant contended at the hearing that there were two orange juice containers and that she had a drink from that containing pure orange juice, the Board was not persuaded. The Board voted that the individual who sampled Ms. Wallace's drink and reported the drinking was disciplined as a result of her tardy report. The Board found it unlikely that she would risk such discipline in order to subject Ms. Wallace to the disciplinary process.

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In reviewing the discipline imposed, the Board noted the serious responsibilities assumed by the appellant in caring for developmentally impaired individuals. The Board found that the consumption of alcohol by the appellant while on duty in the cottage justified the termination of her employment.

For the foregoing reasons, the Board voted unanimously to uphold the termination and deny the appeal.

FOR THE PERSONNEL APPEALS BOARD

*Mary Ann Steele*

MARY ANN STEELE, Executive Secretary

cc: Lisa Currier  
Laconia Developmental Services

Diana Wallace

Attorney Martha Pyle-Farrell