STATE OF CONNECTICUT
EMPLOYEES' REVIEW BOARD
INDEX OF DECISIONS-BY CASE/DATE

(The Index of Decisions is a generalized summary of the Board's case decisions. The Index is for reference purposes only. The summaries should not be used as a substitute for the full decision.)

In the Matter of Norman Schipke-and-State of Connecticut, Department of Veteran's Affairs, ERB Case No. 1007, August 29, 2005
Panel: Wendella Ault Battey, Laurie Cain, Richard M. McCostis
The Panel sustained the grievance finding that the dismissal of the Grievant was arbitrary or taken without reasonable cause. The Panel found "no credible evidence" that the Grievant was responsible for a shortage of medications. The Panel did find the Grievant failed to turn over donations to the Department in a timely manner, failed to report a physical threat to security and failed to properly supervise a patient. Pursuant to its authority under Section 5-202(b) of the General Statutes, the Grievant was ordered reinstated. However, the Panel suspended the Grievant for six months without pay or benefits.

In the Matter of Matthew Regan-and-State of Connecticut, Department of Correction, ERB Case No. 1010, October 6, 2005
The Panel denied the grievance in part, finding that the five-day suspension of a Correctional Captain was not arbitrarily or taken without reasonable cause when the Captain failed to properly supervise a cell extraction. The Panel sustained the grievance with regard to the transfer and shift change of the grievant finding that it had jurisdiction to hear cases involving a disciplinary transfer (but not an administrative transfer) and holding that the grievant's disciplinary transfer was arbitrary and taken without reasonable cause.

Panel: Sandra Biloof, Susan E. Halperin, Leslie A. Williamson, Jr.
The Panel sustained the grievance finding that the Ethics Commission terminated Mr. Plofsky from his position as Executive Director/General Counsel without reasonable cause. Mr. Plofsky was terminated for: telling a staff member to lie if she had to testify before a grand jury; telling a staff member to destroy a tape recording of a commission meeting; taking or accruing compensatory time inconsistent with State policy and failing to disclose his involvement in the release of a document to the media. The Panel held, in light of the circumstances surrounding the termination, that none of the reasons constitute serious misconduct that was cause for dismissal. Mr. Plofsky was order reinstated to active state service.
In the Matter of Gregory Gioia-and-State of Connecticut, Department of Veterans' Affairs. ERB Case No. 1012, November 27, 2006
The Panel denied the grievance finding that the termination of Mr. Gioia was not arbitrary or taken without reasonable cause. The Panel found that Mr. Gioia, a Fiscal/Administrative Manager 2, extensively used the state computer for personal use in violation of the policies of the Department of Veterans' Affairs.

In the Matter of John K. Watts, Jr.-and-Department of Children and Families
ERB Case No. 1017, January 5, 2007
Panel: Sandra Biloou, Matthew Borrelli, Leslie A. Williamson, Jr.
The Panel denied the grievance finding that the termination of Mr. Watts was not arbitrary or taken without reasonable cause. The Panel found that Mr. Watts, an Assistant Superintendent of Schools at the Connecticut Juvenile Training School, misused state time by his attendance at a Master Gardener course, which was not job related and for which Mr. Watts did not obtain authorization.
NOTE: The decision by the ERB was appealed to superior court. On July 17, 2008, the court, McWeeny, J., upheld the decision of the ERB.

In the Matter of Scott Sherrick-and-Department of Corrections
ERB Case No. 1013, May 4, 2007
Panel: Sandra Biloou, Thomas Staley, Leslie A. Williamson, Jr.
The Panel determined that the demotion of Mr. Sherrick from Lieutenant to Correction Officer was arbitrary and taken without reasonable cause. The incident pertaining to Mr. Sherrick's demotion involved unprofessional conduct toward a Correction Officer cadet. The Panel reinstated Mr. Sherrick to the position of Lieutenant but suspended him without pay for thirty days because of the incident.

In the Matter of Timothy Kulish-and-Department of Motor Vehicles
ERB Case No. 1018, September 26, 2007
The Panel determined that it lacked jurisdiction to hear the appeal of Mr. Kulish since he elected to file a complaint with the Commission on Human Rights and Opportunities' Office of Public Hearings under Section 4-61dd(b)(4) of the Connecticut General Statutes. The statute permits a filing with the Employees' Review Board as an alternative to a filing with the Commission on Human Rights and Opportunities not in addition to such a filing.

In the Matter of Joseph Teal-and-Department of Public Health
ERB Case No. 1026, January 14, 2009
Panel: Susan Meredith, Thomas Staley, Leslie A. Williamson, Jr.
The Panel determined that the five-day suspension of Joseph Teal was arbitrary and taken without reasonable cause. The Panel held that the severity of the incident giving rise to the discipline and the lack of progressive discipline, a component of just cause, warranted the reduction of the suspension to a letter of reprimand.
In the Matter of Benjamin Pagani-and-Department of Public Safety  
ERB Case No. 1025, April 3, 2009  
Panel: Matthew Borrelli, Susan Meredith, Leslie A. Williamson, Jr.  
The Panel determined that the four-day suspension of Benjamin Pagani was taken without reasonable cause. The State disciplined Lieutenant Pagani for failing to notify the Troop of his involvement in a pursuit. Lieutenant Pagani offered a plausible explanation for his inability to contact the Troop. The State did not demonstrate that Lieutenant Pagoni’s explanation was insufficient.

In the Matter of Richard Reyes-and-Department of Correction  
ERB Case No. 943, August 31, 2009  
The Employees’ Review Board, as a whole, dismissed the appeal of Richard Reyes for failure to pursue an appeal. Richard Reyes appealed a demotion he received. Prior to a hearing, Mr. Reyes died. Neither his heirs nor anyone who might have had an interest in the appeal pursued his case. After a six-year period of dormancy, and upon motion by the Department of Correction, the matter was dismissed.

In the Matter of Bruce Gardner-and Department of Correction  
ERB Case 1029, September 25, 2009  
Panel: Matthew Borrelli, Emanuel N. Psarakis, Leslie A. Williamson, Jr.  
The Panel determined that the ten-day suspension of Mr. Gardner was neither arbitrary nor taken without reasonable cause. Mr. Gardner's violation of numerous Administrative Directives, policies and procedures warranted the suspension. The appeal was denied.

In the Matter of David Aflalo-and Department of Public Safety  
ERB Case No. 1030, December 2, 2009  
Panel: Matthew Borrelli, Susan Meredith, Leslie A. Williamson, Jr.  
The Panel determined that the twenty-day suspension of David Aflalo was taken without reasonable cause. The State discipline of Lieutenant Aflalo for falsifying or altering official documents was reduced to a five-day suspension, at the rate of pay of sergeant, the rank he held when the violation of the Rules of Conduct occurred.

In the Matter of Hemy Pawlowski-and-Freedom of Information Commission  
ERB Case No. 1032, December 8, 2009  
Pursuant to the provisions of Section 4-177(c), the Panel incorporated and made as its award the provisions of a Stipulated Agreement between Pawlowski and the Freedom of Information Commission resolving Pawlowski’s appeal of his termination.
In the Matter of Shaun McDonough-and-State of Connecticut
ERB Case No. 1033, June 4, 2010
Panel: Matthew Borrelli, Susan E. Halperin, Emanuel N. Psarakis
OPM's compliance with Special Act 09-06, An Act Concerning State Personnel Cost
Savings, imposing a day schedule reduction resulting in a one-day's loss of pay to
McDonough did not violate Section 5-241 of the General Statutes. OPM's actions were
neither arbitrary nor taken without reasonable cause. The appeal was denied.

In the Matter of Kathryn Reddington, Deborah Duval, Lynn Skene-Johnson-and-State of
Connecticut, Department of Developmental Services
ERB Case Nos. 1035, 1036 and 1037, September 2, 2011
Panel: Matthew Borrelli, Leslie A. Williamson, Jr., Emanuel N. Psarakis (Dissenting)
The Panel consolidated the three appeals. Appellants claimed that their compensation was
incorrectly calculated in 1996 (Reddington and Skene-Johnson) and 1999 (Duval) when
they moved from an unclassified union position to a classified managerial position not in
a collective bargaining unit. The Appellants asserted that they should have been paid over
the maximum salary rate in their new position. The Panel reviewed statutes, regulations
and administrative policy. The Majority held that the Appellants had not met their burden in
demonstrating that the State had incorrectly calculated their salary as a "demotion."
The Majority held that the State had shown a distinction between "functional" promotion
and "compensation" demotion. The Dissent held that the Appellants should have been
compensated above position rate because they were promoted not demoted. The decision
was appealed. The Superior Court upheld the decision of the ERB majority. (Reddington,
et al. v. Employees' Review Board, et al., No. CV 11 6012737S, Superior Court, Judicial
District of New Britain, October 18, 2012, Cohen, J.)

In the Matter of Patricia Stamidis-and-State of Connecticut, Department of Correction
ERB Case Nos. 1041, November 11, 2011
Panel: Matthew Borrelli, Susan Halperin, Victor Schoen
The Panel found that it lacked jurisdiction to hear the appeal because it was not initiated
within thirty calendar days from the date of the alleged violation as required by Section
5-202 of the Connecticut General Statutes.

In the Matter of Albert Johnson-and-State of Connecticut, Department of Children &
Families
ERB Case No. 1043, August 1, 2012
The Panel concluded that there was just cause for the imposition of discipline but not the
quantum of discipline imposed. Therefore, the Panel reduced the five-day suspension to
three days. Johnson was disciplined for failing to ensure his assigned staff complied with
administrative policy.
**In the Matter of Andrew T. Munson-and-State of Connecticut, Department of Motor Vehicles**  
ERB Case No. 1046, February 15, 2013  
Panel: Emanuel Psarakis, Matthew Borrelli, Victor Schoen  
The Panel found that the State properly laid off the employee in accordance the statutory standard of order of seniority and that a defective initial notice of layoff was "cured" by a subsequent notice and an appropriate extension of the date of layoff.

**In the Matter of Dale P. Hourigan-and-State of Connecticut, Department of Emergency Services and Public Protection**  
ERB Case No. 1051, October 23, 2014  
Panel: Matthew Borrelli, Emanuel Psarakis, Leslie A. Williamson, Jr.  
This matter involved a claim alleging denial of a longevity payment due as a member of a bargaining unit. The Panel held that the ERB has no subject matter jurisdiction over a controversy arising under a collective bargaining agreement notwithstanding the fact that the employee subsequently became a non-bargaining unit employee.

**In the Matter of Carla Martin-and-State of Connecticut, Department of Administrative Services**  
ERB Case No. 1057, December 26, 2016  
Panel: Emanuel Psarakis, Victor Schoen, Jon P. Fitzgerald  
The grievant, a statewide human resources program manager, classification MP 67, claimed the state wrongly failed to reclassify her to the personnel division objective job evaluation manager position at MP 69. The panel found subject matter jurisdiction, and further found that there was insufficient evidence to find that the state acted arbitrarily or with reasonable cause in denying her grievance, within the meaning of C.G.S. 5-202.

**In the Matter of Linda Lukin-and-State of Connecticut, Department of Children and Families**  
ERB Case No. 1059, June 17, 2017  
Panel: David Beizer, Emanuel Psarakis, Victor Schoen  
The action of the respondent in disciplining the grievant by imposing a suspension without back pay or benefits, and for bidding her from working as a manager in the child and family services department at Willimantic or any managerial position involving a child protection services function was an arbitrary action and taken without reasonable cause.

**In the Matter of Vanessa Alvarezs-and-State of Connecticut, Department of Developmental Services**  
ERB Case No. 1061, August 2, 2017  
Panel: Victor Schoen, Matthew Borrelli, Emanuel Psarakis  
The State's action in terminating the grievant was arbitrary and unreasonable, and the State's decision to place Alvarezs on the DDS Abuse and Neglect Registry is overturned. Rather than termination the grievant shall be subject to a 30 day suspension without pay or benefits. Panel member Matthew Borrelli filed a dissenting opinion.
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ABANDONMENT

In the Matter of Richard Reyes-and-Department of Correction
ERB Case No. 943, August 31, 2009
Panel: Matthew Borrelli, Susan E. Halperin, Susan Meredith, Emanuel N. Psarakis,
Leslie A Williamson, Jr.
The Employees' Review Board, as a whole, dismissed the appeal of Richard Reyes for
failure to pursue an appeal. Richard Reyes appealed a demotion he received. Prior to a
hearing, Mr. Reyes died. Neither his heirs nor anyone who might have had an interest in
the appeal pursued his case. After a six-year period of donnancy, and upon motion by the
Department of Correction, the matter was dismissed.

COMPENSATION

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Connecticut, Department of Developmental Services
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Panel: Matthew Borrelli, Leslie A. Williamson, Jr., Emanuel N. Psarakis (Dissenting)
The Panel consolidated the three appeals. Appellants claimed that their compensation was
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they moved from an unclassified union position to a classified managerial position not in a collective bargaining unit. The Appellants asserted that they should have been paid over the maximum salary rate in their new position. The Panel reviewed statutes, regulations and administrative policy. The Majority held that the Appellants had not met their burden in demonstrating that the State had incorrectly calculated their salary as a "demotion." The Majority held that the State had shown a distinction between "functional" promotion and "compensation" demotion. The Dissent held that the Appellants should have been compensated above position rate because they were promoted not demoted. The decision was appealed. The Superior Court upheld the decision of the ERB majority. (Reddington, et al. v. Employees' Review Board, et al., No. CV 11 6012737S, Superior Court, Judicial District of New Britain, October 18, 2012, Cohen, J.)

DEMOPTION

In the Matter of Scott Sherrick-and-Department of Corrections
ERB Case No. 1013, May 4, 2007
Panel: Sandra Biloou, Thomas Staley, Leslie A. Williamson, Jr.
The Panel determined that the demotion of Mr. Sherrick from Lieutenant to Correction Officer was arbitrary and taken without reasonable cause. The incident pertainning to Mr. Sherrick's demotion involved unprofessional conduct toward a Correction Officer cadet. The Panel reinstated Mr. Sherrick to the position of Lieutenant but suspended him without pay for thirty days because of the incident.

JURISDICTION

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The Panel determined that it lacked jurisdiction to hear the appeal of Mr. Kulish since he elected to file a complaint with the Commission on Human Rights and Opportunities' Office of Public Hearings under Section 4-61(dd)(b)(4) of the Connecticut General Statutes. The statute permits a filing with the Employees' Review Board as an alternative to a filing with the Commission on Human Rights and Opportunities not in addition to such a filing.

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LAYOFF

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ERB Case No. 1046, February 15, 2013
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The Panel found that the State properly laid off the employee in accordance the statutory standard of order of seniority and that a defective initial notice of layoff was "cured" by a subsequent notice and an appropriate extension of the date of layoff.

SCHEDULE REDUCTION

In the Matter of Shaun McDonough-and-State of Connecticut
ERB Case No. 1033, June 4, 2010
Panel: Matthew Borrelli, Susan E. Halperin, Emanuel N. Psarakis
OPM's compliance with Special Act 09-06, An Act Concerning State Personnel Cost Savings, imposing a day schedule reduction resulting in a one-day's loss of pay to McDonough did not violate Section 5-241 of the General Statutes. OPM's actions were neither arbitrary nor taken without reasonable cause. The appeal was denied.

SUSPENSION

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The Panel denied the grievance in part, finding that the five-day suspension of a Correctional Captain was not arbitrary or taken without reasonable cause when the Captain failed to properly supervise a cell extraction. The Panel sustained the grievance with regard to the transfer and shift change of the grievant finding that it had jurisdiction to hear cases involving a disciplinary transfer (but not an administrative transfer) and holding that the grievant's disciplinary transfer was arbitrarily and taken without reasonable cause.
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the discipline and the lack of progressive discipline, a component of just cause, warranted
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TERMINATION

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ERB Case No. 1032, December 8, 2009
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