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THE SUPREME COURT OF NEW HAMPSHIRE

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Personnel Appeals Board

Case No. 2025-0344

Citation: Appeal of N.H. Div. of State Police, 2026 N.H. 21

APPEAL OF NEW HAMPSHIRE DIVISION OF STATE POLICE  
(New Hampshire Personnel Appeals Board)

Argued: March 10, 2026

Opinion Issued: May 15, 2026

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DONOVAN, J.

[¶1] The New Hampshire Department of Safety, Division of State Police (Division) appeals an order of the Personnel Appeals Board (PAB) awarding the respondent, Thomas Owens (employee), “his expected and anticipated overtime back pay” following the PAB’s earlier reversal of the employee’s termination.

See RSA 273-D:3, V (Supp. 2025); RSA 21-I:58, I (2020) (repealed 2024).<sup>1</sup> On appeal, the Division argues that overtime wages cannot be awarded as “salary loss suffered” under RSA 273-D:3, V. We agree and, accordingly, reverse and remand.

## I. Facts

[¶2] The PAB found, or the record supports, the following facts. In 2016, the Division hired the employee as a state trooper. In 2018, the Division began investigating him for adjusting his timecard to accommodate an additional extra-duty detail shift in violation of the Division’s policies. The Division terminated the employee in 2019, citing both the timecard alteration and the employee’s conduct during the investigation.

[¶3] The employee appealed to the PAB, which reversed his termination as “unwarranted by the alleged conduct and unjust in light of the facts in evidence.” See N.H. Admin. R., Per-A 207.12(b)(3), (4). The PAB found that although the employee had violated the Division’s rules, he was “credible” and merely displayed “poor judgment,” “inattention to detail,” and “poor time management.” It therefore reinstated his employment and imposed a twenty-day suspension without pay. After the Division appealed to this court, we affirmed the PAB’s reinstatement order. Appeal of N.H. Div. of State Police, 175 N.H. 1, 4, 5-6 (2022).

[¶4] The parties subsequently disagreed as to whether the PAB’s reinstatement order entitled the employee to receive back pay and benefits.<sup>2</sup> After the employee moved for clarification before the PAB, the PAB issued an order explaining that it intended “that the reinstatement of the [employee] include back pay less any mitigation and less the 20-day suspension without pay.” The PAB therefore directed the Division to provide back pay and benefits.

[¶5] The parties then disputed, among other things, whether the calculation of the employee’s back pay should include pay for extra-duty detail and other overtime work. The Division moved for a hearing on back pay compensation before the PAB. Following a hearing, the PAB awarded the employee “his expected and anticipated overtime back pay during his period of termination.” The PAB estimated this figure using the average of the employee’s overtime earnings in 2017 and 2018. The Division moved for a rehearing, which the PAB denied. This appeal followed.

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<sup>1</sup> In 2024 — after the PAB’s initial reinstatement of the employee, but before its subsequent order awarding him overtime pay — the legislature repealed RSA 21-I:58 and reenacted the language at issue in this case as RSA 273-D:3, V. This language remains substantively unchanged. Therefore, this opinion refers to the statute’s current version. See N.H. Municipal Workers’ Comp. Fund v. Smith, 124 N.H. 526, 529 (1984).

<sup>2</sup> The employee moved out of state following his initial dismissal and did not rejoin the Division after his reinstatement.

## II. Analysis

[¶6] On appeal, the Division argues that the PAB erred by determining that under RSA 273-D:3, V, the employee could receive overtime wages as part of his back pay award. RSA 541:13 (2021) governs our review of the PAB’s decision. See RSA 273-D:3, VI (Supp. 2025); Appeal of N.H. Div. of State Police, 175 N.H. 229, 234 (2022). “The Division, as the appealing party, has the burden to show that the PAB’s decision ‘is clearly unreasonable or unlawful.’” Appeal of N.H. Div. of State Police, 175 N.H. at 234 (quoting RSA 541:13). “The PAB’s findings of fact are deemed prima facie lawful and reasonable.” Id. “We will not vacate or set aside the PAB’s decision except for errors of law, unless we are satisfied, by a clear preponderance of the evidence, that its order is unjust or unreasonable.” Id. “However, we review the PAB’s interpretations of statutes and administrative rules de novo.” Id.

[¶7] “When interpreting both statutes and administrative rules, we ascribe the plain and ordinary meanings to the words used.” Id. In addition, “we give effect to all words in a statute and presume that the legislature did not enact superfluous or redundant words.” Appeal of Vasquez, 175 N.H. 450, 453 (2022). “We construe all parts of a statute together to effectuate its overall purpose and avoid an absurd or unjust result.” Appeal of Port City Air Leasing, Inc., 177 N.H. 149, 152 (2024), 2024 N.H. 71, ¶6. “Moreover, we do not consider words and phrases in isolation, but rather within the context of the statute as a whole.” Id.

[¶8] We first consider whether RSA 273-D:3, V confines the PAB’s authority to calculate a back pay award. RSA 273-D:3, V provides, in relevant part:

If the [PAB] finds that the action complained of was taken by the appointing authority . . . in violation of a statute or of rules adopted by the director, the employee shall be reinstated to the employee’s former position or a position of like seniority, status, and pay. The employee shall be reinstated without loss of pay, provided that the sum shall be equal to the salary loss suffered during the period of denied compensation less any amount of compensation earned or benefits received from any other source during the period. . . . In all cases, the [PAB] may reinstate an employee or otherwise change or modify any order of the appointing authority, or make such order as it may deem just.

(Emphasis added.)

[¶9] We have previously construed nearly identical language appearing in this provision’s predecessor statute, RSA 21-I:58, I. See Appeal of N.H. Div. of State Police, 171 N.H. 262, 267 (2018) (interpreting RSA 21-I:58, I (2012)). In

doing so, we explained: “The statute establishes two categories of relief a permanent employee may receive from the PAB: one mandatory and one discretionary.” *Id.* The PAB must reinstate an employee “if the action complained of was taken by the appointing authority for an impermissible purpose, or violated a statute or applicable administrative rule.” *Id.* In all other cases, the PAB retains discretion “to determine whether to grant relief and how to craft that relief.” *Id.*; see also Barry v. N.H. Dep’t of Health and Human Servs., 170 N.H. 364, 368 (2017) (discussing the PAB’s reinstatement authority under RSA chapter 21-I (2012) and administrative rules).

[¶10] The employee contends that the PAB reinstated him under its mandatory authority but retained its discretionary authority to craft a back pay award that it deemed “just.” See RSA 273-D:3, V. Meanwhile, the Division does not appear to take a position on appeal regarding whether the employee’s reinstatement was mandatory or discretionary. We therefore assume, without deciding, that his reinstatement was mandatory.

[¶11] The plain text of RSA 273-D:3, V provides that when mandatory, an employee’s reinstatement must occur “without loss of pay, provided that the sum shall be equal to the salary loss suffered.” (Emphases added.) The use of “provided that” and “shall” indicate the legislature’s intent to compel the PAB to follow this instruction. Because we construe statutory phrases “within the context of the statute as a whole,” Appeal of Port City Air Leasing, Inc., 177 N.H. at 152, 2024 N.H. 71, ¶6, we must interpret the subsequent language in RSA 273-D:3, V vesting the PAB with discretion to “make such order as it may deem just” in light of this express instruction. Contrary to the employee’s argument, permitting the PAB to ignore this mandate when calculating an employee’s lost pay award would impermissibly render this instruction “superfluous or redundant.” Appeal of Vasquez, 175 N.H. at 453.

[¶12] We therefore turn to the statute’s instruction vis-à-vis “reinstate[ment] without loss of pay”: “provided that the sum shall be equal to the salary loss suffered during the period of denied compensation less any amount of compensation earned or benefits received from any other source during the period.” RSA 273-D:3, V (emphasis added). This provision’s operative phrase is “salary loss suffered.” *Id.* Accordingly, we consider the plain meaning of “salary,” which RSA chapter 273-D (Supp. 2025) does not define.

[¶13] “When a term is not defined in the statute, we look to its common usage, using the dictionary for guidance.” Appeal of Port City Air Leasing, Inc., 177 N.H. at 153, 2024 N.H. 71, ¶10. The parties proffer rivaling dictionary definitions. The Division submits that “salary” means “fixed compensation paid regularly (as by the year, quarter, month, or week) for services.” Merriam-Webster’s Unabridged Dictionary, <https://unabridged.merriam-webster.com/unabridged/salary> (last visited May 13, 2026). Meanwhile, the

employee points to the meaning of “salary” in Black’s Law Dictionary. See Black’s Law Dictionary 1607 (12th ed. 2024) (defining “salary” as “[a]n agreed compensation for services — esp. professional or semiprofessional services — usu. paid at regular intervals on a yearly basis, as distinguished from an hourly basis,” and noting that “[s]alaried positions are usu. exempt from the requirements of the Fair Labor Standards Act (on overtime and the like)”). Based on the definition in Black’s, the employee posits that the Division’s focus on the term “salary” is misplaced, given that troopers are paid on an hourly basis.

[¶14] The employee suggests that the statute’s use of “salary” is ambiguous because the Division paid him an hourly wage, not an annual salary. This argument does not persuade us. The PAB regularly hears personnel appeals pertaining to both hourly and salaried employees across a swath of state agencies. See, e.g., Appeal of Cass, 177 N.H. \_\_\_, \_\_\_ (2025), 2025 N.H. 51, ¶1 (reviewing PAB’s affirmance of corrections officer’s termination); Clark v. N.H. Dep’t of Emp’t Sec., 171 N.H. 639, 642-43 (2019) (examining PAB’s review of the demotion of an hourly employee at unemployment benefits unit); Barry, 170 N.H. at 366, 368 (discussing PAB’s reinstatement of counselor at juvenile detention facility); see also RSA 273-D:2, I (describing PAB’s jurisdiction). RSA 273-D:3, V governs the PAB’s reinstatement of both hourly and salaried workers. Accordingly, we conclude that the legislature used “salary” in the word’s general sense — “fixed compensation paid regularly” — rather than in the narrower sense of an agreed-upon yearly compensation. Merriam-Webster’s Unabridged Dictionary, supra.

[¶15] The employee’s fixed compensation is his “regular” hourly pay for a standard work schedule, as agreed upon in the troopers’ collective bargaining agreement. By contrast, “overtime” is “an additional payment” for excess work. Merriam-Webster’s Unabridged Dictionary, <https://unabridged.merriam-webster.com/unabridged/overtime> (last visited May 13, 2026). Unlike the fixed compensation for a position, overtime earnings fluctuate and are indeterminate. See White v. City of Boston, 783 N.E.2d 467, 468 (Mass. App. Ct. 2003) (explaining that “overtime pay and police detail pay were speculative because the need for extra services was likely to be uncertain”). This premise is true even where, as here, the employee consistently worked overtime prior to his termination. Indeed, an employee’s disciplinary case may itself present an intervening circumstance that renders overtime less likely. This case provides an illustration: having found that the employee displayed “poor judgment” in managing his extra-duty detail shifts, Appeal of N.H. Div. of State Police, 175 N.H. at 3, the PAB recommended in its reinstatement order “that [the Division] not offer him any details for 60 days.” See also White, 783 N.E.2d at 469 (declining to award overtime to a reinstated police officer, and noting that his “eligibility for extra-duty work was much limited because he could not carry a firearm pending completion of retraining at the police academy”).

[¶16] By its express terms, the statute’s specification that, when reinstatement is mandatory, it should occur “without loss of pay, provided that the sum shall be equal to the salary loss suffered” seeks to preclude recovery of uncertain amounts beyond “the salary loss suffered.” RSA 273-D:3, V (emphases added). As explained above, the plain meaning of “salary loss suffered,” id., is an employee’s lost fixed compensation. Because the statute is clear, the employee’s argument that we should defer to the PAB’s application of this provision under the doctrine of administrative gloss is unavailing. See Appeal of N.H. Dep’t of Envtl. Servs., 176 N.H. 379, 395 (2023). In addition, the out-of-state cases on which the employee relies as support for an award of overtime pay in disciplinary appeals are inapposite. None of those cases appears to apply statutes that, like ours, constrain the applicable agency or court’s authority to calculate a back pay award. Accordingly, we conclude that RSA 273-D:3, V barred the PAB from awarding the employee overtime back pay.

### III. Conclusion

[¶17] In sum, we conclude that under the instruction pertaining to reinstatement “without loss of pay” in RSA 273-D:3, V, the PAB lacks authority to award overtime back pay to a reinstated employee. We therefore reverse and remand for further proceedings consistent with this opinion.

Reversed and remanded.

COUNTWAY and GOULD, JJ., concurred.