



STATE OF NEW JERSEY

In the Matter of Meagan Gundry  
County of Union, Department of Public  
Safety

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC DKT. NO. 2016-1536  
OAL DKT. NO. CSV 17513-15 and  
PTC 15452-15  
(Consolidated)

ISSUED: JUNE 26, 2019 BW

The appeal of Meagan Gundry, Sheriff's Officer, County of Union, Department of Public Safety, removal effective August 31, 2015, on charges, was heard by Administrative Law Judge Leslie Z. Celentano, who rendered her initial decision on April 25, 2019. No exceptions were filed.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Commission, at its meeting of June 26, 2019, accepted and adopted the Findings of Fact and Conclusion as contained in the attached Administrative Law Judge's initial decision.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Meagan Gundry.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 26TH DAY OF JUNE, 2019



Deirdre L. Webster Cobb  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Christopher S. Myers  
Director  
Division of Appeals and Regulatory Affairs  
Civil Service Commission  
P. O. Box 312  
Trenton, New Jersey 08625-0312

Attachment



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

RECEIVED

APR 29 2019

NJ DIVISION OF CRIMINAL JUSTICE  
POLICE TRAINING COMMISSION

**INITIAL DECISION**

**AND ORDER OF CONSOLIDATION**

**AND PREDOMINANT INTEREST**

**MEAGAN GUNDRY,**

Petitioner,

v.

**JOHN H. STAMLER**

**POLICE ACADEMY,**

Respondent.

---

OAL DKT. NO. PTC 15452-15

**IN THE MATTER OF MEAGAN GUNDRY,  
UNION COUNTY DEPARTMENT OF  
PUBLIC SAFETY.**

---

OAL DKT. NOS. CSV 17513-15

AGENCY DKT. NO. 2016-1536

**Michael L. Prigoff, Esq.,** for petitioner (Lisbon & Prigoff, attorneys)

**Andrey DiMarco, Esq.,** for respondent (Weiner Law Group, LLP, attorneys)

Record Closed: March 11, 2019

Decided: April 25, 2019

**BEFORE LESLIE Z. CELENTANO, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

By Notice of Dismissal dated September 4, 2015, the Police Training Commission (PTC) dismissed Meagan Gundry (petitioner) from her attendance at the John H. Stamler Police Academy (Academy) based on her failure to meet the minimum standards of the physical-conditioning component of the Basic Course. On September 4, 2015, petitioner appealed and requested a hearing. On September 28, 2015, the appeal was transmitted to the Office of Administrative Law (OAL), where it was filed on September 30, 2015, for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.<sup>1</sup> The civil service matter was originally assigned to ALJ Williams, who entered a Prehearing Order on November 9, 2015, and the Order of Admission to Inactive Status of the civil service case on November 20, 2015. The PTC matter was assigned to the undersigned and scheduled for hearing on June 13, 2016; however, on that date, unbeknownst to the parties and the undersigned, the OAL Clerk's office had closed out the file as a "settlement party agency return" in error. The case was reopened and the civil service matter reassigned to the undersigned following the resignation of the prior ALJ. The matter was scheduled for hearing on December 19, 2016, based on the availability of the parties. That date was adjourned at the request of counsel for petitioner due to a scheduling conflict. The matter was then rescheduled for September 18, 2017; however, that date was adjourned at the parties' request, as a settlement dialogue had ensued. The parties later advised that the matter did not settle, and so was rescheduled for September 10, 2018. That date was adjourned at the request of counsel for petitioner, as it was a religious holiday, and the hearing was rescheduled for October 26, 2018, based upon the availability of the parties. The hearing was held on that date, and following the receipt of the final post-hearing submission, the record closed.

---

<sup>1</sup> Because of her dismissal from the academy, petitioner was also terminated from her position as a sheriff's officer with the Union County Sheriff's Department. An appeal from that employment action was filed with the OAL as CSV 17513-15. Counsel for petitioner asked the ALJ to whom the matter was previously assigned to stay the employment action and place it on the inactive list pending determination of the within matter. Under Administrative Procedure Rules and the predominant interest of the PTC, however, and in accordance with N.J.A.C. 1:1-17.1, it is **ORDERED** that the cases are consolidated.

## FACTUAL DISCUSSION AND FINDINGS OF FACT

Detective Edward Hanewald testified that he is the Academy's lead physical-fitness instructor. He has been certified by the PTC and is in his eighteenth year as an instructor. Petitioner began at the academy in July 2015. That session was to extend approximately ninety-six days, through December 2015. On September 4, 2015, petitioner was dismissed for failing to meet the minimum standards of the physical-conditioning component of the academy. Detective Hanewald indicated that the dismissal was predicated upon her failure to fully participate in twenty conditioning sessions, which was more than 20 percent of the total number of sessions there would have been for that class. The academy requires recruits to fully participate in at least 80 percent of the sessions. A failure to perform in twenty of the sessions precluded petitioner from completing 80 percent, and therefore required dismissal from the academy.

The main purpose of the training is to prepare recruits to perform their job once they leave for their departments. They need to be able to do the job of a police officer, which is very physical and demanding, and they put themselves and others at extreme risk if they cannot do their job. Each day there is an assessment of whether a recruit participated or not.

Recruits are made aware throughout the training about the participation rules. Detective Hanewald does the non-participation forms for the day and details what the recruit did or did not do to receive the notice. At lunchtime they go over the details with each recruit when they hand out the non-participation notices.

Recruits are required to maintain a running pace during the running sessions or they receive a Non-Participation in Physical Training Notice (notice). They can fall back from the lead group, but the failure to keep a non-walking pace is determined by an instructor. Some recruits are not prepared for long-distance running and they go to a jogging or a walking pace, and then would receive a notice. The instructors are spread out and keep an eye on everyone's level of participation.

In addition, there are calisthenics requirements and drills for which the recruits are coached. If a recruit fails in any of the components of the conditioning sessions they receive a notice for the morning. They have to perform the exercises correctly and do the required amount of repetitions or they receive a notice. Detective Hanewald testified that they cannot tailor programs for individuals. Several recruits in petitioner's class struggled. They are not required to give each recruit their own program, rather, the PTC requires everyone to complete the group program. Petitioner received her twenty non-participations, which take a while to accumulate; it cannot be done in a couple of weeks. When a recruit reaches the ten-notice mark the recruit is brought into the director's office and notified.

The academy trainers documented through notices and videotapes training sessions that petitioner failed to fully participate in. The notices that were prepared indicated the dates on which petitioner had failure to fully participate. Detective Hanewald identified the notices that were prepared, indicating that petitioner had failed to fully participate on twenty separate occasions. (R-2 at 1–20.)

1. July 28, 2015
2. July 29, 2015
3. July 30, 2015
4. August 3, 2015
5. August 5, 2015
6. August 7, 2015
7. August 10, 2015
8. August 11, 2015
9. August 12, 2015
10. August 13, 2015
11. August 14, 2015
12. August 17, 2015
13. August 18, 2015
14. August 19, 2015
15. August 20, 2015
16. August 21, 2015

17. August 24, 2015
18. August 25, 2015
19. August 26, 2015
20. August 27, 2015

I have reviewed these notices and the corresponding video recordings.

On eight occasions petitioner was given notices because she fell back to a walking pace. On nine occasions she failed at the running portion, as well as at some or all of the calisthenics or obstacle-course portions. On three occasions petitioner failed at the calisthenics portion.

Detective Hanewald stated that the standards applied by all instructors are uniformly applied and objectively defined, albeit not with a minimum-pace standard. He noted that several recruits in this class struggled, and that ultimately about twelve were dismissed—seven male and four or five female recruits. He also explained that there were no excused absences due to illness or injury, and that any such days would count as a non-participation. Detective Hanewald noted that petitioner's class had the most non-participation notices of any class until the current one. He also indicated that the instructors guide the recruits and set the bar low at the beginning of the program. They gradually built up the conditioning aspects as the program progresses, but it is not set up to accommodate those who are not physically fit to begin with.

Officer Jarely Viera is a physical-training instructor at the academy and was an instructor during petitioner's class. She testified that the recruits are informed of the academy standards, and that their form is corrected if they are doing an exercise incorrectly. Viera provided instruction to petitioner when her form was off and explained how the exercise was to be done, or would have another recruit show her.

Petitioner testified that she was always in shape before she applied to the Sheriff's Department and that she went to the gym routinely, participating in cardio and weight training. She took the test to be a sheriff's officer in 2013 and was certified for the position two years later, in 2015. After she took the test she became pregnant and

had her daughter in December 2014. She gained fifty or sixty pounds during her pregnancy and had difficulty losing the weight. While going through the evaluation process for the sheriff's officer position, including a psychological evaluation, a background check, and a physical, she indicated that she had concerns about starting the academy and asked about deferring her admission. She testified that she was reassured that she would be fine. After being sworn in in July 2015, petitioner started the academy a week or two later at a weight of 222 pounds. The physical-training portion began at the end of July and she received her first notice on July 28, the first day of training. She testified that she understood that if she did not complete the physical-training requirements she would be dismissed. She knew she had to run with the group, and not doing so would be considered non-participation. Petitioner testified that she never stopped running, and never walked, and never left a run. She also indicated that she never received an interim assessment, and so her progress could not be assessed. She felt others did the same level of work she had done, and in fact another recruit who could not run due to an injury did not get notices from August 14 on, even though he did not participate at all, but sat in the classroom the entire time. Petitioner also indicated that she is now in better shape than when she had been at the academy, and believes she could fully participate if she went today.

I FIND, based upon the dates documented by Detective Hanewald and his testimony, that appellant failed to fully participate in twenty sessions at the academy.

### LEGAL DISCUSSION

#### Petitioner's Dismissal from the Academy

Academies are given the power to dismiss or otherwise discipline recruits by the Police Training Act, which mandates successful completion of a basic training course at a school approved by the Police Training Commission as a prerequisite to a permanent appointment as a police officer. N.J.S.A. 52:17B-67, -68. The PTC is vested with the power, responsibility, and duty to prescribe standards for approval of police training schools and the minimum qualifications for their instructors, and "[t]o prescribe the curriculum, the minimum courses of study, attendance requirements, equipment and



facilities, and standards of operation for such schools.” N.J.S.A. 52:17B-71(a)–(d). The PTC is also responsible for certifying correction officers that have satisfactorily completed training programs. N.J.S.A. 52:17B-71(e).

The academy is an approved police training facility and is governed by the provisions of N.J.S.A. 52:17B-66, et seq. As such, it is vested with power, responsibility and duty

[t]o issue and enforce rules consistent with Commission requirements which govern the conduct of trainees and the use of the school’s facilities. Each trainee shall be furnished a printed copy of the rules at the commencement of the course . . . . These rules shall explicitly state which rule(s), the violation of which, may result in the trainee’s suspension or dismissal from school.

[N.J.A.C. 13:1-7.2(a)(3).]

N.J.A.C. 13:1-7.2(a)(8) vests the academy with the power

[t]o dismiss a trainee who has demonstrated that he or she will be ineligible for Commission certification, for unacceptable behavior or for other good cause.

As set forth in Greenwood v. State Police Training Center, 127 N.J. 500, 510 (1992):

[A]lthough the good-cause standard eludes precise definition, courts ordinarily uphold findings of good cause when the employee’s performance is deficient or when the employee creates a risk of harm to himself or herself or others.

Good cause refers to the conduct of an employee that would justify dismissal. The example of such conduct noted by the Court in Greenwood was deficient performance. The Greenwood Court noted that courts have found good cause for termination in cases in which the discharge is prompted by a legitimate business concern.

The issues in this matter are whether petitioner failed to fully participate in twenty training sessions, and whether this failure constituted "good cause" for her dismissal from the academy. As outlined in the PTC's Physical Conditioning Training Manual, the physical-conditioning exercise program must meet the following requirements:

1. Each exercise session, including the warm-up and cool-down phases, shall not exceed 70 minutes in length. (An additional 10 minutes, however, will be allowed for more highly fit trainees undergoing exercise. Also, additional time is permitted for trainees who require rest during the performance of speed and agility exercises . . . .)
2. Exercise sessions shall be conducted at least three days per week. Depending on local needs and resources, schools may increase the number of one-hour sessions up to five per week, but no more than one per day. A five-day exercise program is recommended.
3. A minimum of 40 physical conditioning sessions shall be scheduled in a five-day program, and 20 physical conditioning sessions shall be scheduled in a three-day program. In addition, a trainee must fully participate in eighty-percent of the scheduled physical training sessions, and meet the standard which produces the higher number of sessions based upon the course schedule. Failure to fully participate in eighty-percent of the total physical conditioning sessions shall be grounds for dismissal from the police academy.
4. Each exercise session shall consist of a warm-up phase, conditioning phase, and cool-down phase.
5. The conditioning phase shall consist of flexibility exercises, aerobic activities, calisthenics and strength exercises, and, on specified days, exercises geared to enhance speed and agility.
6. Academies may utilize training sites which are approved by the [PTC]. Whether outdoor, or indoor, approved sites may be utilized for physical fitness training . . . . When an academy utilizes a site located outside of their own academy property, the academy staff shall note this on the final course schedule.
7. Full participation shall be defined as participating continuously and without stopping in a twenty-minute run.

Recruits shall demonstrate to staff their ability to engage in aerobic training running continuously for this period of time. Full participation in calisthenics and strength exercises shall be approved by the evaluation of physical training staff at each academy, on a recruit-by-recruit basis.

[R-7 (emphasis added).]

While petitioner argues that individualized physical-conditioning training is required, the evidence established that the physical-training component of the academy is intended to ensure that participants can meet the physical requirements associated with being a law-enforcement officer. Petitioner contended that she was not aware of the standards that would constitute satisfactory performance, yet all recruits are advised of the standards, and of the notices they can receive for non-participation, which can lead to dismissal from the academy if they total twenty. She indicated that she never stopped running, never walked, and never left a run, yet it was clear from the videotapes that petitioner's slow walk/jog and her performance in the calisthenics were all viewed as generously as possible by the instructors trained to assess compliance. Petitioner also argues that the academy did not follow the Manual, in that she did not receive interim assessments, which should have led to recruits being grouped by level of conditioning, yet those assessments are not mandatory, but are recommended. The requirement ultimately is that a recruit must participate in 80 percent of the required training sessions, and that failure to do so would lead to dismissal. Petitioner was advised of what was expected of her.

Having found that petitioner failed to successfully complete twenty of the sessions just between July 28 and August 27, 2015, I **CONCLUDE** that she was dismissed from the academy for "good cause." I **CONCLUDE** that respondent properly concluded that petitioner failed to meet the universal standards of the physical-conditioning aspect of the PTC. Thus, it properly dismissed her from this class for good cause.

Petitioner's Termination of Employment

The Civil Service Act and the regulations promulgated pursuant thereto govern the rights and duties of a civil service employee. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:1-1.1, et seq. A civil service employee who commits a wrongful act related to his or her duties, or gives other just cause, may be subject to major discipline. See N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.3. The issues to be determined are whether the employee is guilty of the charges brought against her and, if so, the appropriate penalty, if any, that should be imposed. Henry v. Rahway State Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962).

An appointing authority may discipline an employee for, among other causes, an inability to perform duties. N.J.A.C. 4A:2-2.3(a)(3). The Department bears the burden of proving the charges against petitioner by a preponderance of the credible evidence. See In re Polk, 90 N.J. 550 (1982); Atkinson v. Parsekian, 37 N.J. 143 (1962). In this matter, the Department terminated petitioner's employment predicated on her inability to perform duties, stemming from her failure to successfully complete the training course at the academy.

The statutory scheme governing police training dictates that successful completion of a police training course at a PTC-approved school is a mandatory prerequisite to a permanent appointment as a police officer. N.J.S.A. 52:17B-68 instructs that "every municipality and county shall require that no person shall hereafter be given or accept a permanent appointment as a police officer unless such person has successfully completed a police training course at an approved school." In other words, the training laws apply to all police officers and establish a classification of temporary or probationary employment for police officers until successful completion of the mandatory program of training. Borger v. Borough of Stone Harbor, 178 N.J. Super. 296, 301-02 (Ch. Div. 1981); see N.J.S.A. 52:17B-68, -69.

Pursuant to N.J.S.A. 52:17B-68, petitioner may not be given or accept a permanent appointment as a police officer unless she has successfully completed a police training course at a school approved by the PTC. The failure to complete this

training is clearly grounds for termination of employment. Simply put, as a result of petitioner's dismissal from the academy, petitioner could not perform the essential duties of her position. Accordingly, I **CONCLUDE**, as a matter of law and on the basis of the findings of fact and conclusions of law set forth above, that the Union County Sheriff's Office's determination to terminate petitioner's employment for failure to complete the academy, a prerequisite to a permanent appointment, was within the scope of its authority and cannot be said to be arbitrary, capricious, or unreasonable under the circumstances. It is up to her former employer to determine if she should be allowed to re-enroll in an academy. Unless and until it does, petitioner cannot fulfill the requirements of her position as a sheriff's officer.

### ORDER

Based upon all of the foregoing, it is hereby **ORDERED** that the action of respondent John H. Stamler Police Academy of dismissing petitioner from the basic training course for good cause is **AFFIRMED**, and petitioner's removal from the position of sheriff's officer with the Union County Sheriff's Department for having been dismissed from the academy is hereby **AFFIRMED**.

I hereby **FILE** this Initial Decision with **POLICE TRAINING COMMISSION**.

This recommended decision may be adopted, modified or rejected by the **POLICE TRAINING COMMISSION**, which by law is authorized to make the final decision on all issues within the scope of its predominant interest. If the Police Training Commission does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision on all of the issues within the scope of predominant interest shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Pursuant to N.J.A.C. 1:1-17.8, upon rendering its final decision the **POLICE TRAINING COMMISSION** shall forward the record, including this recommended decision and its final decision, to the **CIVIL SERVICE COMMISSION**, which may

subsequently render a final decision on any remaining issues and consider any specific remedies which may be within its statutory grant of authority.

Upon transmitting the record, the **POLICE TRAINING COMMISSION** shall, pursuant to N.J.A.C. 1:1-17.8(c), request an extension to permit the rendering of a final decision by the **CIVIL SERVICE COMMISSION** within forty-five days of the predominant-agency decision. If the **CIVIL SERVICE COMMISSION** does not render a final decision within the extended time, this recommended decision on the remaining issues and remedies shall become the final decision.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DEPUTY ATTORNEY GENERAL, POLICE TRAINING COMMISSION, Richard J. Hughes Justice Complex, PO Box 085, Trenton, New Jersey 08625-0085**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

April 25, 2019  
DATE

  
\_\_\_\_\_  
LESLIE Z. CELENTANO, ALJ

Date Received at **POLICE TRAINING COMMISSION**: April 25, 2019

Date Mailed to Parties: April 26, 2019

dr

**APPENDIX**

**Witnesses**

**For Petitioner:**

Meagan Gundry

**For Respondent:**

Detective Edward Hanewald

Jarely Viera

**Exhibits**

**For Petitioner:**

- P-1 Pages 1 through 27 of New Jersey Police Training Commission Physical Conditioning Training Manual received January 2010
- P-2 Interrogatories to respondent dated January 25, 2016, and Answers
- P-3 Meagan Gundry (Initial) Physical Fitness Assessment
- P-4 Meagan Gundry Non-Participation in Physical Training Notices
  - July 28, 2015 (run) August 14, 2015 (run)
  - July 29, 2015 (run) August 17, 2015 (run)
  - July 30, 2015 (run) August 18, 2015 (calisthenics)
  - August 3, 2015 (run) August 19, 2015 (run and calisthenics)
  - August 5, 2015 (run) August 20, 2015 (obstacle course)
  - August 7, 2015 (run) August 21, 2015 (run and calisthenics)
  - August 10, 2018 (run) August 24, 2015 (run)
  - August 11, 2015 (calisthenics) August 25, 2015 (calisthenics)
  - August 12, 2015 (run) August 26, 2015 (obstacle course)
  - August 13, 2015 (calisthenics) August 27, 2015 (run)
- P-5 Timothy Goldate Non-Participation in Physical Training Notices

P-6 Excerpts from deposition of Eric Hanewald taken on April 13, 2016, including pages 1–3, 8, 10–15, and 45–59

For Respondent:

- R-1 Directive No. 698
- R-2 Non-Participation Notices from July 28, 2015, through August 27, 2015
- R-3 Training videos from August 5, August 14, August 17, August 19, August 20, and August 21, 2015
- R-4 August 13, 2015, letter to Gundry advising that she has received ten non-participation notices
- R-5 August 27, 2015, Notice of Dismissal from the Academy
- R-6 Not in Evidence
- R-7 Police Training Commission Physical Conditioning Training Manual





PHILIP D. MURPHY  
Governor

SHEILA Y. OLIVER  
Lieutenant Governor

*State of New Jersey*  
OFFICE OF THE ATTORNEY GENERAL  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CRIMINAL JUSTICE  
POLICE TRAINING COMMISSION  
PO Box 085  
TRENTON, NJ 08625-0085  
TELEPHONE: (609) 376-2800

GURBIR S. GREWAL  
Attorney General

VERONICA ALLENDE  
Director

MEAGAN GUNDRY,

Petitioner

v.

JOHN H. STAMLER  
POLICE ACADEMY,

Respondent

FINAL DECISION

OAL Docket No. PTC 15452-15

OAL Docket No. CSV 17513-15

**(CONSOLIDATED)**

IN THE MATTER OF MEAGAN GUNDRY,  
UNION COUNTY DEPARTMENT OF PUBLIC  
SAFETY

**BY THE COMMISSION:**

The Police Training Commission received the Initial Decision in this matter on April 29, 2019. This final decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6 and N.J.A.C. 1:1-18.8.

The Police Training Commission, at its meeting of June 5, 2019, considered the attached Initial Decision, decided on April 25, 2019, from Leslie Z. Celentano, ALJ. There were no exceptions filed by the parties. The Initial Decision is hereby **ADOPTED** without modification as the **FINAL DECISION** of the Police Training Commission.

This is the final administrative determination by the Police Training Commission in this matter. Any appeal of this Final Decision should be made pursuant to N.J. Court Rules, R. 2:2-3.

POLICE TRAINING COMMISSION

By:   
John F. Cunningham, Designated Chairman

Date: 6/10/2019

