



STATE OF NEW JERSEY

In the Matter of Ruth Y. Henriquez  
Middlesex County Sheriff's Office

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

CSC DKT. NO. 2017-2000  
OAL DKT. NO. CSV 00174-17  
OAL DKT. NO PTC 17504-16

(Consolidated)

ISSUED: JULY 29, 2020

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The appeal of Ruth Y. Henriquez, Sheriff's Officer, Middlesex County Sheriff's Office, removal effective October 28, 2016, on charges, was heard by Administrative Law Judge Patricia M. Kerins, who rendered her initial decision on April 23, 2020. No exceptions were filed regarding the Civil Service Commission's (Commission) portion of the matter.

Having considered the record and the Administrative Law Judge's initial decision, and having made an independent evaluation of the record, the Civil Service Commission, at its meeting of July 29, 2020, 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 Ruth Y. Henriquez.

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 29<sup>TH</sup> DAY OF JULY, 2020

*Deirdre' L. Webster Cobb*

Deirdré 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

**INITIAL DECISION**

OAL DKT. NO. PTC 17504-16

AGENCY DKT. NO. N/A

**RUTH Y. HENRIQUEZ,**

Petitioner

v.

**MONMOUTH COUNTY POLICE ACADEMY,**

Respondent,

AND

**IN THE MATTER OF RUTH HENRIQUEZ,  
MIDDLESEX COUNTY, SHERIFF  
DEPARTMENT.**

OAL DKT. NO. CSV 00174-17

AGENCY DKT. NO. 2017-2000

**CONSOLIDATED**

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**Anthony J. Fusco, Jr., Esq., for petitioner/appellant<sup>1</sup> Ruth Y. Henriquez (Fusco  
and Macaluso Partners, L.L.C., attorneys)**

**Steven Kleinman, Special County Counsel, for respondent Monmouth County  
Police Academy**

**Benjamin D. Leibowitz, Esq., for respondent Middlesex County Sheriff's  
Department**

Record Closed: June 6, 2018

Decided: April 23, 2020

BEFORE PATRICIA M. KERINS, ALJ:

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner Ruth Henriquez (Henriquez) appeals from the decision of respondent Monmouth County Police Academy (Monmouth) dismissing her from its training course and from the decision of respondent Middlesex County Sheriff Department (Middlesex) to dismiss her based upon her failure to complete that training course.

On October 28, 2016, Monmouth dismissed petitioner from its Academy based upon her failure to complete a required block of instruction on Defensive Tactics. By letter of November 3, 2016, Henriquez appealed that decision and on November 16, 2016, the matter was transmitted to the Office of Administrative Law (OAL) by the Police Training Commission (PTC) for hearing as a contested case.

On December 29, 2016, respondent Middlesex issued a Final Notice of Disciplinary Action (FNDA) removing petitioner from her position of Sheriff Officer Recruit based upon her failure to successfully complete her training at Monmouth. She appealed that action and the matter was transmitted to the OAL on January 4, 2017, by the Civil Service Commission (Commission) for a hearing as a contested case.

On May 3, 2017, the matters were consolidated and the PTC was deemed to have the predominant interest pursuant to N.J.A.C. 1:4A-17.1 and 17.2. The parties appeared on October 20, 2017, and January 18, 2018. Testimony was taken on January 18, 2018, and the record closed on June 6, 2018, after the parties' receipt of the transcript. Extensions of time were granted for the issuance of the Initial Decision.

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<sup>1</sup> To avoid confusion, Henriquez will be referred to as petitioner.

## FACTUAL DISCUSSION

Most of the material facts in this matter are undisputed. Henriquez began her employment as a Middlesex County Sheriff's Officer Recruit in July 2016. In August 2016 she began her required training at a police officer's course at Monmouth. Petitioner is subject to Rhabdomyolysis, a condition which can present itself during physical exertion and result in dehydration.<sup>ii</sup> On August 9, 2016, she experienced muscle spasms during physical training and was unable to keep water down. As a result, by August 25, 2016, she had not participated in eleven (11) PT classes. As participation is required in a minimum of 80 percent of all scheduled PT sessions, she only had four more sessions she could miss before she faced dismissal.

On September 23, 2016, she experienced chest pains and shortness of breath during a group run. On October 19, 2016, she was treated at Centra State Hospital's emergency room for leg pain and numbness, with dehydration due to Rhabdomyolysis. She then was seen at a workers' compensation medical facility where she was prescribed bedrest and hydration for two days. She was seen two days later at the same facility and was cleared to return to training when her lab results were normal. Finally, she again was seen at that facility on October 24, 2016. Although it was determined that the Rhabdomyolysis had resolved, she complained of ankle pain and was prescribed an ankle brace. As a result Henriquez missed further PT sessions and on October 28, 2016, she was served with a dismissal notice from the Academy based on her failure "to complete the required block of instruction on Defensive Tactics . . . by missing 24 hours of instruction." (RMO-1)

In support of its dismissal of petitioner, Monmouth presented the testimony of Darryl Breckenridge, Sr. (Breckenridge), Director of the Academy and John Fay (Fay), Training Officer at the Academy. Breckenridge described the twenty-week police officer course Henriquez attended as one of the Middlesex recruits sent to the Academy. The curriculum is set by the PTC and recruits must participate and complete the required

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<sup>ii</sup> As defined in Stedman's Medical Dictionary, 28<sup>th</sup> Edition, Rhabdomyolysis is defined as "an acute, fulminating, potentially fatal disease of skeletal muscle that entails destruction of muscle as evidenced by

training modules. He testified that Monmouth requested permission from the PTC (RMO-7) to allow seven recruits with absences due to medical reasons to continue in the class. Henriquez was one of those recruits. In response, the PTC denied the request in toto, but noted that "special training accommodations must be submitted to the Commission with supporting justification, and will be judged on the merits."(RMO-8).

Breckenridge testified that no individual requests with supporting documentation were submitted to the PTC after the receipt of its October 28, 2016, response. Further, that in a conversation with Larry Evans, PTC Administrator, he was advised to proceed with dismissals. Under cross-examination, he said there was no discussion between Monmouth and the PTC of any accommodations for medical issues. He also testified that he was not aware of Henriquez making any accommodation requests for her condition. Further, according to Breckenridge, Monmouth was willing to allow Henriquez to continue her training but concluded the PTC would not allow it.

Fay, a training officer who oversees Monmouth's training course described the components of the course and reviewed petitioner's attendance issues. He had noted those issues as early as August 25, 2016 (RMO-10) and he was aware of her medical condition. Fay recalled that she did not request accommodations for her condition and he did not recall conversations with her regarding her condition. He reviewed her medical issues of August 9 and September 23, and the October 19, 2016, event which occasioned her further absences. After initial medical treatment, recruits are sent to the worker's compensation facility for follow-up. When Henriquez' attendance issues arose, along with those of other recruits, Fay said he discussed the matter with a PTC representative who suggested that Monmouth submit a letter requesting permission to schedule makeup classes for the recruits.

When cross-examined, Fay acknowledged that all of petitioner's absences were verified by doctors and that she continued her training after each event. He further testified that Monmouth did not submit medical data on Henriquez or the other recruits as suggested by the PTC's October 28, 2016, letter.

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myoglobinemia and myoglobinuria. Exertional rhabdomyolysis is "produced in those susceptible by

In addition to respondent Monmouth's witnesses, Middlesex presented the testimony of Undersheriff Kevin Harris. He reviewed the reason for her dismissal, and while he knew she was under medical care for her absences, he did not recall her asking for accommodations for the underlying condition causing the absences. He admitted that he had seen the worker's compensation report on Henriquez but he did not discuss her medical condition during the dismissal process.

In support of her appeal, Henriquez testified on her own behalf. She recalled that her medical issues began in her first week of training at the Academy. On August 9, 2016, she experienced cramps during PT and could not keep water down. She was treated by EMTs. On August 11, 2016, her doctor advised her to go to the emergency room to get fluids as her blood work had returned with abnormal readings related to Rhabdomyolysis. She stated that her personal physician sent information to the County but admitted that she did not ask for accommodations beyond advising her instructor that she need to replenish electrolytes during PT.

Henriquez then reviewed her medical incidents during training in September and October 2016. On October 19, 2016, she went to the hospital after a run when she told her instructor that her left leg was numb. After that she saw the workers' compensation doctor twice before she was cleared to return to training. She was advised again to stay hydrated. Henriquez described her condition and its symptomatology, specifically, dehydration after physical exercise. She admitted that she did not request extra water breaks with the training instructors and that no one at Monmouth or Middlesex discussed her condition with her.

Under crossexamination Henriquez admitted that she had attended the State Police Academy in Sea Girt in 2014, for a parole officer course. At that time she did not complete the course as she could not keep up with the PT. She returned again that year but did not complete the course for other reasons. Although her condition was a factor in her inability to complete the course, she insisted she was not physically in

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muscular exercise."

shape at the time. She admitted that she did not advise Middlesex of her Rhabdomyolysis and that she did not disclose the condition in her answers to question 12 and 15 of her Health History Statement. (RMI-10).

Reviewing the record as a whole in this matter, it is clear that petitioner did not complete the required portions of her training and that her absences were related to the medical condition Rhabdomyolysis. Petitioner did not advise respondents of her condition prior to her employment and enrollment in the police training course, nor did she ask for accommodations during her training. Respondents, however, were on notice of her condition by August 2016, after her condition occasioned her first absences from training and medical information was provided to respondents.

The record further shows that when Henriquez' absences reached the point in October where her failure to complete a required portion of the training left her in danger of dismissal, Monmouth requested permission from the PTC to allow her and other recruits to make up classes and continue in the program. When that request was denied subject to the submission of further information and data, Monmouth chose to proceed with dismissal.

### **LEGAL DISCUSSION**

Pursuant to the Police Training Act, "[t]he commission is vested with the power, responsibility and duty. . . [t]o prescribe the curriculum, the minimum courses of study, attendance requirements, equipment and facilities, and standards of operation" for police training schools, as well as to certify officers "who have satisfactorily completed training programs and to issue appropriate certificates [.]" N.J.S.A. 52:17B-71(c), (e). Officers must successfully complete a basic training course at a school approved by the Commission as a prerequisite to permanent appointment. N.J.S.A. 52:17B-68.



An officer will fulfill certification requirements when the school director affirms that:

1. The trainee has achieved the minimum requirements set forth in the basic course applicable to his or her appointment and has demonstrated an acceptable degree of proficiency in the performance objectives contained in the particular basic course;
2. The trainee has participated in no less than ninety percent of the total instructional time assigned to those performance objectives designated by the Commission; and
3. The trainee has successfully completed the training required by the Commission to be conducted by the employing law enforcement agency.

[N.J.A.C. 13:1-5.1]

The operator of a school approved by the Commission is vested with the "power, responsibility, and duty. . . to dismiss a trainee who has demonstrated that he or she will be ineligible for Commission certification, for unacceptable behavior or for other good cause." N.J.A.C. 13:1-7.2(a)(8).

The "good cause" provision protects employees from arbitrary discharge and ensures that termination is related to job performance. Greenwood v. State Police Training Ctr., 127 N.J. 500, 509-10 (1992). Physical limitation may be the basis of a good cause termination where "there is substantial evidence that that limitation either prevents the employee from adequately performing the job or creates a substantial risk of serious injury to the employee or others." Id. at 512.

While the Commission must "extend the time limit for satisfactory completion of . . . programs for the training of corrections officers . . . upon a finding that health, extraordinary workload or other factors have, singly or in combination, effected a delay in the satisfactory completion of such training program[,]" N.J.S.A. 52:17B-71(n), trainees who cannot otherwise complete the physical training component of the basic training course will be terminated for good cause. See Johnson v. Morris Cnty. Pub.

Safety Training Acad., PTC 03938-16, initial decision, (June 1, 2018), adopted, (Aug. 14, 2018) (a correction officer could not complete the physical requirements of the training course due to a prior injury, and therefore, was terminated for good cause), <http://njlaw.rutgers.edu/collections/oal/>; Arafa v. N.J. Dep't. of Corr. Training Acad., PTC 17850-16, initial decision, (March 29, 2018), adopted, (June 12, 2018) (trainee who failed to complete 80 percent of the physical training sessions was terminated for good cause), <http://njlaw.rutgers.edu/collections/oal/>; Pantaoliano v. Bergen Cnty. Police Acad. & Borough of Rutherford, PTC 9806-02, initial decision, (Nov. 27, 2006) (trainee's physical injury prevented her from satisfactorily participating in the physical conditioning training program; therefore, there was good cause to support her termination) <http://njlaw.rutgers.edu/collections/oal/>; Schmeltz v. Bergen Cnty. Police and Fire Acad., PTC 10259-91, initial decision, (Aug. 13, 1992), adopted, (Dec. 16, 1992) (correction officer was not fit for the duties of the job because he could not complete physical training due to a previous injury). The physical training component is an important indicator of whether an officer can perform the duties of their job.

Therefore, no person may be given a permanent appointment short of successful completion of the required training course. Borger v. Stone Harbor, 178 N.J. Super. 296, 302 (Cape May Cnty. Sup. Ct. 1981). Gottlieb v. Monmouth Cnty. Sheriff's Office, CSV 966-94, initial decision, (Dec. 23, 1994), adopted, (Feb. 7, 1995) is cited in a myriad of administrative decisions for the proposition that the Police Training Act leaves no room for discretion regarding the requirements for officer certifications. In that case, the ALJ sustained the removal of a corrections officer for failure to complete the physical training requirements due to an injury. The ALJ noted, "civil service rules do not anticipate continued employment of law enforcement officers who do not complete the Police Training Commission course, if so required."

However, the Code provides that the "general rules for the operation of the Commission and the administration of the Police Training Act . . . may be relaxed or dispensed with by the Commission in any instance where it shall be apparent to the Commission that strict adherence would result in an injustice to an individual or a law enforcement agency." N.J.A.C. 13:1-2.1.

New Jersey administrative decisions in which this rule has been applied, mostly involve false positive drug screenings or involuntary intoxication. See In re Robert Zorn, Jr., PTC 2453-10 & CSV 9365-10; initial decision, (Feb. 24, 2011), <http://njlaw.rutgers.edu/collections/oal/>; McCoy v. Dep't. of Corr. Training Acad., PTC 1937-02, initial decision, (Nov. 20, 2002), adopted, (Feb. 20, 2003), <http://njlaw.rutgers.edu/collections/oal/>; Rezende v. Monmouth Cnty. Police Acad., PTC 2205-10, initial decision, (Aug. 9, 2010). Additionally, regarding relaxation of the rules for physical training, an ALJ has found that claims of defective weapons and improper training were insufficient. See Manley v. Monmouth Cnty. Police Dep't, PTC 2241-01, initial decision, (Apr. 9, 2002), <http://njlaw.rutgers.edu/collections/oal/>.

N.J.A.C. 13:1-2.1 has been relied upon in the reinstatement of a correction officer and his reenrollment after he failed to complete his physical training due to an injury during the training program. Abate v. Passaic Cnty. Sheriff's Dep't, CSV 473-92, initial decision, (Jan. 27, 1993), adopted, (Mar. 9, 1993). There petitioner sustained an injury to his knee, and he provided medical certification that he would not be able to complete the physical training due to his injury. Since he could not complete the training program his employment was terminated. Although his injury constituted good cause for dismissal, the ALJ found that termination from the academy based on his temporary injury was unjust and warranted relaxation of the rules.

The Abate case can be contrasted with Johnson v. Morris Cnty. Pub. Safety Training Acad., where the injury occurred prior to the training and had long term effects on the officer's ability to complete the training, and possibly, perform the duties of her job. See also Schmeltz (correction officer could not complete the physical training due to permanent injuries).

In summation, a correction officer may be dismissed for good cause for failure to complete the physical training requirement for certification. However, the Commission has used its discretion to relax the rules where strict adherence would result in an injustice. The limited administrative decisions suggest that the Commission will

exercise its discretion when failure to complete the physical training component is due to a temporary injury that will not have a long term affect on the ability to perform the job.

## **CONCLUSIONS**

### **Discharge from Monmouth Police Training Academy**

I **CONCLUDE** that good cause existed here for the termination of petitioner by Monmouth. There is no question that she did not complete a required portion of the training due to her absences. Although her absences were occasioned by her medical condition Rhabdomyolysis, and Monmouth may have been able to provide her with accommodations to manage her symptomatology, she did not advise either Monmouth or Middlesex of her condition prior to her employment or her training. Nor did she request accommodations during her training even after her first absences due to her condition.

While respondent was aware of her condition by the time of her dismissal, petitioner did not submit sufficient medical evidence to respondent, or in this matter, to warrant a relaxation of the regulations applicable here. The dehydration caused by her physical activity was serious and disabling. It occurred on several occasions during training resulting in her absences. While petitioner takes the position that her condition is manageable simply with hydration and replenishment of electrolytes, she did present sufficient medical evidence to respondent or this tribunal to warrant a relaxation of the training completion requirements.

### **Discharge from the Middlesex County Sheriff's Department**

Based on petitioner's failure to complete the required training course for a sheriff's officer, I **CONCLUDE** that her dismissal from her position by Middlesex was appropriate.

**ORDER**

Based on the foregoing, it is hereby **ORDERED** that the action of respondent Monmouth County Police Academy dismissing Henriquez from the police training course is **AFFIRMED**.

I further **ORDER** that the action of respondent Middlesex County Sheriff's Department removing Henriquez is **AFFIRMED**.

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

This recommended decision may be adopted, modified or rejected by the **POLICE TRAINING COMMISSION**, who/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.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **POLICE TRAINING COMMISSION** marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

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.



April 23, 2020  
DATE

PATRICIA M. KERINS, ALJ

Date Received at:  
**POLICE TRAINING COMMISSION**

\_\_\_\_\_

Date Mailed to Parties:

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mel/mph

**WITNESSES**

**For Petitioner:**

Ruth Henriquez

**For Respondent Monmouth County Police Academy:**

Darryl Breckenridge

John Fay

**For Respondent Middlesex County Sheriff's Department:**

Kevin Harris

**EXHIBITS**

**For Petitioner:**

P-1          None

**For Respondent, Monmouth County Police Academy:**

RMI-1          Conditional Offer of Employment from Sheriff of Middlesex County,  
dated June 13, 2016

RMI-2          Dismissal Notice, dated October 28, 2016

RMI-3          Notice of IA complaint to Henriquez from Undersheriff Kevin Harris,  
dated October 31, 2016

RMI-4	Internal Affairs Investigation Report
RMI-5	Preliminary Notice of Disciplinary Action, dated October 31, 2016
RMI-6	Receipt of Pre-Notice of Discipline
RMI-7	Memo <u>Loudermill</u> Hearing
RMI-8	Final Notice of Disciplinary Action
RMI-9	Application, Middlesex County 2015
RMI-10	Health History Statement

**For Respondent, Middlesex County Sheriff's Department:**

RMO-1	Notice of Dismissal, dated October 28, 2016
RMO-2	PTC-3 Card, dated October 28, 2016
RMO-3	NJPTC Injury Illness Report, dated October 19, 2016
RMO-4	Medical reports, Centra State Medical Center, dated October 19, 2016
RMO-5(a)	PMA Companies, Quick Note, Middlesex County, dated October 19, 2016
RMO-5(b)	PMA Companies, Quick Note, Middlesex County, dated October 21, 2016
RMO-5(c)	PMA Companies, Quick Note, Middlesex County, dated October 24, 2016
RMO-6	Schedule, 91 <sup>st</sup> Basic Course for Police Officers Monmouth County Police Academy, dated October 17–October 31, 2016
RMO-7	Memorandum to Larry Evans from Director Darryl Breckenridge, dated October 27, 2016
RMO-8	Memorandum from Lawrence Evans to Director Darryl Breckenridge, dated October 28, 2016
RMO-9	Absentee Slips, dated October 20 –October 24, 2016
RMO-10	Memorandum from Training Officer John Fay to Kevin Harris
RMO-11(a)	NJPTC Injury Illness Report, dated August 9, 2016
RMO-11(b)	NJPTC Injury Illness Report, dated September 23, 2016
RMO-12	Monmouth County Police Academy Guidebook for Trainees







PHILIP D. MURPHY  
*Governor*

SHIFILA Y. OLIVER  
*Lieutenant Governor*

*State of New Jersey*  
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**RUTH Y. HENRIQUEZ,**  
Petitioner

v.

**MONMOUTH COUNTY POLICE  
ACADEMY,**  
Respondent

**FINAL DECISION**

OAL DKT. NO. PTC 17504-16  
OAL DKT. NO. CSV 00174-17

(CONSOLIDATED)

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**IN THE MATTER OF RUTH  
HENRIQUEZ, MIDDLESEX COUNTY,  
SHERIFF DEPARTMENT,**

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**BY THE COMMISSION:**

The Police Training Commission received an Initial Decision in this matter on or after April 23, 2020. The Police Training Commission asked for, and received, one extension to render its Final Decision on June 16, 2020, under N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8. This Final Decision was rendered within the time limits prescribed by N.J.A.C. 1:1-18.6.

Petitioner was dismissed from Monmouth County Police Academy (“the Academy”) on October 28, 2016. Petitioner appealed that decision on November 3, 2016, and the case was transmitted to the Office of Administrative Law (“OAL”) on November 16, 2016.

Petitioner was removed from her position at the Middlesex County Sheriff’s Department on December 29, 2016, and appealed that decision as well. That matter was sent to OAL on January 4, 2017. The two appeals were consolidated on May 3, 2017.

Patricia M. Kerins, ALJ, issued an initial decision on April 23, 2020. Petitioner argued that she was not dismissed for good cause, as her failure to complete the physical training requirements was a result of her medical condition. Respondent argued that it had good cause to dismiss petitioner because she failed to complete the physical training requirements and that Petitioner did not request any accommodations based on her medical conditions. Judge Kerins found that good cause existed for petitioner’s dismissal because petitioner “did not submit sufficient medical evidence to respondent, or in this matter, to warrant a relaxation” of the applicable regulations. Therefore, Judge Kerins affirmed the Academy’s action.

On Wednesday, June 24, 2020, at a meeting of the Police Training Commission, the commissioners reviewed the Initial Decision issued by Judge Kerins. The Initial Decision is hereby **ADOPTED** as the **FINAL DECISION** of the Police Training Commission, rendered within the time limits prescribed by N.J.A.C. 1:1-18.6, as extended pursuant to N.J.A.C. 1:1-18.8.

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

POLICE TRAINING COMMISSION

By   
John F. Cunningham, Designated Chairman

Date: 6/26/2020