



STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION

Chris Christie
Governor
Kim Guadagno
Lt. Governor

Robert M. Czech
Chair/Chief Executive Officer

**MINUTES OF REGULAR MEETING OF
THE CIVIL SERVICE COMMISSION
DECEMBER 7, 2011**

Robert M. Czech, Chairperson
Robert E. Brenner
Thomas J. Perna
Richard E. Williams

December 7, 2011

A regular meeting of the Civil Service Commission was held on Wednesday, December 7, 2011, in Trenton, New Jersey.

PRESENT: Robert M. Czech, Chairperson, Members Robert E. Brenner, Thomas J. Perna and Richard E. Williams; Pamela Ullman, Deputy Attorney General; Henry Maurer, Director, Division of Merit System Practices and Labor Relations.

In accordance with L.1975, c.231, the Secretary to the Civil Service Commission opened the meeting with the following statement:

Notice of this meeting was filed with the Secretary of State and sent to the Trentonian, Trenton Times, Courier-Post and Star Ledger on December 20, 2010, and posted at the Civil Service Commission, 3 Station Plaza, Trenton, New Jersey.

All actions were by unanimous vote unless otherwise specified.

SECTION A – HEARING MATTERS

A-1 SETTLEMENTS

In the Matter of Patrick Beatty
Police Central Office
Department of Human Services
Removal

In the Matter of Margaret Eckel
New Lisbon Developmental Center
Department of Human Services
Removals (2)

In the Matter of Robert Green
Ann Klein Forensic Center
Department of Human Services
Removal

In the Matter of Kimberly A. Hayes
New Jersey Veterans' Memorial Home Vineland
Department of Military and Veterans' Affairs
Removal

In the Matter of Kathleen Lumford
Hudson County
Department of Roads and Public Property
Resignation not in good standing

**RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE IN
THE ABOVE CASES – SETTLEMENT**

ACTION: The Civil Service Commission acknowledged the settlements.

A-2 KENNETH BALDOSARO

Kenneth Baldosaro, Senior Correction Officer, South Woods State Prison, Department of Corrections, 30 working day suspension on charges of insubordination, other sufficient cause and falsification.

Recommendation of the Administrative Law Judge – Modify the 30 working day suspension to a five working day suspension.

ACTION: The Civil Service Commission modified the recommendation of the Administrative Law Judge and upheld the 30 working day suspension.

A-3 JERMANE CARTER

Jermane Carter, County Correction Officer, Burlington County, County Jail, 120 working day suspension on charges of incompetency, inefficiency or failure to perform duties, conduct unbecoming a public employee, neglect of duty and other sufficient cause.

Recommendation of the Administrative Law Judge – Reverse the 120 working day suspension.

ACTION: The Civil Service Commission rejected the recommendation of the Administrative Law Judge and upheld the 120 working day suspension.

Agenda Item A-3 was held to be considered at the conclusion of the regular agenda. At that time, a motion was made and seconded that the open session be recessed and that, pursuant to Section 12(b) of the Open Public Meetings Act, the Civil Service Commission entered into Executive Session for the purpose of reviewing the videotape of the incident which showed inmates at a County facility since the matter would constitute unwarranted invasions of individual privacy. The Commission subsequently reconvened the public meeting.

A-4 SHERYL MANEICE AND TERRENCE GILLIAM

Sheryl Maneice and Terrence Gilliam, Social Workers, Mercer County Board of Social Services, appeal the good faith of their layoff effective July 1, 2010, for reasons of economy and efficiency.

Recommendation of the Administrative Law Judge – Reverse the layoff.

ACTION: The Civil Service Commission rejected the recommendation of the Administrative Law Judge and upheld the layoff.

A-5 MONICA MILLER

Monica Miller, Correction Sergeant, Northern State Prison, Department of Corrections, 30 working day suspension on charges of conduct unbecoming a public employee, incompetency, inefficiency, or failure to perform duties, neglect of duty, other sufficient cause, falsification and violation of a rule, regulation, policy, procedure, order, or administrative decision.

Recommendation of the Administrative Law Judge – Uphold the 30 working day suspension.

ACTION: The Civil Service Commission affirmed the recommendation of the Administrative Law Judge.

A-6 HAROLD BAUER

Harold Bauer, Senior Correction Officer, Adult Diagnostic and Treatment Center, Department of Corrections, removal, effective October 29, 2010, on charges of chronic or excessive absenteeism or lateness.

Recommendation of the Administrative Law Judge – Comply with the terms of the agreement placed on the record on September 21, 2011 and acknowledge the settlement.

ACTION: The Civil Service Commission affirmed the recommendation of the Administrative Law Judge and acknowledged the settlement.

A-7 ALONZO CUMBERLANDER

Alonzo Cumberlander, Senior Correction Officer, Northern State Prison, Department of Corrections, removal, effective February 15, 2011, on charges of other sufficient cause, conduct unbecoming a public employee and violation of a rule, regulation, policy, procedure, order or administrative decision.

Recommendation of the Administrative Law Judge – Uphold the removal.

ACTION: The Civil Service Commission affirmed the recommendation of the Administrative Law Judge.

A-8 TANYA ELLIS

Tanya Ellis, County Correction Officer, Hudson County, Department of Corrections, removal effective April 4, 2011, on charges of insubordination, conduct unbecoming a public employee, neglect of duty and other sufficient cause.

Recommendation of the Administrative Law Judge – Modify the removal to a six-month suspension.

ACTION: The Civil Service Commission affirmed the recommendation of the Administrative Law Judge.

SECTION B – MISCELLANEOUS MATTERS**B-1 LILLIAN GUIA**

Lillian Guia, a Forensic Scientist 2 with the Division of State Police, Department of Law & Public Safety, appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Civil Service Commission directed that this appeal be referred to the Medical Examiners Panel.

VOTE:

Robert M. Czech	(Abstained)
Robert E. Brenner	(Yes)
Thomas J. Perna	(Yes)
Richard E. Williams	(Yes)

B-2 ROBERTA HOROWITZ

Roberta Horowitz, a former Medical Review Analyst with the Office of the Medicaid Inspector General, appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-3 CHAD TRACY

Chad Tracy, a Senior Correction Officer with the Albert C. Wagner Youth Correctional Facility, Department of Corrections, appeals the denial of sick leave injury (SLI) benefits.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-4 LUIS E. PEREZ

Luis E. Perez appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9999K) on the basis of medical unfitness to perform effectively the duties of the position.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-5 GILBERT REED

Gilbert Reed appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9999K) on the basis of medical unfitness to perform effectively the duties of the position.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-6 FREDERICK SHARPE

Frederick Sharpe, a former Youth Worker at the Vineland Children's Residential Treatment Center, appeals a five-day suspension issued by the Department of Children and Families.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-7 VLADYMRIR ASTE

Vladymir Aste appeals the decision of the Division of State and Local Operations which upheld the removal of his name from the Correction Officer Recruit (S9999K), Department of Corrections, eligible list due to his falsification of his employment application.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-8 KELLEY BEAM

Kelley Beam appeals the removal of her name from the Family Service Specialist 1 (PS6667K), Department of Children and Families, employment list due to the appellant's failure to respond to the Certification Notice.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-9 JOSE CASAIS

Jose Casais appeals the decision of the Division of Selection Services which denied his admittance to the promotional examination for Fire Captain (PM5209N), Bayonne.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-10 LOUIS IANDOLI

Louis Iandoli appeals the determination of the Division of Selection Services that denied his admittance to the promotional examination for Fire Captain (PM5238N), Paterson, due to a late application.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-11 J.J.

J.J., a former Police Officer with East Orange, requests that he be reinstated to employment in light of the dismissal of criminal charges against him.

ACTION: The Civil Service Commission directed that this request be granted in part.

B-12 SABRINA CHENG

Sabrina Cheng, represented by Thomas J. Palermo, President, CWA Local 1039, petitions the Civil Service Commission for reconsideration of the final decisions, rendered on June 9, 2010, which denied her classification, layoff rights, and good faith layoff appeals.

ACTION: The Civil Service Commission directed that the requests for reconsideration be denied.

B-13 LAURIE VAN GENDEREN

Burlington County, represented by Dina Rocco, Assistant County Solicitor, petitions the Civil Service Commission for reconsideration of that part of the final decision, rendered on February 2, 2011, which imposed a fine in the amount of \$2,048.

ACTION: The Civil Service Commission directed that the request for reconsideration be denied.

B-14 JONNESE ARRINGTON, ET AL.

The Essex County Sheriff's Office, on behalf of Jonnese Arrington, Luis Cardoso, and Hanniel Leon, requests that they be permitted to participate in the intergovernmental transfer program and to complete the remainder of their working test periods as Sheriff's Officers with the Sheriff's Office.

ACTION: The Civil Service Commission directed that the request be granted.

B-15 OMER OLMEDA

The Township of Clark, on behalf of Omer Olmeda, requests that he be permitted to participate in the intergovernmental transfer program and to complete the remainder of his working test period as a Police Officer with Clark.

ACTION: The Civil Service Commission directed that the request be granted.

B-16 JAMES RAUSCH

The Gloucester County Sheriff's Office requests that the provisions of *N.J.A.C. 4A:4-7.1A* be relaxed in order to permit the intergovernmental transfer of Police Officer James Rausch, who was laid off from the Township of Franklin, Gloucester County, a non-Civil Service jurisdiction, to the title of Sheriff's Officer, Gloucester County Sheriff's Office.

ACTION: The Civil Service Commission directed that the request be granted.

B-17 MICHAEL DEBONIS

The Department of Transportation requests that Michael DeBonis' out-of-title experience be accepted to qualify him for a prospective demotional title change pending qualifying examination to the title of Construction and Maintenance Technician 4.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-18 RENEE JENKINS

The Department of Community Affairs, on behalf of Renee Jenkins, requests that her out-of-title work experience in the title Technical Assistant 1, Community Affairs be accepted to qualify her for a prospective promotional examination for Personnel Assistant 3.

ACTION: The Civil Service Commission directed that the request be granted.

B-19 PETER J. PAPA

South Plainfield petitions the Civil Service Commission for a retroactive permanent appointment date as a Police Sergeant for Peter J. Papa.

ACTION: The Civil Service Commission directed that the petition be granted.

B-20 MARY GEPHART

Mary Gephart appeals the decision of the Division of State and Local Operations which found that her position is properly classified as Technical Assistant 3. The appellant seeks a Technical Assistant 2, Treasury classification.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-21 DONNA SPEAKMAN

The Gloucester County Sheriff, on behalf of Donna Speakman, appeals the decision of the Division of State and Local Operations which found that Ms. Speakman's position with the Gloucester County Sheriff is properly classified as Execution Clerk. The appellant seeks a Senior Execution Clerk classification.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-22 STEPHANIE FRENCH

Stephanie French, a Senior Correction Officer at the Albert C. Wagner Youth Correctional Facility, Department of Corrections, appeals the determination of the Director, Equal Employment Division, which found that the appellant failed to present sufficient evidence to support a finding that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-23 YEMANE TESFASELASSE

Yemane Tesfaselasse, a Technical Assistant 3 at Ann Klein Forensic Center, Department of Human Services, appeals the determination of the Assistant Commissioner of the Department of Human Services, stating that the appellant failed to present sufficient evidence to support a finding that he had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination in the Workplace.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-24 HUMAN SERVICES SPECIALIST 1 (C0395K), CAMDEN COUNTY BOARD OF SOCIAL SERVICES

The Camden County Board of Social Services requests the extension of the eligible list for Human Services Specialist 1 (C0395K).

ACTION: The Civil Service Commission directed that the request be granted.

B-25 KEYBOARDING CLERK 3 (PC0757N), MORRIS COUNTY

The Division of State and Local Operations requests that the provisions of *N.J.A.C. 4A:4-2.5(d)* be relaxed to allow employees in the noncompetitive title of Clerk 1 to apply for the examination for Keyboarding Clerk 3 (PC0757N), Morris County.

ACTION: The Civil Service Commission directed that the request be granted.

B-26 MASON'S HELPER (M0344M), PATERSON

The appointing authority's failure to dispose of the certification for Mason's Helper (M0344M), Paterson, while provisionals are serving in the title, has been referred to the Civil Service Commission for enforcement.

ACTION: The Civil Service Commission ordered the appointing authority to remove the provisional appointees, properly dispose of the certification and pay compliance costs.

B-27 MECHANIC (M0533M), WILLINGBORO

Willingboro requests permission not to make an appointment from the June 20, 2011 certification for Mechanic (M0533M).

ACTION: The Civil Service Commission granted the appointment waiver and assessed selection costs in the amount of \$2,048.

B-28 RECORDS SUPPORT TECHNICIAN 1 (C0506M), MIDDLESEX COUNTY

Middlesex County requests permission not to make an appointment from the September 21, 2011 certification for Records Support Technician 1 (C0506M).

ACTION: The Civil Service Commission granted the appointment waiver and assessed selection costs in the amount of \$2,048.

B-29 SENIOR STOCK CLERK (M1037L), NEWARK SCHOOL DISTRICT

The Newark School District requests permission not to make an appointment from the August 30, 2010 certification for Senior Stock Clerk (M1037L).

ACTION: The Civil Service Commission granted the appointment waiver and assessed selection costs in the amount of \$2,048.

B-30 SUPERVISOR OF GARAGE SERVICES (M0473M), BRICK TOWNSHIP SCHOOL DISTRICT

The Brick Township School District requests permission not to make an appointment from the May 10, 2011 certification for Supervisor of Garage Services (M0473M).

ACTION: The Civil Service Commission granted the appointment waiver and assessed selection costs in the amount of \$2,048.

B-31 RENETTA AIKENS, ET AL.

Renetta Aikens, Bernadette Cappetti, Monique Mander, and Gautam Mankad appeal the determinations of the Division of Selection Services which found that they did not meet the experience requirements for the open competitive examination for Administrative Analyst 1 Data Processing (S2095N).

ACTION: The Civil Service Commission directed that these appeals be denied.

B-32 KIM CEPEDA

Kim Cepeda appeals the determination of the Division of Selection Services which found that, per the substitution clause for education, she was below the minimum requirements in experience for the promotional examination for Assistant Personnel Technician (PM0317N), Plainfield.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-33 KATHLEEN DOUGHERTY AND LEE ANN ZAWATCKI

Kathleen Dougherty and Lee Ann Zawatcki appeal the decisions of the Division of Selection Services that they did not meet the experience requirements for the promotional examination for Quality Assurance Specialist Health Services (PS3056K), New Lisbon Developmental Center.

ACTION: The Civil Service Commission directed that these appeals be denied.

B-34 JOSEPH GAZZARA

Joseph Gazzara appeals the determination of the Division of Selection Services that he did not meet the experience requirement for the promotional examination for Maintenance Supervisor (PC0435N), Camden County Library.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-35 PATRICK GULLI

Patrick Gulli appeals the determination of the Division of Selection Services that he did not meet the experience requirements for the open competitive examination for Assistant Manager, Golf Facilities (C0171N), Passaic County.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-36 JEFFERY RICCIARDI

Jeffery Ricciardi appeals the determination of the Division of Selection Services which found that, per the substitution clause for education, he was below the minimum requirements in experience for the promotional examination for Communications Systems Technician 2 (PS2119G), Department of Environmental Protection.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-37 DANIEL S. VALLE AND HECTOR L. VELEZ

Daniel S. Valle and Hector L. Velez appeal the determinations of the Division of Selection Services which found that they did not meet the requirements for the promotional examination for Technical Assistant, Management Information Systems (PS1471U), Office of Information Technology.

ACTION: The Civil Service Commission directed that these appeals be granted.

B-38 HUI XING

Hui Xing appeals the determination of the Division of Selection Services which found that she was below the minimum requirements in experience for the promotional examination for Data Processing Programmer 2 (PS2123H), Department of Health and Senior Services.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-39 JUSTIN PRASCHIL

Justin Prashil requests a make-up for the open competitive examination for Fire Fighter (M9999M).

ACTION: The Civil Service Commission directed that this appeal be denied.

B-40 MARTIN ROLAF

Martin Rolaf appeals his score for the oral portion of the examination for the second level Fire Captain (PM5070M), Teaneck.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-41 ADOPTED AMENDMENT: N.J.A.C. 4A:2-1.5, REMEDIES

Submitted for the Commission's approval is a Notice of Adoption amending N.J.A.C. 4A:2-1.5, Remedies. The amendment defines the term "sufficient cause" in the context of determining whether a prevailing appellant may receive back pay, benefits, or counsel fees where the appeal is neither disciplinary nor concerns a layoff action done in bad faith. Defining "sufficient cause" is necessary in the wake of the decision in *In the Matter of Hearn*, 417 N.J. Super. 289 (App. Div. 2010), wherein the court held that the Commission's working definition of "sufficient cause" could be applied only via rulemaking, not adjudication. No comments were received during the public comment period. Therefore, it is recommended that the Commission adopt this proposal.

ACTION: The Civil Service Commission adopted the proposed amendment.

B-42 ADOPTED AMENDMENT: N.J.A.C. 4A:4-3.9, REEMPLOYMENT PROGRAM FOR CERTAIN FIREFIGHTERS

Submitted for the Commission's approval is a Notice of Adoption to amend *N.J.A.C.* 4A:4-3.9, concerning the reemployment program known as the "Rice Bill" for laid off municipal firefighters or those municipal firefighters demoted to a non-firefighting title, and laid off civilian Federal firefighters. The amendment would codify P.L. 2010, c.43, which provides that the afore-described individuals would be eligible to participate in the Rice Bill program if the layoff or demotion, as the case may be, occurred within the last 60 months. No comments were received during the public comment period. Therefore, it is recommended that the Commission adopt this proposal.

ACTION: The Civil Service Commission adopted the proposed amendment.

B-43 ADOPTED AMENDMENT: N.J.A.C. 4A:4-2.4, PROMOTIONAL TITLE SCOPE: LOCAL SERVICE

Submitted for the Commission's approval is a Notice of Adoption to amend *N.J.A.C.* 4A:4-2.4, Promotional title scope: local service. The amendment would make the rule parallel to *N.J.A.C.* 4A:4-2.5, Promotional title scope: State service, by permitting a promotional title scope in local service to be set with or without all or part of the open competitive requirements, as appropriate. No comments were received during the public comment period. Therefore, it is recommended that the Commission adopt this proposal.

ACTION: The Civil Service Commission adopted the proposed amendment.

B-44 ADOPTED AMENDMENT: N.J.A.C. 4A:3-3.9, CLASSIFICATION APPEALS

Submitted for the Commission's approval is a Notice of Adoption to amend *N.J.A.C.* 4A:3-3.9, Classification appeals. The amendment is intended to make the classification appeal process more efficient and is based on recommendations by Kenneth Connolly, the Director of State and Local Operations. No comments were received during the public comment period. Therefore, it is recommended that the Commission adopt this proposal.

ACTION: The Civil Service Commission adopted the proposed amendment.

B-45 ADOPTED AMENDMENTS: N.J.A.C. 4A:2-2.8 AND 2.13; ADOPTED DELETION: APPENDICES TO N.J.A.C. 4A:2-2.8 AND N.J.A.C. 4A:2-2.13; AND ADOPTED NEW APPENDICES TO THOSE RULES (MAJOR DISCIPLINARY APPEALS OF CERTAIN CIVIL SERVICE EMPLOYEES AND REMOVAL APPEALS OF CERTAIN LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS)

Submitted for the Commission's approval is a Notice of Adoption amending *N.J.A.C.* 4A:2-2.8 and 2.13; deleting the current Appendices to *N.J.A.C.* 4A:2-2.8 and 4A:2-2.13; and replacing them with new Appendices to those rules, concerning major disciplinary appeals of certain civil service employees and removal appeals of certain law enforcement officers and firefighters. The proposed amendments would provide that an appeal may be dismissed where, after notice of and a reasonable opportunity to correct a deficiency, the appellant still fails to include the required information with his or her appeal form. A new Appendix to *N.J.A.C.* 4A:2-2.8 would include a revised Major Disciplinary Appeal Form. A new Appendix to *N.J.A.C.* 4A:2-2.13 would include a revised Law Enforcement Officer and Firefighter Removal Appeal Form. No comments were received during the public comment period. Therefore, it is recommended that the Commission adopt this proposal.

ACTION: The Civil Service Commission adopted the proposed amendments.

B-46 RECENT COURT DECISIONS

Submitted for the Civil Service Commission's review are summaries of recent court decisions involving Merit System Board and Civil Service Commission determinations.

ACTION: The Civil Service Commission noted the decisions.

B-47 CIVIL SERVICE COMMISSION MINUTES

Submitted for adoption are the Civil Service Commission minutes of its meeting of November 22, 2011.

ACTION: The Civil Service Commission adopted the minutes of its meeting of November 22, 2011.

VOTE:

Robert M. Czech	(Yes)
Robert E. Brenner	(Abstained)
Thomas J. Perna	(Yes)
Richard E. Williams	(Yes)

B-48 EARLY SETTLEMENTS

In the Matter of Rosamond Kargbo
New Jersey Veterans' Memorial Home Vineland
Department of Military and Veterans' Affairs
Return to previous held permanent title at the end of the working test period

In the Matter of Janet C. Mielchen
Department of Labor and Workforce Development
Release at the end of the working test period

In the Matter of Christopher P. Tang, Jr.
Department of Children and Families
Release at the end of the working test period

ACTION: The Civil Service Commission acknowledged the settlements with the exception of Christopher P. Tang, Jr., which was held over.

B-49 JOSEPH CAMPAGNA

Joseph Campagna, represented by Michael B. Campagna, Esq., appeals his rejection as a County Correction Officer candidate by Union County and its request to remove his name from the eligible list for County Correction Officer (S9999K) on the basis of psychological unfitness to perform effectively the duties of the position.

ACTION: The Civil Service Commission directed that this appeal be granted.

B-50 BRIAN C. PEREIRA

The Township of Clark requests relaxation of *N.J.A.C. 4A:4-7.1A(c)* so as to permit the intergovernmental transfer of Brian C. Pereira from the title of Sheriff's Officer, Middlesex County Sheriff's Office, to the title of Police Officer, Clark.

ACTION: The Civil Service Commission directed that this request be granted.

B-51 KEVIN BURGOS

Kevin Burgos, represented by Craig S. Gumpel, Esq., and Bruce D. Leder, Esq., and the City of Passaic, represented by Eric M. Bernstein, Esq., petition the Civil Service Commission for acknowledgment of the settlement agreement reached by the parties, which provides for Burgos' permanent appointment to Fire Captain, effective September 1, 2010, and his placement on the special reemployment list for Fire Captain, City of Passaic.

ACTION: The Civil Service Commission acknowledged the settlement.

B-52 DAVID PHELAN

The appeal of David Phelan, a Fire Protection Sub-Code Official with the Township of North Bergen, of his removal effective September 22, 2009, on charges, was heard by Administrative Law Judge Leland S. McGee (ALJ), who rendered his initial decision on October 11, 2011. At its meeting on November 22, 2011, the Civil Service Commission (Commission) did not adopt the ALJ's recommendation to modify the removal to the equivalent of a five-day suspension. Rather, the Commission imposed a 60-hour suspension. The proposed decision is now submitted for the Commission's review.

ACTION: The Civil Service Commission adopted the decision.

VOTE: **Robert M. Czech** **(Yes)**
 Robert E. Brenner **(Abstained)**
 Thomas J. Perna **(Yes)**
 Richard E. Williams **(Yes)**

B-53 DANIEL WILKINSON

The appeal of Daniel Wilkinson, a Human Services Assistant with Ancora Psychiatric Hospital, Department of Human Services, of his removal effective September 24, 2008, on charges, was heard by Administrative Law Judge Elia Pelios (ALJ), who rendered his initial decision on October 18, 2011. At its meeting on November 22, 2011, the Civil Service Commission (Commission) did not adopt the ALJ's recommendation to reverse the removal. Rather, the Commission upheld the removal. The proposed final decision is now submitted for the Commission's review.

ACTION: The Civil Service Commission adopted the final decision.

VOTE: **Robert M. Czech** **(Yes)**
 Robert E. Brenner **(Abstained)**
 Thomas J. Perna **(Yes)**
 Richard E. Williams **(Yes)**

B-54 KAREN CAULFIELD

Karen Caulfield appeals the decision of the Division of Selection Services which found that, per the substitution clause for education, she did not meet the experience requirements for the promotional examination for Assistant Personnel Officer (PM0406N), Union Township.

ACTION: The Civil Service Commission directed that this appeal be denied.

B-55 JOINT ORDER OF CONSOLIDATION AND PREDOMINANT INTEREST – ROBERT RUFFIN AND AFSCME COUNCIL 71, LOCAL 2218 V. DEPARTMENT OF HUMAN SERVICES

Administrative Law Judge (ALJ) Robert Bingham issued an Order of Consolidation and Predominant Interest in *In the Matter of Robert Ruffin and AFSCME Council 71, Local 2218 v. Department of Human Services*. Based on the ALJ's Order, the Civil Service Commission (Commission) and the Public Employment Relations Commission developed a Joint Order, modifying the ALJ's order. The proposed Order is now submitted for the Commission's adoption.

ACTION: The Civil Service Commission adopted the Joint Order.

B-56 PROPOSED AMENDMENT: N.J.A.C. 4A:4-4.8, DISPOSITION OF A CERTIFICATION

Submitted for the Commission's approval is a Notice of Proposal to amend N.J.A.C. 4A:4-4.8, Disposition of a certification. The proposed amendment would delete paragraph (b)4 of the rule, which now provides that, in disposing of a certification of an eligible list under the "rule of three," an appointing authority must provide a statement of reasons to the Civil Service Commission as to why an appointee was selected instead of a higher-ranked eligible, or an eligible in the same rank due to a tied score. The amendment deleting the requirement of a statement of reasons is proposed in light of the recent New Jersey Supreme Court decision in *In the Matter of Nicholas R. Foglio, Fire Fighter (M2246D), Ocean City*, 207 N.J. 38 (2011), and also due to the fact that the provision has not fulfilled its function of ensuring merit-based appointments. It is recommended that this proposal be approved for publication in the New Jersey Register for public notice and comment.

ACTION: The Civil Service Commission approved the proposal for publication.

There being no further business before the Civil Service Commission, the meeting was adjourned to convene on Wednesday, December 21, 2011, at 10:00 a.m., at 3 Station Plaza, Trenton, New Jersey.

**Robert M. Czech
Chairperson
Civil Service Commission**