STATE OF NEW JERSEY

In the Matter of Marquis Jackson, Newark School District CSC Docket No. 2023-2743 OAL Docket No. CSV 05311-23	FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

ISSUED: JULY 2, 2025

The appeal of Marquis Jackson, Custodial Worker, Newark School District, removal, effective May 24, 2023, on charges, was heard by Administrative Law Judge Daniel J. Brown (ALJ), who rendered his initial decision on May 28, 2025. Exceptions were filed on behalf of the appellant and a reply was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, including a thorough review of the exceptions, much of which do not require extensive comment, the Civil Service Commission (Commission), at its meeting on July 2, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and his recommendation to uphold the removal.

The Commission makes the following comments. The appellant admits to most of the misconduct alleged. Otherwise, the ALJ's decision is based significantly on his assessment of the witnesses' testimony. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 *N.J.* 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor,* 158 *N.J.* 644 (1999) (quoting *State v. Locurto,* 157 *N.J.* 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra).* The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. *See N.J.S.A.* 52:14B-10(c); *Cavalieri u. Public Employees Retirement System,* 368 *N.J. Super.* 527 (App. Div. 2004). The

Commission finds no persuasive evidence in the record or the appellant's exceptions to demonstrate that the ALJ's findings and conclusions based on those determinations were arbitrary, capricious or unreasonable.

Regarding the penalty, similar to its assessment of the charges, the Commission's review of the penalty is *de novo*. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 *N.J.* 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. *George v. North Princeton Developmental Center*, 96 *N.J.A.R. 2d* (CSV) 463. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. *See Henry v. Rahway State Prison*, 81 *N.J.* 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown,* 191 *N.J.* 474 (2007).

The Commission rejects the appellant's arguments in his exceptions that since he was allowed to work for months after the infraction, it was not so serious to merit removal from employment. It similarly rejects his contention that it was his supervisor who should have borne the brunt of the responsibility, and therefore, the more severe disciplinary penalty. The ALJ dealt with both arguments in his initial decision. Regarding the first contention, the ALJ stated:

> The appellant argues that that his conduct was not viewed as serious by Newark and should not be viewed as serious by this tribunal because Newark permitted him to continue working for approximately ninety days before Newark sought his removal. I reject this argument in its entirety, and I accept Newark's argument that it viewed the appellant's conduct as serious but kept the appellant in his position as it provided him with due process.

Clearly, it was within the appointing authority's discretion to initially impose an immediate suspension pursuant to *N.J.A.C.* 4A:2-2.5. However, its decision to not do so does not negate the seriousness of the misconduct. In this regard, even if the appointing authority initially believed that it was most appropriate to allow the departmental-level due process to run its course before removing the appellant, it did, in fact, ultimately remove him for his infractions. The Commission also notes that the appellant was not a long-term permanent employee and his actions, as the ALJ noted "exhibited a significant lack of judgement on the appellant's part. If the conduct were to be repeated, as the appellant promised that it would be, the safety and security of the students and staff of any school that the appellant would be assigned to would be at risk." Such egregious misconduct cannot be allowed to be repeated.

The Commission finds the misconduct inimical to the goals of the appointing authority in ensuring the safety and security of its employees and student population.

The Commission similarly rejects the appellant's "comparative" discipline argument. In this regard, the ALJ stated:

> [T]he appellant argues for a lesser penalty the appellant's supervisor only received a written warning. However, the appellant fails to recognize that his conduct was substantially different than that of the supervisor in that the appellant actively propped doors open and the supervisor did not. Additionally, I view the appellant's lack of appropriate judgement as extremely serious as he stated that he would repeat it if he were restored to his position.

The Commission agrees with the above assessment. Moreover, it is clear that the appellant's misconduct warrants removal, regardless of the actions taken against any of the others involved. Accordingly, the Commission finds that the appellant's misconduct makes him unsuitable for continued public employment, and his removal is neither disproportionate to the offense nor shocking to the conscious.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore upholds that action and dismisses the appeal of Marquis Jackson.

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 2ND DAY OF JULY, 2025

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
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. CSV 05311-23
AGENCY DKT. NO. 2023-2743

IN THE MATTER OF MARQUIS JACKSON, NEWARK PUBLIC SCHOOL DISTRICT.

Arnold S. Cohen, Esq., appearing for appellant (Oxfeld Cohen, attorneys)

Bernard Mercado, Esq, appearing for respondent (Newark Board of Education)

Record Closed: May 7, 2025 Decided: May 28, 2025

BEFORE **DANIEL J. BROWN**, ALJ:

STATEMENT OF THE CASE

On February 22, 2023, the appellant repeatedly propped open the front doors of Rafael Hernandez School by placing a folded piece of paper in between the doors. The appellant engaged in this conduct at 10:26 p.m., 10:29 p.m., and 10:56 p.m. The appellant failed to remove the folded piece of paper and ensure that the front door was properly locked after he exited the building at 10:56 p.m. The actions of the appellant caused the front door of the school to be left open and unsecured until staff entered the next morning. Those actions compromised the security of the school building and the safety of the school's staff and students.

Is the appellant correctly terminated despite having limited prior discipline? Yes. Progressive discipline may be bypassed where the misconduct is egregious or against the public interest, regardless of an individual's disciplinary history. In re Herrmann, 192 N.J. 19, 33–34 (2007).

PROCEDURAL HISTORY

On March 24, 2023, the Newark Board of Education (Newark) served the appellant with a Preliminary Notice of Disciplinary Action (PNDA). In its notice, Newark charged the appellant with conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); neglect of duty in violation of N.J.A.C. 4A:2-2.3(a)(7); and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12).

In that notice, Newark specified that on February 22, 2023, the appellant propped open the front door of Rafael Hernandez School and compromised the security of the building. The notice stated that, upon review of the video footage, it was discovered that on three (3) occasions during the evening shift, the appellant placed paper in the doorway to prevent it from locking. The notice specified that at or about 10:26 p.m., 10:29 p.m. and 10:56 p.m. the appellant propped the front door of the school open and failed to ensure the door was securely locked when [he reentered the building. The notice documented that on Thursday, February 23, 2023, at or about 7:00 a.m. five staff members entered Rafael Hernandez School through the front doors and discovered that the front door was open. The notice further stated that Newark's investigation revealed that the front door of the school was left open all night, which was the result of the appellant propping open the door so that he could leave the building and reenter.

On April 20, 2023, Newark conducted a departmental hearing.

A Final Notice of Disciplinary Action (FNDA) dated May 9, 2023, sustained the charges and removed the appellant effective May 24, 2023. Newark served the appellant on November 22, 2021, with the FNDA.

On May 16, 2023, the appellant appealed the FNDA's determination, carrying a postmark of May 22, 2023.

On June 14, 2023, the Civil Service Commission transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

On the same day, the OAL filed the appeal.

On June 22, 2023, the case was assigned to Judge Testa. On January 10, 2024, the case was reassigned to me because Judge Testa left the Office of Administrative Law and became a Judge of the Superior Court.

I held a prehearing conferences with the parties under N.J.A.C. 1:1-13.1 on January 11, 2024, February 8, 2024, April 8, 2024, June 28, 2024, and October 16, 2024, to discuss availability of dates for the hearing, the nature of the proceeding, the issues to be resolved, and any unique evidentiary problems. I permitted additional time for discovery, and I scheduled the hearing for December 9, 2024.

The hearing was held and concluded on December 9, 2024. At the request of the parties, I kept the record open for the receipt of transcripts and written summations.

On February 18, 2025, I received the written summations from the parties and closed the record. On April 10, 2024, I requested an extension of time to file my opinion. That request was approved.

After that extension was approved, I requested that the parties appear telephonically and answer questions that I had regarding the written summations of the parties. Specifically, I wanted to speak with the appellant's counsel regarding his assertion in his written summation that I deprived the appellant of his right to a fair hearing by my asking the principal of the school at the hearing if she thought the appellant should be terminated from his position because of his conduct. I reopened the record and held

an on-the-record telephonic conference with the parties on May 7, 2025. During the conference, counsel for the appellant stated that any prejudice that resulted from my question to Principal Pared would be remedied if I did not consider Principal Pared's answer to my question. Therefore, I will not consider that part of Principal Pared's testimony. Following the May 7, 2025, conference, I again closed the record. I also rescinded my request for an extension of time to make this initial decision as it was no longer necessary.

DISCUSSION AND FINDINGS OF FACT

Based upon the testimony provided and my assessment of its credibility, together with the documents submitted and my evaluation of their sufficiency, I make the following **FINDINGS** of **FACT**:

At the time of this incident, the appellant was a custodian assigned to the Rafael Hernandez School in Newark. Mr. Jackson was hired as a custodial worker by Newark in April 2019. Prior to being hired as a custodial worker, the appellant worked as a per diem custodial worker for Newark. At the time of the incident, the appellant was assigned to Rafael Hernandez School. Rafael Hernandez school serves approximately six hundred students that attend pre-K up to eighth grade. At the time of the incident, Principal Pared served as the main supervisor of all the staff at the school, including custodial workers. Principal Pared described the appellant as a good worker, who sometimes had trouble completing his assignments. Principal Pared also testified that the appellant did not always follow Newark's regulations. Specifically, she stated that a few months prior to this incident she witnessed the appellant placing a piece of paper in a door that led from the school to a loading dock to prop the door open so that he could step outside and take a break. She said that this was in violation of District Policy File Code 1250 which provides that students and staff may not prop school doors open. She stated that she considered this policy to be very important if not critical to this school because shootings had occurred around the school, members of the public used drugs around the school and on one occasion, a naked man was found sleeping in front of the school. She stated that she spoke to the appellant and instructed him not to prop open the doors of the school. Principal Pared also reminded the appellant of Newark's explicit policy against

propping school doors open. Principal Pared stated that she did not file a formal disciplinary charge against the appellant because she felt the reminder was sufficient. Principal Pared stated that she was very fond of the appellant and often referred to him as her school son. At the hearing, the appellant denied propping the door open prior to this incident but acknowledged the conversation with Principal Pared where she directed him not to prop open the doors of the school and reminded him of the formal policy against propping open school doors. This portion of testimony from Principal Pared and the appellant was very significant to me because it documented a directive from Principal Pared to the appellant not to prop open the doors of the school and a reminder to the appellant of Newark's policy against doing so.

At the hearing, Newark acknowledged that the appellant has a limited disciplinary history. In fact, Newark presented documentary evidence of only one prior incident where discipline was imposed upon the appellant. That documentary evidence showed that in 2022, charges of neglect of duty, insubordination, incompetency and other sufficient cause were sustained against the appellant and a five-day suspension was imposed.

Rafael Hernandez school has main entrance doors which are monitored by video surveillance. Those doors automatically lock when they are completely closed. On March 22, 2023, the appellant worked an eight-hour shift from 3:00 p.m. to 11:00 p.m. On that date, the appellant worked with Samaar Jackson, who was the appellant's direct supervisor, and Desirae Gordillo-McDowell, who was a per diem custodial worker. Video surveillance of the main entrance of the Rafael Hernandez School was played during the hearing. That surveillance showed that, at 10:26 p.m., the appellant exited the building through the main entrance. Before he left the building, the appellant placed a folded piece of paper in between the doors to prevent the doors from closing completely and the locking mechanism from being enabled. The appellant removed the paper from between the doors and reentered the building a few minutes later. At 10:29 p.m., the appellant again placed a piece of paper between the doors as he exited the school building, preventing the doors from being locked. The appellant returned to the school building a few minutes later. He reentered the building and removed the folded piece of paper from the doors. Again, at 10:56 p.m., the appellant placed a folded piece of paper between the doors as he left the school building for the night. Neither the appellant nor any of the

other custodial workers removed the piece of paper from the front doors. Consequently, those doors remained unlocked until school staff arrived at the school building at around 7:00 a.m., the next morning.

Principal Pared testified that she was contacted by school staff once that staff found the main doors to the school were found open. Because the front door of the school was left unsecure and unlocked all night the school had to be searched room by room to determine that no unauthorized individuals were in the school. Because of this, the opening of the school was delayed. She stated that the entirety of her day on February 23, 2023, was taken up watching video surveillance to determine the cause of the doors being found open. Principal Pared testified that she observed the appellant repeatedly propping up the front doors and in failing to remove the folded piece of paper that he used before he left the school building for the night. Principal Pared also observed, via the video footage, the per-diem custodial worker propping open the doors at main entrance, and she observed that the supervising custodian, Samaar Jackson did not ensure that all the school doors were locked as he was supposed to because he was the supervisor. After she reviewed the video footage, Principal Pared recommended disciplinary action against the appellant and Samaar Jackson. Principal Pared also removed the per-diem custodial worker from her duties. Principal Pared testified that termination was not sought for Samaar Jackson, the supervising custodian, because he did not prop open any doors. Principal Pared stated that Samaar Jackson received a written reprimand because he failed to check that all the doors to the school were locked before he exited the school for the night.

At the hearing, the appellant admitted that he placed a piece of paper between the front doors and propped them open on February 22, 2023, at 10:26 p.m., 10:29 p.m. and 10:56 p.m. The appellant testified that he removed the folded piece of paper each time he reentered the school building. The appellant testified that he returned to the school after 10:56 p.m. and removed the folded piece of paper that he put between the doors at 10:56 p.m. to keep the doors propped open. The appellant testified that another custodial worker, specifically the per-diem custodial worker that he was working with, must have placed folded paper between the doors after he did, which caused the doors to be propped open all night and into the next morning. The appellant also admitted that he

was aware that propping the doors open disabled the school's alarm system and left the school unsecure. The appellant further admitted that he was aware of Newark's policy against propping open doors to the school but that the policy was not routinely enforced. The appellant acknowledged that he routinely observed people in the school's parking lot who weren't supposed to be there and that presented a safety issue. Despite this, the appellant stated that it is common practice among custodial workers to prop open doors and that if he was returned to his position as a custodial worker, he would continue to prop doors open in violation of Newark's policy. The appellant testified that he would make sure to prop open the doors to do so in a safe manner. This testimony was significant to me because it demonstrated that the appellant propped open the front doors of the school on February 22, 2023, at 10:26 p.m., 10:29 p.m. and 10:56 p.m. Therefore, I **FIND** that he did so. The appellant's testimony also demonstrated that he is unrepentant and is not deterred by Newark's policy which he was aware of, and which specifically prohibited his conduct. I therefore **FIND** that he was aware of the policy and propped open the doors of the school despite the policy against it. I **FIND** his testimony that the policy was not enforced lacks credibility as it was directly contradicted by Principal Pared, who I **FIND** credible. Additionally, I **FIND** that the appellant's testimony demonstrated that he would repeat his conduct if he were returned to his job.

The appellant, through counsel, asserts that the only factual dispute at the hearing was whether the appellant was the last person to prop open the front doors to the school and leave the school building or whether the per diem custodial worker was the last person to leave the building and that the per diem left the doors propped open. I **FIND** that the appellant's testimony that that he removed the folded piece of paper from the main doors of the school after 10:56 p.m. was not credible. This testimony was directly contradicted by Principal Pared, who I **FIND** testified credibly. Principal Pared testified that she watched the entirety of the video surveillance footage and that the appellant was the last person to leave the school building. Additionally, Principal Pared testified that the appellant did not return to the school building after he exited it at 10:56 P.M. Based upon Principal Pared's testimony, I **FIND** that the appellant did not return to the school building and remove the folded piece of paper from the doors of the school after he left the school building at 10:56 P.M. on February 22, 2023.

DISCUSSION AND CONCLUSIONS OF LAW

Discipline

A civil service employee who commits a wrongful act related to their duties or for other just cause may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2. Indeed, "[t]here is no constitutional or statutory right to a government job." State-Operated Sch. Dist. of Newark v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998).

Under N.J.A.C. 4A:2-1.4(a), in appeals concerning major disciplinary action, the appointing authority bears the burden of proof. That burden of proof is by a preponderance of the evidence, Atkinson v. Parsekian, 37 N.J. 143, 149 (1962), and the hearing as to both guilt and the penalty is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980); West New York v. Bock, 38 N.J. 500 (1962). The evidence must be such that it would lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro. Bottling Co., 26 N.J. 263 (1958). One can describe preponderance as the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

Newark charged the appellant with conduct unbecoming a public employee, neglect of duty, and other sufficient cause in violation of the regulations governing public employees.

"Conduct unbecoming a public employee" is an elastic phrase encompassing conduct that adversely affects the morale or efficiency of a governmental unit or that tends to destroy public respect for governmental employees and confidence in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998). Further, misconduct does not require that the employee violates the criminal code, a written rule, or a policy. In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). The complained-of conduct and its attending circumstances need only "'be such as to offend publicly accepted standards of decency.'" Karins, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Public school employees, including custodians such as the appellant,

are in a position of trust, given their regular contact with students and staff. I have already found that the actions of the appellant were in violation of an express policy and posed a serious safety risk to the staff and students. Therefore, his conduct adversely affects the public interest. Therefore, I **CONCLUDE** that a preponderance of credible evidence exists to demonstrate that Newark sustained its burden on its charge that the appellant conducted himself in a manner unbecoming that of a public employee.

I **CONCLUDE** that the remaining charges are duplicative. Therefore, I **CONCLUDE** that a preponderance of evidence does not exist to sustain these charges. As a result, all remaining charges are **DISMISSED**.

Penalty

Progressive discipline requires consideration once there is a determination that an employee violated a statute, regulation, or rule concerning his employment. W. New York v. Bock, 38 N.J. 500 (1962). Where the underlying conduct is egregious, however, imposing a penalty up to and including removal is appropriate, regardless of an individual's disciplinary record. In re Herrmann, 192 N.J. 19 (2007). In determining the reasonableness of a sanction, the employee's past record and any mitigating circumstances provide guidance. Bock, 38 N.J. 500.

Indeed, the Civil Service Commission may increase or decrease the penalty under progressive discipline. N.J.S.A. 11A:2-19; In re Carter, 191 N.J. 474, 483–86 (2007). Thus, an employee's prior disciplinary record is relevant to determining an appropriate penalty for a subsequent offense, and the question upon appellate review is whether such punishment is "so disproportionate to the offense, in the light of all the circumstances, as to be shocking to one's sense of fairness." Ibid. at 483-84 (quoting In re Polk, 90 N.J. 550, 578, (1982) (internal quotes omitted)). Generally, [courts] "accord substantial deference to an agency head's choice of remedy or sanction, seeing it as a matter of broad discretion, . . . especially where considerations of public policy are implicated." Division of State Police v. Jiras, 305 N.J. Super. 476, 482 (App. Div. 1997).

Here, the appellant cites progressive discipline as mandating a lesser penalty because the appellant has a limited disciplinary history. Additionally, the appellant argues for a lesser penalty the appellant's supervisor only received a written warning. However, the appellant fails to recognize that his conduct was substantially different than that of the supervisor in that the appellant actively propped doors open and the supervisor did not. Additionally, I view the appellant's lack of appropriate judgement as extremely serious as he stated that he would repeat it if he were restored to his position.

The concept of progressive discipline provides that "discipline based in part on the consideration of past misconduct can be a factor in the determination of the appropriate penalty for present misconduct." In re Hermann, 192 N.J. at 21 (citing Bock, 38 N.J. at 522 (1962)). An employee's record includes "an employee's reasonably recent history of promotions, commendations, and the like on the one hand and, on the other, formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated, so to speak, by having been previously brought to the attention of and admitted by the employee." Bock, 38 N.J. 523-524. Applying progressive discipline is not required "when the misconduct is severe, when it is unbecoming to the employee's position or renders the employee unsuitable for continuation in the position, or when application of the principle would be contrary to the public interest." In re Herrmann, 192 N.J. at 33–34.

In cases in which progressive discipline is bypassed, "the question for the courts is 'whether such punishment is so disproportionate to the offense, in the light of all the circumstances, as to be shocking to one's sense of fairness." In re Carter, 191 N.J. 474, 484 (2007); Hermann, 192 N.J. at 28-29 (quoting In re Polk License Revocation, 90 N.J. 550, 578 (1982)). Absence of judgment alone can be sufficient to terminate an employee in a sensitive position requiring public trust in that judgment. See Hermann, 192 N.J. at 32 (DYFS worker without prior discipline removed for waving a lit cigarette in the face of a five-year-old). In this case, I view the appellant's conduct as extremely serious. The conduct exhibited a significant lack of judgement on the appellant's part. If the conduct were to be repeated, as the appellant promised that it would be, the safety and security of the students and staff of any school that the appellant would be assigned to would be at risk. The appellant argues that that his conduct was not viewed as serious by Newark and should not be viewed as serious by this tribunal because Newark permitted him to

continue working for approximately ninety days before Newark sought his removal. I reject this argument in its entirety, and I accept Newark's argument that it viewed the appellant's conduct as serious but kept the appellant in his position as it provided him with due process.

Additionally, this tribunal must also consider the civil service laws' purpose. Civil service laws "are designed to promote efficient public service, not to benefit errant employees. The welfare of the people, not exclusively the welfare of the civil servant, is the basic policy underlying our statutory scheme." Gaines, 309 N.J. Super. at 334. Indeed, "[t]he overriding concern in assessing the propriety of [the] penalty is the public good.

Here the appellant's behavior was knowing and egregious. Indeed, his actions posed a genuine safety concern to Newark's staff and students. Therefore, good cause exists to remove the appellant from his position. Newark cannot reasonably be obligated to continue the employment of an individual who conducts himself in this manner. Further, progressive discipline is inapplicable when doing so "would be contrary to the public interest." Herman, 192 N.J. at 33-34. Accordingly, I **CONCLUDE** that the appellant's removal is the appropriate penalty under the circumstances.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that the appellant be removed from his employment with Newark.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision 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 **DIRECTOR, DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

May 28, 2025
DATE

Daniel J. Brown
DANIEL J. BROWN, ALJ

Date Received at Agency: May 28, 2025

Date Mailed to Parties: May 28, 2025
dr

APPENDIX

Witnesses

For Appellant:

Marquis Jackson

For Respondent:

Natasha Pared

Exhibits

For Appellant:

None

For Respondent:

R-1 Final Notice of Disciplinary Action dated February 2, 2022

R-2 Final Notice of Disciplinary Action dated May 9, 2023

R-3 Video surveillance footage from Rafael Hernandez School from February 22, 2023

R-4 Statement from Rafael Hernandez School personal aide Rosetta Grace dated February 22, 2023

R-5 Statement from Rafael Hernandez School security guard Nazah Pender dated February 23, 2023

R-6 Statement from Rafael Hernandez School clerk Luz Devotto dated February 23, 2023

R-7 Statement from Rafael Hernandez School teacher's aide Mildred Marchena dated February 23, 2023

R-8 Statement from Rafael Hernandez School cook Alnisa McCall dated February 23, 2023

R-9 Incident Report by Rafael Hernandez School Principal Natasha Pared dated February 23, 2023

R10 Correspondence from Principal Pared to Mr. Jackson dated February 23, 2023

R-11 Newark Board of Education File Code 1250