



STATE OF NEW JERSEY

In the Matter of Damiana Padilla ,
Camden County Board of Social
Services

**DECISION OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2023-2205
OAL Docket No. CSV 04498-23

ISSUED: SEPTEMBER 10, 2025

The appeal of Damiana Padilla, Human Services Specialist 2, Bilingual, Camden County Board of Social Services, six-month suspension, on charges, was heard by Administrative Law Judge Michael R. Stanzione (ALJ), who rendered his initial decision on July 31, 2025. No exceptions were filed.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on September 10, 2025, adopted the ALJ's Findings of Fact and Conclusions and his recommendation to reverse the six-month suspension.

Since the suspension has been reversed, the appellant is entitled to six-months of mitigated back pay, benefits, and seniority pursuant to *N.J.A.C. 4A:2-2.10*. She is also entitled to reasonable counsel fees pursuant to *N.J.A.C. 4A:2-2.12*.

This decision resolves the merits of the dispute between the parties concerning the disciplinary charges and the penalty imposed by the appointing authority. However, per the Appellate Division's decision, *Dolores Phillips v. Department of Corrections*, Docket No. A-5581-01T2F (App. Div. Feb. 26, 2003), the Commission's decision will not become final until any outstanding issues concerning back pay or counsel fees are finally resolved.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was not justified. The Commission therefore reverses that action and grants the appeal of Damiana Padilla. The Commission further orders that the appellant be granted six months of back pay, benefits, and seniority.

The amount of back pay awarded is to be reduced and mitigated as provided for in *N.J.A.C. 4A:2-2.10*. Proof of income earned, and an affidavit of mitigation shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision.

Additionally, the Commission orders that counsel fees be awarded to the attorney for the appellant pursuant to *N.J.A.C. 4A:2-2.12*. An affidavit of services in support of reasonable counsel fees shall be submitted by or on behalf of the appellant to the appointing authority within 30 days of issuance of this decision.

Pursuant to *N.J.A.C. 4A:2-2.10* and *N.J.A.C. 4A:2.12*, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay and counsel fees.

The parties must inform the Commission, in writing, if there is any dispute as to back pay or counsel fees within 60 days of issuance of this decision. In the absence of such notice, the Commission will assume that all outstanding issues have been amicably resolved by the parties and this decision shall become a final administrative determination pursuant to R. 2:2-3(a)(2). After such time, any further review of this matter shall be pursued in the Superior Court of New Jersey, Appellate Division.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 10TH DAY OF SEPTEMBER, 2025



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 04498-23

AGENCY DKT. NO. 2023-2205

**IN THE MATTER OF DAMIANA PADILLA,
CAMDEN COUNTY
BOARD OF SOCIAL SERVICES.**

Desha Jackson, Esq., for appellant, Damiana Padilla (Desha Jackson Law Group, LLC, attorneys)

Charles Gavin Oppermann, Esq., Legal Liaison, for respondent, New Jersey Veterans Memorial Home

Record Closed: May 2, 2025

Decided: July 31, 2025

BEFORE **MICHAEL R. STANZIONE**, ALJ:

STATEMENT OF THE CASE

Appellant Damiana Padilla (appellant or Padilla) appeals the decision of respondent appointing authority Camden County Board of Social Services (Appointing Authority or CCBSS) to suspend her for six months from her position as a Human Services Specialist Two (HSS2) for alleged violations of N.J.A.C. 4A:2-2.3(a)(6) conduct unbecoming, N.J.A.C. 4A:2-2.3(a)(2) insubordination, N.J.A.C. 4A:2-2.3(a)(12) other sufficient cause, and CCBSS Policy 7:6 workplace violence. Appellant denies the

charges and asserts that the Appointing Authority failed to meet its burden of proving them. Should the suspension be sustained? No. The Appointing Authority failed to establish by a preponderance of the competent, relevant, and credible evidence that appellant committed an unlawful and unwanted touching of another worker within the agency office building.

PROCEDURAL HISTORY

A Final Notice of Disciplinary Action (FNDA) encompassing all the disciplinary actions was issued on March 14, 2023. The FNDA charged appellant with violating N.J.A.C. 4A:2-2.3(a)(6) conduct unbecoming, N.J.A.C. 4A:2-2.3(a)(2) insubordination, and N.J.A.C. 4A:2-2.3(a)(12) other sufficient cause: workplace violence. The FNDA imposed a penalty of a six-month suspension without pay, which appellant has since served, in accordance with the applicable civil service statutes and regulations. The appellant filed a timely appeal, and the matter was transmitted to the Office of Administrative Law on May 19, 2023. Telephone prehearing conference calls were held on October 3, 2023, November 27, 2023, January 18, 2024, February 1, 2024, February 22, 2024, and June 24, 2024. On May 15, 2024, appellant filed a motion to dismiss, which was denied as there were facts in dispute that required a hearing. Appellant on July 29, 2024, submitted a motion to relieve respondent's counsel, which was again denied for failing to meet its burden. The hearing was held on July 10, 2024, October 29, 2024, November 26, 2024, and January 9, 2025. The record remained open for the receipt of written summations by the parties. Both summations were received by May 2, 2025, and the record closed that day.

FACTUAL DISCUSSION AND FINDINGS

The following is undisputed, and I, therefore, **FIND** the following as **FACT**:

1. Appellant has been employed by the CCBSS since 2017. She is currently employed as an HSS2.

2. Pamela Carroll is and was at the time of the incident employed as a Clerk 2 by the CCBSS.
3. Pamela Carroll is permanently disabled due to a traumatic brain injury.
4. Appellant and Pamela Carroll, at the time of the incident, were assigned to the Medicaid unit.
5. The appellant had no prior disciplinary history.
6. CCBSS agency hours are 8:30 a.m. until 4:30 p.m.
7. All employees were instructed that the workday was not complete until 4:30 p.m. and not to line up at the time clocks prior to 4:30 p.m.
8. Numerous employees including the appellant were lined up at the time clock prior to 4:30 p.m. on the date of the incident.
9. Pamela Carroll pushed the appellant.
10. A Preliminary Notice of Disciplinary Action was issued to appellant on February 8, 2023, listing charges of Conduct Unbecoming, Insubordination, Other Sufficient Cause, and Workplace Violence.
11. An FNDA was issued on March 14, 2023, with charges of Conduct Unbecoming, Insubordination, Other Sufficient Cause, and Workplace Violence.
12. The appellant was suspended for six months following the incident.

Testimony

For the respondent:

Pamela Carroll is employed by the Appointing Authority as a Senior Clerk. Throughout her testimony Ms. Carroll could not recall much of the February 7, 2023, incident. She remembered there were employees lined up at the time clock. She walked down the aisle and was punched in the face. However, her memory of the actual incident was cloudy.

For the appellant:

Rebecca Tucker stated that around 4:25 p.m., Ms. Carroll was upset, and she witnessed her yelling at people not to line up at the time clock yet. When it was time to swipe out at 4:30 p.m., Ms. Carroll cut in front of appellant who was at the time clock. Ms. Padilla told Ms. Carroll to go to the end of the line. Ms. Carroll started to go to the end of the line, then turned around and pushed appellant into the time clock. At no time did Ms. Tucker see appellant intentionally hit or push Ms. Carroll. Appellant was not the aggressor. Ms. Carroll was not in management and didn't have any authority to enforce the time clock rules.

Jose Gutierrez told Ms. Carroll to "stop," and he witnessed Ms. Carroll rush to the time clock and shove appellant from behind. He observed appellant blocking or shoving Ms. Carroll away. He then got between them. Ms. Carroll began shouting words after pushing appellant. He did not believe appellant should have been disciplined for defending herself in a situation she didn't initiate.

Sonia Cabrera witnessed Ms. Carroll screaming at others not to line up, then saw Ms. Carroll pushing appellant a couple of times from behind with force. She saw appellant turn around and said that it happened "in a matter of seconds." She heard Ms. Carroll screaming and cursing while she went back to her desk. She had previously witnessed Ms. Carroll get upset about people lining up at the time clock before 4:30 p.m.

Christina Worrick saw Ms. Carroll “aggressively walking toward the time clock” when appellant was “about to swipe out.” Ms. Carroll pushed and/or shoved appellant, who then turned away from the clock with her left arm out to block Ms. Carroll from shoving her. She heard Ms. Carroll yell loudly that people were not listening to the administrator and she was telling on them.

Jeanette Vega heard Ms. Carroll yelling at people prior to the incident on February 7, 2023. When she heard the first person at the time clock swipe, she saw Ms. Carroll charge and push appellant twice. She has seen Ms. Carroll cut people in line at the time clock a few times at the other office.

Holly Saunders witnessed Ms. Carroll attempting to shove past the appellant in the time clock line. Ms. Carroll appeared to have pushed or shoved appellant, who blocked Ms. Carroll with her arm to avoid any further physical contact. She saw Mr. Gutierrez jump between appellant and Ms. Carroll. She did not see appellant instigate the violence. She heard Ms. Carroll cursing and yelling as she went to her desk afterwards. She heard Ms. Carroll yelling to everyone, prior to the incident, to not line up that day.

Damiana Padilla testified that she was pushed from behind into the time clock on February 7, 2023. If she hit Ms. Carroll, it was a result of a self-defense move to get off the time clock and to defend herself, and it happened in a split second. She did not hit her first. She recalled telling Ms. Carroll to go to the back of the line.

Sherry Hickman is a member of management. She did not witness what happened on February 7, 2023, but was in the office and dealt with the aftermath.

Virginia Kush witnessed Ms. Carroll screaming and yelling the day of the incident because people were lined up early at the time clock. Ms. Kush did not observe any supervisors addressing Ms. Carroll’s behavior even though there were at least four around. She did not witness the time clock incident.

Additional Findings

As the fact finder, I had the ability to observe the demeanor, tone, and physical actions of the appellant's witnesses during their testimony concerning their understanding of the events that took place on February 7, 2023. Their testimony did not waver and came off as truthful concerning their personal observations of the incident and the actions of others preceding the incident. I find their testimony to be credible.

As the fact finder, I had the ability to observe the demeanor, tone, and physical actions of the appointing authority's witness during her testimony. Ms. Carroll comported herself in a manner that suggested she was not credible. She did not offer any testimony to support an assertion that the appellant was the aggressor or anything more than a victim. She just mentioned that she remembered being punched in the face with a closed fist but had no recollection of anything else during the incident. Given the absence of evidence supporting the appointing authority's assertion, I cannot afford her testimony equal weight to that of appellant's witnesses.

Having considered the testimony and documentary evidence and the credibility of the witnesses, I **FIND** as **FACT** that the appellant did not initiate any contact with Ms. Carroll. I **FIND** as **FACT** that the appellant was pushed by Ms. Carroll when she had her back turned and as a result any contact from appellant to Ms. Carroll was a natural reaction.

LEGAL ANALYSIS AND CONCLUSIONS

The Civil Service Act, N.J.S.A. 11A:1-1 to -12-6 (Act), and its implementing regulations, N.J.A.C. 4A:1-1.1 to -10-3.2, are designed in part "to encourage and reward meritorious performance by employees in the public service and to retain and separate employees on the basis of the adequacy of their performance." N.J.S.A. 11A:1-2(c). An employee may be subject to discipline for several reasons, including insubordination, N.J.A.C. 4A:2-2.3(a)(2); conduct unbecoming a public employee, N.J.A.C. 4A:2-2.3(a)(6); and other sufficient cause, N.J.A.C. 4A:2-2.3(a)(12). Major discipline for such infractions

may include removal, disciplinary demotion, or suspension for more than five working days at any time. N.J.A.C. 4A:2-2.2(a).

The Act protects classified employees from arbitrary dismissal and other onerous sanctions. See In re Shavers-Johnson, 2014 N.J. AGEN LEXIS 439 Initial Decision (July 30, 2014), adopted, Comm’n., 2014 N.J. AGEN LEXIS 1049 (September 3, 2014); Investigators Ass’n v. Hudson Cty. Bd. of Freeholders, 130 N.J. Super. 30, 41 (App. Div. 1974); Scancarella v. Dep’t of Civil Serv., 24 N.J. Super. 65, 70 (App. Div. 1952). To determine if a penalty is reasonable, the employee’s record may be reviewed to determine the appropriate penalty for the current specific offense. “The evidence presented and the credibility of the witnesses will assist in resolving whether the charges and discipline imposed should be sustained; or whether there are mitigating circumstances, which . . . must be taken into consideration when determining whether there is just cause for the penalty imposed.” Shavers-Johnson, 2014 N.J. AGEN LEXIS 439, Initial Decision. Major discipline may include suspension or removal, depending upon the incident complained of and the employee’s record. See West New York v. Bock, 38 N.J. 500, 519 (1962) (describing progressive discipline).

The issue to be addressed here is whether a preponderance of the credible evidence establishes that appellant has committed the violations enumerated in the FNDA, and, if so, whether these violations warrant a six-month suspension or another penalty, if any.

The appellant is charged with violating N.J.A.C. 4A:2-2.3(a)(2), insubordination; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause; and CCBSS Policy 7:6 workplace violence.

Insubordination

The regulation, which includes “insubordination” as an offense subject to discipline, does not define the term. N.J.A.C. 4A:2-2.3(a)(2). Insubordination is defined in Black’s Law Dictionary 802 (11th Ed. 2019) as a “willful disregard of an employer’s instructions” or an “act of disobedience to the proper authority.” Webster’s II New College Dictionary

(1995) defines insubordination as “not submissive to authority: disobedient.” Such dictionary definitions have been used by courts to define the term where it is not specifically defined in contract or regulation.

The above definitions incorporate acts of non-compliance, non-cooperation, and affirmative acts of disobedience. Thus, insubordination can occur even where no specific order or direction has been given to the allegedly insubordinate person. Insubordination is always a serious matter. “Refusal to obey orders and disrespect cannot be tolerated. Such conduct adversely affects the morale and efficiency of the department.” Rivell v. Civil Serv. Comm’n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 59 N.J. 269 (1971).

Here, on February 7, 2023, appellant did not follow a management directive when she failed to remain at her desk until 4:30 p.m. and lined up at the time clock. Employees must follow management directives or be subject to discipline. However, the act of lining up at the time does not rise to the level of “refusal to obey orders” and “disrespect” as defined. Therefore, I **CONCLUDE** that the Appointing Authority has not proven by a preponderance of the credible evidence that appellant violated N.J.A.C. 4A:2-2.3(a)(2), insubordination.

Conduct Unbecoming a Public Employee

There is no precise definition for “conduct unbecoming a public employee,” and the question of whether conduct is unbecoming is made on a case-by-case basis. In re King, CSV 02768-02, Initial Decision (February 24, 2003), adopted, Merit Sys. Bd. (April 9, 2003), <http://njlaw.rutgers.edu/collections/oal/>. “Conduct unbecoming a public employee” is an elastic phrase that encompasses conduct that adversely affects the morale or efficiency of a governmental unit or tends to destroy public respect in the delivery of governmental services. Karins v. Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances “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)). Such misconduct need not necessarily “be predicated upon the violation of any particular rule or regulation but may be based merely upon the violation

of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.” Hartmann v. Police Dep’t of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep’t of Civil Serv., 17 N.J. 419, 429 (1955)). Unbecoming conduct may include improper behavior under the circumstances; it may be less serious than a violation of the law, but it is inappropriate on the part of a public employee because it disrupts governmental operations.

The uncontested facts are that appellant lined up at the time clock along with other employees to clock out at 4:30 p.m. Despite instructions through written memorandum, she, as well as others, failed to listen to her superiors and follow the policies laid out by the Appointing Authority. However, appellant’s disregard for the directive and her failure to follow policy does not rise to a violation of the implicit standard of good behavior, nor was it a disruption of the Appointing Authority’s operations. I **CONCLUDE** that the Appointing Authority has not met its burden of proving that appellant’s actions of defiance were conduct unbecoming a public employee, violating N.J.A.C. 4A:2.3(a)(6).

Other Sufficient Cause

There is no definition in the New Jersey Administrative Code for other sufficient cause; it is generally defined as all other offenses caused and derived from all other charges against the appellant. There have been cases when the charge of other sufficient cause has been dismissed when “[r]espondent has not given any substance to the allegation.” Simmons v. City of Newark, 2006 N.J. AGEN LEXIS 68, *113, Initial Decision (February 22, 2006), adopted, Merit System Bd. 2006 N.J. AGEN LEXIS 565 (April 5, 2006).

Appellant did not initiate any workplace violence against Ms. Carroll or anyone else. Her act of reaction in defending herself from being shoved from behind did not rise to be an act of physical violence as provided in CCBSS Policy and Procedure. I thus **CONCLUDE** that appellant has not violated the Appointing Authority’s Violence in the Workplace policies and therefore has not violated N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause.

PENALTY

When addressing the question of penalty in a de novo review of a disciplinary action against an employee, it is necessary to reevaluate the proofs and “penalty” on appeal based on the charges. N.J.S.A. 11A:2-19; Henry v. Rahway State Prison, 81 N.J. 571 (1980); Bock, 38 N.J. 500. Several factors must be considered in determining the appropriateness of a penalty, including the nature of the employee’s offense, the concept of progressive discipline, and the employee’s prior record. George v. N. Princeton Dev. Ctr., 96 N.J.A.R.2d (CSV) 463. According to Bock, progressive discipline concepts involving increasingly severe penalties are used where appropriate. See In re Parlow, 192 N.J. Super. 247 (App. Div. 1983). Major discipline may include suspension, removal, or demotion depending upon the incident complained of and the employee’s record. Bock, 38 N.J. at 522–24.

The appellant has no prior disciplinary history.

Here, appellant is subject to major discipline for the violations of N.J.A.C. 4A:2-2.3(a)(2), insubordination; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause due to violations of workplace violence policies. Major discipline for such infractions may include removal, disciplinary demotion, suspension, or fine for more than five working days at any time. N.J.A.C. 4A:2-2.2(a). The respondent imposed a six-month suspension upon the appellant due to these charges.

Based upon the totality of the evidence and with due consideration of the appellant’s prior disciplinary record, I **CONCLUDE** that the penalty of a six-month suspension is unreasonable, not appropriate, and inconsistent with the policy of progressive discipline.

ORDER

I hereby **ORDER** that the appeal of appellant Damiana Padilla of charges of (1) insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); (2) conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6); and (3) other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12), specifically, violations of the Camden County Board of Social Services Workplace Violence policies, is **GRANTED** and the charges are hereby **DISMISSED**, and the decision of respondent, the Camden County Board of Social Services, to impose a six-month suspension upon the appellant for violating those charges is **REVERSED** and appellant shall be provided back pay, seniority, and all other applicable benefits lost during her period of suspension.

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 the other parties.

July 30, 2025

DATE


MICHAEL R. STANZIONE, ALJ

Date Received at Agency:

Date Mailed to Parties:

APPENDIX

Witnesses

For appellant:

Jennifer Hwang
Kelly Hwang
Virginia Kush
Jose Gutierrez
Christina Worrick
Jeanette Vega
Holly Saunders
Sonia Cabrera
Rebecca Tucker
Sherry Hickman
Damiana Padilla
Sylvan Francis

For respondent:

Pamela Carroll

Exhibits

For appellant:

A-1	June 20, 2023, email Statement of Virginia Kush
A-2	February 8, 2023, email statement of Virginia Kush
A-3	SLF Investigations Report
A-4	February 8, 2023, email statement of Jose Gutierrez
A-5	February 8, 2023, email statement of Christina Worrick
A-6	February 9, 2023, email statement from Jeanette Vega
A-7	February 8, 2023, email statement from Holly Saunders
A-8	February 8, 2023, statement from Sonia Cabrera

- A-9 February 8, 2023, statement from Rebecca Tucker
- A-10 August 7, 2024, supplement to witness statement from Rebecca Tucker
- A-11 February 8, 2023, statement from Sherry Hickman
- A-12 June 1, 2023, email from Sherry Hickman to Charles G. Oppermann, Esq.
- A-13 February 8, 2023, email statement from Simone Moore
- A-14 February 7, 2023, handwritten statement of Damiana Padilla

For respondent:

- R-1 CCBSS Policy and Procedure on Workplace Violence
- R-2 Handwritten statement of Pamela Carroll
- R-3 February 8, 2023, email statement from Pamela Carroll to Personnel