



STATE OF NEW JERSEY

In the Matter of Alexis Fernandez,
Passaic County, Department of Parks
and Recreation

CSC Docket No. 2025-1455
OAL Docket No. CSV 02079-25

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

ISSUED: NOVEMBER 5, 2025

The appeal of Alexis Fernandez, Supervising Mechanic, Golf Facilities, Passaic County, Department of Parks and Recreation, removal, effective September 27, 2024, on charges, was heard by Administrative Law Judge Kelly J. Kirk (ALJ), who rendered her initial decision on September 25, 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 November 5, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to uphold the removal.

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 Alexis Fernandez.

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 5TH DAY OF NOVEMBER, 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 02079-25

AGENCY REF. NO. 2025-1455

**IN THE MATTER OF ALEXIS FERNANDEZ,
PASSAIC COUNTY, DEPARTMENT OF
PARKS AND RECREATION.**

Matthew G. Connaughton, Esq., for appellant (Cohen, Leder, Montalbano & Connaughton, LLC, attorneys)

Zaid M. Qasem, Assistant County Counsel, and **Nadege D. Allwaters**,¹ County Counsel, for respondent (Nadege D. Allwaters, County Counsel, attorney)

Record Closed: August 22, 2025

Decided: September 25, 2025

BEFORE **KELLY J. KIRK**, ALJ:

STATEMENT OF THE CASE

The Passaic County Department of Parks and Recreation terminated supervising mechanic Alexis Fernandez for inability to perform duties, chronic or excessive absenteeism or lateness, and other sufficient cause.

¹ Payton C. Rogers, former Assistant County Counsel, appeared for the hearing.

PROCEDURAL HISTORY

On June 11, 2024, Alexis Fernandez was served with a Preliminary Notice of Disciplinary Action (PNDA), dated May 9, 2024. (R-1.) The Passaic County Department of Parks and Recreation held a hearing on October 28, 2024, after which it issued a Final Notice of Disciplinary Action (FNDA), sustaining all charges and terminating Fernandez's employment, effective December 27, 2024. (R-10.)

Fernandez appealed, and the Civil Service Commission transmitted the contested case to the Office of Administrative Law (OAL), pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13, where it was filed on January 27, 2025. The hearing was scheduled for April 9, 2025, and April 10, 2025. The hearing dates were adjourned at appellant's request. The hearing was rescheduled for June 10, 2025, and July 14, 2025. The hearing was held on June 10, 2025, and the July 14, 2025, hearing date was canceled. The record closed on August 22, 2025, upon receipt of the parties' post-hearing briefs.

EVIDENCE AND FINDINGS OF FACT

Background

Andrew Schiavo and Alexis Fernandez testified on behalf of appellant. Francillia Molina and Greg Moore testified on behalf of respondent. Based upon a review of the evidence presented, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following **FACTS**:

Fernandez has been employed by the County of Passaic Parks and Recreation Department (Parks Department) for nineteen years. He was hired as a laborer but later became a mechanic. He has been a supervising mechanic at the golf course for almost three years. Fernandez is a member of the Teamsters Local 125. Greg Moore has been employed by the County of Passaic for thirty-two years and has been the manager of the Parks Department for seven years. Moore oversees the day-to-day operations of the Parks Department, which includes logging sick time and approving time off.

Fernandez's disciplinary history reflects, since 2007, numerous verbal and written warnings, write-ups, and suspensions for, inter alia, sick call-outs without sick time available, being late to work, no shows for work, and failure to call in sick before start time. (R-5.) Fernandez and the County of Passaic entered into a Settlement Agreement and Release, dated March 8, 2024 (Last Chance Agreement), which reflects, in pertinent part, the following:

WHEREAS, on January 25, 2024, the County served Fernandez with a Preliminary Notice of Disciplinary Action—31-A (hereafter "PNDA") which charged the following:

N.J.A.C. 4A:2-2.3

- (4) Chronic or excessive absenteeism or lateness;
and

WHEREAS, the January 25, 2024, PNDA sought a forty-five (45) day suspension; and

WHEREAS, Fernandez timely requested a hearing on the January 25, 2024 matter; and

WHEREAS, on February 23, 2024, the County served Fernandez with a PNDA which charged the following:

N.J.A.C. 4A:2-2.3

- (3) Inability to perform duties;
- (4) Chronic or excessive absenteeism or lateness;
- (12) Other sufficient cause

WHEREAS, the February 23, 2024, PNDA sought a sixty (60) day suspension; and

WHEREAS, the Parties have amicably resolved and settled this matter, and have reached the within terms to be maintained in a Settlement and Last Chance Agreement (hereafter referred to the "Agreement"); and

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, the Parties hereby agree as follows:

. . . .

3. **FERNANDEZ AGREES.** In return for the County consolidating the charges and reducing the suspension period as set forth in the two (2) Final Notices of Disciplinary Action—31-B (hereinafter "FNDA") attached as **Exhibits A and B**, Fernandez agrees to the following terms and conditions:
 - a. **Waiver of Hearing.** Fernandez is aware that he is entitled to a departmental hearing and appeal to the New Jersey Civil Service Commission pursuant to the New Jersey Administrative Code. By signing this Agreement, Fernandez waives his right to both the departmental hearing as well as the opportunity to appeal.
 - b. **Admits to the Charges.** Fernandez admits to the charges as set forth on the FNDA and attached hereto as Exhibit A.
 - c. **Serves Suspension.** Fernandez shall serve a forty-five (45) day sanction as set forth in paragraphs 2(a) and 2(b).

....

4. **LAST CHANCE.** Fernandez may be terminated or otherwise disciplined without the use of progressive discipline if the County issues a Preliminary Notice of Disciplinary Action (31-A) in the one (1) year period following execution of this Agreement for any of the following charges: Chronic or excessive absenteeism; Other sufficient cause—failure to use the contractually agreed upon call out procedures.
 - a. If so charged, Fernandez shall have the right to request and have a Departmental disciplinary hearing on such charges, and to contest and appeal the factual basis for such charges, but not the amount of discipline imposed.

[R-4.]

A time-off request form, dated May 7, 2024, for four hours of comp time on May 8, 2024, was submitted by Fernandez on May 7, 2024. (R-8.) The request was approved by Moore and stamped "entered" on May 8, 2024.

A time-off request form, dated May 7, 2024, for four hours of comp time on May 10, 2024, was submitted by Fernandez on May 7, 2024. (R-9.) The request was approved by Moore and stamped “entered” on May 8, 2024.

On May 9, 2024, at 6:40 a.m., Fernandez left Moore the following voicemail:

Hey, Greg. How you doing? It’s me, Alex. Uh, um, I’m taking a half a sick day today. I’ll be there at ten o’clock. Thank you very much. Bye bye.

[R-6.]

The call was logged into the 2024 callouts sheet. (R-7.)

Article 6 (Hours of Work) of the collective bargaining agreement (CBA) between the County of Passaic and the International Brotherhood of Teamsters, Local 125, dated January 1, 2023, to December 31, 2027, reflects that the hours of work for the Parks Department and Preakness Valley Golf Course were: May 1 through September 14—5:00 a.m. to 1:30 p.m. and September 15 through April 30—6:00 a.m. to 2:30 p.m. (R-2.)

Article 10 (Paid Sick Leave) of the CBA reflects in pertinent part:

Section 3. Employees who are absent are responsible to call in and indicate the reason for their absence within one half hour prior to their starting time. Calls from anyone other than the employee will not be accepted. The employees must call in each day unless a doctors’ [sic] note is submitted. . . .

[R-3.]

A prescription blank from Marc Haspel, D.P.M., dated September 18, 2024, states:

This patient was seen at our office on 5/09/2024 for treatment.
Please excuse absence from work.

[P-3.]

A letter from Angel Barreiro, dated October 23, 2024, states as follows:

I Angel Barreiro have previously filled out a time off sheet which was placed in the designated area for the Director's assistant Greg Moore. I took the requested time off and was later notified that my slip had not been received or approved. There is currently no confirmation system in place. I was compensated for my time off with no consequence.

[P-2.]

Testimony

Francillia Rosa Molina

Francillia Rosa Molina is the County director of human resources. Fernandez had a Last Chance Agreement in relation to absenteeism and lateness, as he had been previously suspended multiple times for the same reason. Fernandez is a Local 125 member, and he violated the sick time call-out policy in the CBA. Fernandez was required to report to work at 5:00 a.m. The sick call-out policy requires employees to call out at least thirty minutes before the start of their shift. Fernandez did not call out until 6:40 a.m. Fernandez did not have approved time off on May 9, 2024.

Greg Moore

Fernandez gave him time-off request forms for May 8, 2024, and for May 10, 2024. He went into the system and approved those requests, and the director approved those requests. The records of those requests are in Fernandez's file. There was no time-off request form for May 9, 2024. He was not given a request form, and there was no request form in his mailbox. He checks his mailbox daily. On May 9, 2024, he received a phone call from mechanic Dominick Rowe before 6:40 a.m. advising that Fernandez was not at work. He did not speak to Fernandez on May 9, 2025. There was no approved time off or a request sheet for time off for May 9, 2024. Fernandez was supposed to report to work at 5:00 a.m., but he left a voice message calling out for half a sick day at 6:41 a.m., which was after his start time in violation of the Parks Department policy and the Local 125 CBA.

To request time off, an employee fills out the time-off request form and either directly hands it to him or puts it in his mailbox. After he receives a request, he goes into the time system to check the minimum staff requirements. If there are too many people off for that day, he tells the employee the request is denied, but that happens only rarely. If the time off is approved, he goes into the time system, logs the time, signs it, checks off that it is approved and gives it to the director, who signs the request to approve it and returns it to Moore. Moore then gives it to the payroll secretaries, who file the request in the employee's personnel file and put it in the calendar that the employee gets every two weeks with his/her pay. He has processed thousands of time-off requests, and others do not have issues following the procedure. Fernandez did not request the day off, and he was required to call out sick before his start time, but he did not. He only requires that Parks Department employees call before their start time, which is more lenient than the union policy of half an hour before.

When Moore is working, nobody is allowed into his mailbox but him. If he is out for a personal/sick/vacation day, he asks the golf managers (Douglas Vogel or Vincent Spano) to check the mailbox for him. He was not out, and Vogel and Spano did not take a request from his mailbox. With respect to another employee who claims to have taken leave without preapproval, he was on vacation the week that the request was supposedly submitted. He conducted an investigation and counseling, and it was submitted to human resources. After that, he had no further involvement because he is not in charge of discipline, which comes from the director or HR, but his understanding is that the other employee was not disciplined.

Andrew Schiavo

Schiavo has been employed by the County of Passaic for almost twenty-two years and has been the Health Department assistant supervisor for seven years. He is a Local 125 member and has been a shop steward for one year. In 2016, when he was shop steward for Local 11, he attended a meeting with the head of HR about issues with people filling out time-off slips and not getting them back for days and weeks. Every department head was instructed to follow the policy and to respond with an approval or denial within

one day. Leave requests had to be preapproved, and approvals had to be communicated to the employee in advance. Based on grievances and complaints he has heard about from supervisors of other departments and laborers (Local 11), that policy has not been enforced consistently. When the issue arose with Fernandez in May 2024, he asked Moore on the phone if vacation sheets are returned on the same day they are handed in, and he was advised by Moore that they are only returned if they are denied. After Fernandez's departmental hearing, the procedure changed, and although the forms are not returned, the employee is notified by text message if the leave is approved or denied, so there is a digital trail.

Alexis Fernandez

He never had a meeting on the leave request policy. When requesting paid time off, he would fill out a sheet and hand it to Moore or put it in Moore's mailbox and just take the day off unless he was told he was denied. That was the process that everyone used—they did not receive slips back stating that leave was approved. He just waited for Moore to say whether it was approved or not. If approved, nothing was said to him or handed to him. He was not told that his request was denied. He always had time available, so he was never denied. He has seen situations where others were denied, possibly because too many others were on vacation, but he was never denied.

He requested the time off because his daughter had a dance event. He submitted the May 8, 2024, and May 10, 2024, requests together in the morning on May 7, 2024. On May 8, 2024, he stopped by Moore's office around 9:45 a.m. or 10:00 a.m., as he was leaving work early on approved leave. Nobody was in Moore's office, so he just put a slip for his sick day for his May 9, 2024, doctor's appointment in Moore's mailbox. On May 9, 2024, he received a call from coworker Dominick Rowe, who stated that Fernandez had a no-call no-show. "He called me 6:35 maybe 6 – and I said, I have the day off so I didn't need to. And he says, well, they had you in for no call, no show. So, take the half a sick day and figure out with Greg the situation. So, I called in a half a day sick, and then I called Greg, right after." He spoke with Moore and explained that he had put a slip in Moore's mailbox, but Moore said that there was no slip in his mailbox.

He did not violate the Last Chance Agreement. He did not call out sick before 5:00 a.m. because he believed he had May 9, 2024, off and had followed the procedures. The call from Rowe is what led him to call out sick so he could resolve the problem with Moore and not get in more trouble. He worked with Angel Barreira for many years as a Local 11 member and then as a Local 125 member. He heard from Barreira and other coworkers that Barreira had submitted a time-off form and was later informed that Moore had never received it. Fernandez had a no-call, no-show issue more than once, where he handed Moore a slip and it was misplaced. A few years ago, he had the same situation as Barreira, where he put a slip in Moore's mailbox, but Moore said he did not receive it, and he was written up.

When he called out sick on May 9, 2024, he did not think he needed a doctor's note, but he contacted his doctor to obtain a note for the departmental hearing. He never gave a doctor's note to his supervisor or human resources because he had put in a slip and did not think he needed it.

Factual Discussion

A credibility determination requires an overall evaluation of the testimony, considering its rationality or internal consistency and the manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 546, 555 (1954). It must be such that the common experience and observation can be approved as probable in the circumstances. Gallo v. Gallo, 66 N.J. Super. 1, 5 (App. Div. 1961). "The interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony." State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

Moore credibly testified that he did not receive a leave request from Fernandez for May 9, 2024. Conversely, Fernandez's testimony about the incident was not entirely consistent or credible under the circumstances. It is implausible that an employee who

believed that he had an approved day off, upon receiving a call that he was supposed to be at work, would then leave a voicemail calling out for half a sick day—for the same time he was supposedly already on approved leave. Further, there is no reasonable explanation for why Fernandez’s voicemail makes no mention that he was out on approved leave or that he had left a slip in Moore’s mailbox the day prior, or for why his voicemail did not request that Moore contact him to discuss the situation—especially in view of the Last Chance Agreement. Additionally, what may or may not have occurred with Barreira is immaterial. Moore testified that he was on vacation the week that the incident occurred, and there is no evidence specific to the circumstances of that incident or the prior disciplinary history of that employee.

In view of the foregoing, I **FIND** the following additional **FACTS**:

Fernandez did not submit a leave request for May 9, 2024. Fernandez was scheduled to start work at 5:00 a.m. on May 9, 2024. Fernandez called out sick at 6:40 a.m. Fernandez was not on approved leave on May 9, 2024. Fernandez was required to call out prior to his scheduled start time.

LEGAL ANALYSIS AND CONCLUSIONS

N.J.S.A. 11A:1-1 through 12-6, the “Civil Service Act,” established the Civil Service Commission in the Department of Labor and Workforce Development in the Executive Branch of the New Jersey State government. N.J.S.A. 11A:2-1. The Commission establishes the general causes that constitute grounds for disciplinary action and the kinds of disciplinary action that may be taken by appointing authorities against permanent career service employees. N.J.S.A. 11A:2-20. N.J.S.A. 11A:2-6 vests the Commission with the power, after a hearing, to render the final administrative decision on appeals concerning removal, suspension or fine, disciplinary demotion, and termination at the end of the working test period of permanent career service employees.

N.J.A.C. 4A:2-2.2(a) provides that major discipline shall include removal, disciplinary demotion, and suspension or fine for more than five working days at any

one time. An employee may be subject to discipline for reasons enumerated in N.J.A.C. 4A:2-2.3(a), including “inability to perform duties,” “chronic or excessive absenteeism or lateness,” “and “other sufficient cause.” N.J.A.C. 4A:2-2.3(a)(3), (4) and (12). In appeals concerning such major disciplinary actions, the burden of proof is on the appointing authority to establish the truth of the charges by a preponderance of believable evidence. N.J.A.C. 4A:2-1.4; N.J.S.A. 11A:2-21; Atkinson v. Parsekian, 37 N.J. 143, 149 (1962).

Fernandez was charged with inability to perform duties, chronic or excessive absenteeism or lateness, and other sufficient cause based on the following incident: “Despite previous discipline, Mr. Fernandez called out on 5/9/2024 at 6:41 a.m., after his start time of 6:00 a.m.”² (R-1.)

Fernandez’s disciplinary history reflects numerous verbal and written warnings, write-ups, and suspensions for, inter alia, sick call-outs without sick time available, being late to work, not showing up for work, and failure to call in sick before start time, and most recently, the March 2024 Last Chance Agreement reflects that two disciplinary actions for, inter alia, chronic and excessive absenteeism, seeking a suspension of 105 days total, were consolidated and settled for a forty-five-day “sanction.”

I **CONCLUDE** that the respondent has proven by a preponderance of the credible evidence that Fernandez was chronically and excessively absent or late and other sufficient cause—specifically that Fernandez’s call out on May 9, 2024, at 6:40 a.m., at which time he was not on approved leave and was scheduled to start at 5:00 a.m., violated both the CBA policy and the Parks Department policy.

Additionally, I **CONCLUDE** that respondent has proven that Fernandez violated the Last Chance Agreement, as the violation for chronic or excessive absenteeism and other sufficient cause (failure to use the contractually agreed upon call-out procedures) occurred only two months after Fernandez executed the Last Chance Agreement.

² Per the CBA and testimony, Fernandez’s shift at that time of the year was scheduled to start at 5:00 a.m. However, even if his shift started at 6:00 a.m. as stated in the PNDA, his call out was still not prior to his starting time.

Generally, with respect to the penalty, the Civil Service Commission may increase or decrease the penalty imposed by the appointing authority, though removal cannot be substituted for a lesser penalty. N.J.S.A. 11A:2-19. When determining the appropriate penalty, the Commission must utilize the evaluation process set forth in West New York v. Bock, 38 N.J. 500 (1962), and consider the employee's reasonably recent history of promotions, commendations, and the like, as well as formally adjudicated disciplinary actions and instances of misconduct informally adjudicated. Fernandez's disciplinary history is extensive and the Last Chance Agreement reflects that it is a "last chance" and states that Fernandez "may be terminated or otherwise disciplined without the use of progressive discipline if the County issues a Preliminary Notice of Disciplinary Action (31-A) in the one (1) year period following execution of this Agreement for any of the following charges: Chronic or excessive absenteeism; Other sufficient cause—failure to use the contractually agreed upon call out procedures." Further, the Last Chance Agreement reflects that if he is so charged, Fernandez may "appeal the factual basis for such charges, but not the amount of discipline imposed." Accordingly, I **CONCLUDE** that Fernandez's removal from his employment was justified.

ORDER

I hereby **ORDER** that the charges of chronic and excessive absenteeism or lateness and other sufficient cause are **SUSTAINED** and that Fernandez's removal is **AFFIRMED**.

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.



September 25, 2025

DATE

KELLY J. KIRK, ALJ

Date Received at Agency:

September 25, 2025

Date Mailed to Parties:

September 25, 2025

am

APPENDIX

List of Witnesses

For appellant:

Andrew Schiavo
Alexis Fernandez

For respondent:

Francillia Molina
Greg Moore

Exhibits in Evidence

For Appellant:

P-1 Memorandum, dated October 15, 2016
P-2 Letter from Angel Barreiro, dated October 23, 2024
P-3 Prescription blank

For Respondent:

R-1 PNDA, dated May 9, 2024
R-2 CBA Article 6
R-3 CBA Article 10
R-4 Last Chance Agreement
R-5 History tracker
R-6 Audio recording
R-7 Department callout records
R-8 Time-off request form, May 8, 2024
R-9 Time-off request form, May 10, 2024
R-10 FNDA, dated January 2, 2025