



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). In this regard, the Commission emphasizes that a like a Police Officer, a County Correctional Police Officer is a law enforcement officer who, by the very nature of his job duties, is held to a higher standard of conduct than other public employees. *See Moorestown v. Armstrong*, 89 N.J. Super. 560 (App. Div. 1965), *cert. denied*, 47 N.J. 80 (1966). *See also, In re Phillips*, 117 N.J. 567 (1990). Moreover, even when a County Correctional Police Officer does not possess a prior disciplinary record after many unblemished years of employment, the seriousness of an offense such as in this matter may, nevertheless, warrant the penalty of removal.

In the instant matter, it is undisputed that the appellant was chronically and excessively absent in 2024 with at least 137 unauthorized absences. Further, of the 170 days he was expected to work in 2024, the appellant only worked 37 days. Moreover, the appellant was absent without approval for five consecutive business days in November 2024 and failed to offer any reasonable explanation for these absences. Significantly, the appellant did not have any approved leave of absence or any doctor's notes to support those absences. An employer, especially in a jail, has the legitimate right to expect that its employees will attend work when scheduled and the appellant chronically failed to do so. Accordingly, the charges as upheld by the ALJ are sustained, and given the egregious number of the appellant's absences, including consecutive absences for five business days, and that his prior disciplinary record does not mitigate the penalty imposed, his removal is upheld.

### ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Shawn Kelly.

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 21<sup>ST</sup> DAY OF JANUARY, 2026

*Allison Chris Myers*

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Allison Chris Myers  
Chairperson  
Civil Service Commission

Inquiries  
and  
Correspondence

Dulce A. Sulit-Villamor  
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. CSR 04326-25

**IN THE MATTER OF SHAWN KELLY,  
HUDSON COUNTY CORRECTIONAL  
POLICE OFFICER.**

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**Michael P. DeRose, Esq.**, for appellant Shawn Kelly (Crivelli, Barbati & DeRose,  
L.L.C., attorneys)

**Daniel W. Sexton**, Assistant County Counsel, for respondent Hudson County  
(Craig Guy, County Counsel)

Record Closed: November 7, 2025

Decided: December 19, 2025

BEFORE **SUSANA E. GUERRERO**, ALJ:

**STATEMENT OF THE CASE**

Appellant Shawn Kelly (Kelly or appellant), a correctional police officer, appeals his termination by respondent Hudson County (County or respondent) for his excessive unauthorized absences.

## **PROCEDURAL HISTORY**

Kelly filed an appeal at the Office of Administrative Law (OAL) for determination as a contested case pursuant to N.J.S.A. 40A:14-202(d), which was perfected on February 28, 2025, under OAL Dkt. No. CSR 04326-25. The County had served Kelly with three separate Preliminary Notices of Disciplinary Action (PNDAs) dated September 30, 2024, September 30, 2024, and November 25, 2024, and a Final Notice of Disciplinary Action (FNDA) dated February 7, 2025, sustaining the charges set forth in the three PNDAs and terminating him effective January 30, 2025.

Telephone prehearing conferences were held on April 2, 2025, and May 12, 2025, and the hearing was scheduled for May 22 and 23, 2025, but adjourned at the request of the appellant. The hearing was held on July 3, 2025, at which time the parties requested an opportunity to file post-hearing briefs. The respondent requested extensions to file the brief, and extensions were granted. The briefs were received on November 7, 2025, at which time the record closed.

## **FACTUAL DISCUSSION**

### **Background**

Kelly began his employment as a corrections officer in Hudson County in 2019. In late November 2020, he injured his finger and elbow and was subsequently out of work for about six months. He was out on workers' compensation again in late October 2021 after surgery. For most of 2022, Kelly was out on extended "OJI," an approved leave for an on-the-job injury. Although he was due to return to work on or around December 15, 2022, Kelly failed to do so and took personal days, sick days and unauthorized absences for the rest of the month.

In January 2023, Kelly did not appear for work. While he asserted at the hearing that he did not go in due to his physical condition, his doctor did not restrict him from working at that time, and Pagan even called him at least twice to remind him to return to work. Kelly offered no reasonable explanation as to why he had unauthorized absences

that month. The unauthorized absences were identified as “ANP,” or “Absent No Pay,” absences, which are unauthorized absences that occur when an employee either runs out of sick time, is unable to report, or calls out sick to work past the one-hour cutoff. The County requires corrections officers who call out sick to call out at least one hour prior to the start of the officer’s shift to allow the County an opportunity to find a replacement for that shift. For the unauthorized absences in January 2023, Kelly received minor discipline.

Kelly did not report for work in February 2023. Rather, he took approximately four days of authorized unpaid leave, followed by about fifteen days of unauthorized absences that spanned the end of the month and nearly all of March 2023. These unauthorized absences were “DNR” or “Did Not Report” absences, which occur when an employee fails to report for duty and does not notify the Hudson County Department of Corrections (Department) that he will not be reporting to work. The County deems DNR absences to be more egregious than ANP absences. Kelly testified that he fell off a chair at work and hurt his back, for which he was on OJI in late March and most of April 2023. He attempted to receive intermittent leave, but did not qualify, and also sought FMLA later that year, but was not approved.

Kelly only worked about forty-three days in 2023. While he had some authorized OJI leave and sick days that year, there were a large number of unauthorized absences, including about thirty-nine ANP absences and about fifty-four DNR days.

While the County is critical of Kelly’s attendance record since at least 2022, and it is evident that Kelly had a great number of unauthorized absences, including mostly DNRs in 2023, the charges subject to this appeal only include absences that occurred in 2024. The County asserts that Kelly should be terminated for his excessive unauthorized absences as reflected in the FNDA, which incorporates three separate PNDAs. Kelly concedes that he accrued numerous absences but challenges his termination. The three PNDAs are addressed below.

Two PNDA's dated September 30, 2024

In one PNDA dated September 30, 2024, the County asserts that Kelly accumulated 114 unauthorized absences between February 1, 2024, and July 17, 2024, which included fifty-seven DNR absences and fifty-six ANP absences (the first PNDA).

The County issued a second PNDA on September 30, 2024, asserting that Kelly incurred an additional eighteen unauthorized absences between July 18, 2024, and September 16, 2024 (the second PNDA). The second PNDA notes that these absences were unauthorized because Kelly had no remaining sick time and had repeatedly reported them after the one-hour cutoff period.

PNDA dated November 25, 2024

The third PNDA referenced in the FNDA is dated November 25, 2024 (third PNDA). In this PNDA, the County asserts that Kelly accumulated five consecutive ANP absences that were never authorized through workers' compensation, nor any leave program or risk management. The County noted in the PNDA that no "legitimate or documented" emergency existed at the time and that Kelly's actions constituted an abandonment of his position and resignation not in good standing pursuant to N.J.A.C. 4A:2-6.2. According to the PNDA, these absences occurred on November 11, 12, 15, 16, and 17, 2024.

Kelly has been suspended since November 18, 2024. He seeks reinstatement.

Testimony

Lieutenant Ramon Pagan (Pagan), the County's administrative lieutenant who oversees attendance, timekeeping, and leaves at the Hudson County Correctional Center, testified concerning Kelly's absences and the County's policies. He initially audited Kelly's attendance in July 2024 when he noticed that Kelly had four unauthorized absences within a span of two weeks. This led him to conduct a broader audit of Kelly's attendance, and he identified 114 unauthorized absences. Following this review, Pagan prepared a report containing proposed charges for unauthorized absences, which were

reviewed and sustained by the Office of Internal Affairs. Pagan testified clearly and consistently with the records maintained by the County, and I found him to be a credible witness.

Kelly, on the other hand, tended to ramble in his testimony, and he was neither a sympathetic nor a particularly credible witness. Ultimately, while he unconvincingly asserted that the County retaliated and discriminated against him, he did not dispute that the numerous absences identified by the County were unauthorized, nor did he provide any reasonable or credible justification for these unapproved and unauthorized absences. Rather, he testified extensively about the nonprofit organization that he started in July 2021 and that he continues to be very actively engaged in running.

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

In February 2024, Kelly only worked one day and had eight unauthorized absences. He had an ANP absence on the first day of the month, followed by three days off. He worked one day and then had another ANP absence, followed by two days off and another ANP day. He then had four vacation days, followed by three ANP days, two vacation days and two ANP days. While Kelly testified that he had pneumonia in February, he never informed the County, and his testimony was neither clear nor credible regarding why he took this unauthorized leave.

In March 2024, Kelly had six consecutive unauthorized ANP absences. He then worked four days and had an ANP absence the following day. He then worked one day, followed by two ANP absences. He worked another day and then immediately took a personal day. Pagan testified credibly that there is a pattern of unauthorized absences here since Kelly took the ANP days either immediately prior to or following his days off. He testified to other instances of pattern absences and explained when they occur. The Department's policy defines pattern absences as absences "such as single absences on Monday or Friday, payday Friday, bookending scheduled days off, or some other pattern

that appears suspicious.” Those employees who exhibit a pattern of absences without legitimate reasons are subject to progressive discipline.

In April 2024, Kelly worked eight days in the first half of the month and had an ANP absence and a vacation day before being suspended from April 19 through June 15, 2024. When he was scheduled to return on June 16, he took two vacation days, followed by an ANP day. He worked the last full week in June but took another ANP day in the middle of that week.

In July 2024, Kelly worked only four days, and he had eight ANP absences. The ANP days were taken either just before or after his days off.

In August 2024, Kelly worked only seven days. He had about eight ANP days, all of which occurred immediately before or after his days off.

In September 2024, Kelly worked only five days. He had seven ANP absences, all immediately before or following days off.

Kelly had two ANP absences in the first week of October 2024, immediately before and following his days off. These absences, as well as many others earlier in the year, constitute pattern absences as many bookended Kelly’s scheduled days off.

Kelly did not work at all in October 2024. From November 4 through the end of the month, he had another OJI when he allegedly injured his leg on a step in the jail.

In November 2024, Kelly did not appear for work at all, despite being released by Concentra on October 31, 2024, to return to work without restrictions. On November 1, Kelly had a DNR absence, followed by two ANP days just before two days off, two vacation days, and an additional three days off. He had ANP days on November 11 and November 12. He was off on November 13 and 14 and had three additional ANP days on November 15, 16, and 17.

Pagan testified that, consistent with Department policy, Kelly was immediately suspended for being unfit for duty because he had five consecutive unauthorized absences in November. (R-6.) While Kelly vaguely asserts that he thought that he was on leave during these absences, there is no credible or reliable evidence to support that.

For all of his absences identified as ANP and DNR absences between February and November 2024, Kelly did not have any approved leave of absence, nor did he supply any doctors' notes to support those absences. The evidence preponderates that Kelly did not have any legitimate emergency or reason not to appear for work on those days. He also conceded that Concentra informed him each time his OJI was ending and he was cleared to return to work. He, therefore, was aware that the absences coming off of OJI leaves were unexcused.

Pagan testified that Kelly's unexcused absences created staffing difficulties. He questioned Kelly's ability to perform his work adequately, given that he only worked a small fraction of the days he was required to work over the past few years—he did not work at all in 2022; he only worked thirty-eight out of at least 160 days in 2023; and he was largely out in 2024.

#### Agency Policy, Rules and Regulations

The Hudson County Department of Corrections Rules and Regulations require officers to notify Operations no less than one hour prior to the start of their shift. (R-3) It also provides that every officer who fails to appear for duty on the date, time and place specified and without consent or proper authorization is ANP or DNR and that five days of being absent without leave or DNR constitutes "Resignation not in good standing." (R-3.) The Department's rules indicate that an employee who has five consecutive unauthorized absences must be considered to have abandoned his position, that this constitutes a resignation not in good standing under N.J.A.C. 4A:2.6.2, and that it must be documented by the agency as such unless there exists a legitimate and documented emergency.

The Rules and Regulations also provide for disciplinary action for conduct unbecoming of an officer; absence or tardiness; and “any other misfeasance, malfeasance, or nonfeasance of duty.” (R-3.)

### **LEGAL ANALYSIS AND CONCLUSIONS OF LAW**

Public employees’ rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant thereto, N.J.A.C. 4A:1-1.1 to 10-3.2. However, public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a). An appointing authority may discipline an employee for sufficient cause, including failure to obey laws, rules, and regulations of the appointing authority. N.J.A.C. 4A:2-2.3(a)(12).

In disciplinary cases, the appointing authority has the burden of both persuasion and production and must demonstrate by a preponderance of the competent, relevant, and credible evidence that it had just cause to discipline the employee and lodge the charges. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is said to preponderate “if it establishes the reasonable probability of the fact.” Jaeger v. Elizabethtown Consol. Gas Co., 124 N.J.L. 420, 423 (Sup. Ct. 1940) (citation omitted). The evidence must “be such as to lead a reasonably cautious mind to the given conclusion.” Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958).

Police officers are held to a high standard of conduct both on and off the job. In re Phillips, 117 N.J. 567, 577 (1990). Correction officers serve in a capacity analogous to police officers. As such, they have a duty to serve the public with the highest fidelity, honesty, integrity, and good faith. As they are vested with powers and responsibilities not held by other public employees, law enforcement officers are held to the highest standards of conduct. See In re Carberry, 114 N.J. 547 (1989).

The issues to be resolved here are whether the respondent has proven the charges by a preponderance of the credible evidence, and if so, whether the penalty of removal and resignation not in good standing was justified and reasonable.

The FNDA charges Kelly with violating the following regulations: N.J.A.C. 4A:2-2.3(a)(1), incompetency, inefficiency or failure to perform duties; N.J.A.C. 4A:2-2.3(a)(2), insubordination; N.J.A.C. 4A:2-2.3(a)(4), chronic or excessive absenteeism; N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(7), neglect of duty; N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause; and N.J.A.C. 4A:2-6.2(b), resignation not in good standing. Each charge is addressed below.

Kelly is charged with violating N.J.A.C. 4A:2-2.3(a)(4), chronic or excessive absenteeism. Although the regulation does not define when absenteeism will rise to the level of chronic or excessive, it is generally understood that chronic conduct is conduct that continues over a long time or recurs frequently. Good v. N. State Prison, 97 N.J.A.R.2d (CSV) 529, 531, and “excessive” is defined as “exceeding what is usual, proper, necessary, or normal,” Merriam-Webster online dictionary, <https://www.merriam-webster.com/dictionary/excessive> (last visited December 11, 2025). Kelly was clearly chronically and excessively absent, with at least 137 unauthorized absences in 2024. While not charged here with his unauthorized absences in 2023, it is worth noting that his unauthorized absences did not begin in 2024—Kelly was excessively absent in 2023, when he had over ninety unauthorized absences and only worked forty-three days that year. Consequently, I **CONCLUDE** that Kelly violated N.J.A.C. 4A:2-2.3(a)(4) with his chronic and excessive absenteeism in 2024.

Kelly was also charged with violating N.J.A.C. 4A:2-2.3(a)(1), incompetency, inefficiency, or failure to perform his duties. In this type of breach, an employee performs his or her duties, but in a manner that exhibits insufficient quality of performance, inefficiency in the results produced, or untimeliness of performance, such that his or her performance is substandard. See Clark v. N.J. Dep’t of Agric., 1 N.J.A.R. 315 (1980). Based on my consideration of the evidence presented and my findings of fact, I **CONCLUDE** that Kelly violated N.J.A.C. 4A:2-2.3(a)(1) for failing to perform his duties as a correction officer by failing to appear for duty an excessive number of days without approval and absent any reasonable explanation. Of the nearly 170 days that Kelly was expected to work in 2024, he only worked about thirty-seven. At times, he failed to even notify the Department that he was not going in, although mostly he simply took sick time

when he had no sick time available, or he failed to call out within the one-hour cutoff. For these reasons, I also **CONCLUDE** that Kelly neglected his duties and violated N.J.A.C. 4A:2-2.3(a)(7). "Neglect of duty" has been interpreted to mean that an employee "neglected to perform an act required by his or her job title or was negligent in its discharge." In re Glenn, 2009 N.J. AGEN LEXIS 112 (February 5, 2009) (citation omitted), adopted, Civil Service Commission (March 27, 2009), <http://njlaw.rutgers.edu/collections/oal/>. Neglect of duty can arise from omitting to perform a required duty as well as from misconduct or misdoing. State v. Dunphy, 19 N.J. 531, 534 (1955). Neglect of duty does not require an intentional or willful act; however, there must be some evidence that the employee somehow breached a duty owed to the performance of the job. Kelly habitually and excessively neglected to appear for work as required.

Kelly was also charged with violating N.J.A.C. 4A:2-2.3(a)(2), insubordination. The respondent, however, failed to present sufficient competent evidence to demonstrate that Kelly disobeyed an express order or acted in an insubordinate manner. I **CONCLUDE**, therefore, that the respondent did not establish by a preponderance of the evidence that Kelly violated N.J.A.C. 4A:2-2.3(a)(2).

Kelly is charged with violating N.J.S.A. 4A:2-2.3(a)(6), conduct unbecoming a public employee. "Conduct unbecoming" is an "elastic" phrase that encompasses conduct that "adversely affects the morale or efficiency of [a governmental unit] . . . [or] which has a tendency to destroy public respect for [government] employees and confidence in the operation of [governmental] services." Karins v. City of Atl. City, 152 N.J. 532, 554 (1998) (quoting In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960)). 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)). I **CONCLUDE** that Kelly's conduct was unbecoming when he accrued an exorbitant number of unauthorized absences, many pattern absences, and because he accrued multiple DNR absences for failing to even call and notify his employer that he would not be appearing for work.

“Other sufficient cause,” N.J.A.C. 4A:2-2.3(a)(12), is an offense for conduct that violates the implicit standards of good behavior that devolve upon one who stands in the public eye as an upholder of that which is morally and legally correct. In re MacDonald, 2014 N.J. AGEN LEXIS 236 (May 19, 2014), adopted, Civil Serv. Comm’n (September 3, 2014), <http://njlaw.rutgers.edu/collections/oal/>. I **CONCLUDE** that since the appellant’s excessive failure to appear for duty without consent or proper authorization violates the respondent’s Rules and Regulations concerning absenteeism and is subject to disciplinary action pursuant to 5:1.1, the respondent has sufficiently demonstrated that Kelly violated N.J.A.C. 4A:2-2.3(a)(12).

The charge of resignation not in good standing, N.J.A.C. 4A:2-6.2(b), provides in part: “Any employee who is absent from duty for five or more consecutive business days without the approval of his or her superior shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. . . .” Here, Kelly was absent from duty, without approval, for five consecutive business days in November 2024. Not only is there no evidence that these absences resulted from a legitimate emergency, but Kelly also failed to offer any reasonable explanation for these absences. In his post-hearing brief, Kelly argues that this charge should be dismissed because the regulatory provision should only apply to DNR absences and not ANP absences. He asserts, without citing any legal authority, that since he called out those days, those absences cannot constitute “job abandonment.” I am not persuaded by the appellant’s argument. Even if Kelly notified his employer of his absence, the fact remains that the five consecutive absences were unauthorized and not justified. N.J.A.C. 4A:2-6.2(b) expressly states that a resignation not in good standing occurs when an employee is absent for at least five consecutive days without his superior’s approval. Kelly took these days without his superior’s approval, and the fact that he may have called his employer to notify them that he was going to be out does not alone excuse the absences. Consequently, I **CONCLUDE** that the respondent properly deemed Kelly to have abandoned his position pursuant to N.J.A.C. 4A:2-6.2(b).

## Penalty

In a disciplinary proceeding, an employee's past record may be resorted to "for guidance in determining the appropriate penalty for the current specific offense." Bock, 38 NJ at 528. This past record includes "formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated, so to speak, by having been previously called to the attention of and admitted by the employee." Id. at 524. However, an individual's prior disciplinary history may be outweighed if the infraction at issue is of a serious nature. Henry, 81 N.J. 571.

Here, Kelly had minor disciplinary charges relating to his attendance or use of sick leave in October 2020 (one-day suspension). He did not work in 2021 or 2022. In January 2023, when he returned to work, he received minor discipline for walking out on the job following an argument with another officer. He was charged with refusing to do mandatory overtime in June 2023, for which the parties settled on a five-day suspension. Kelly also served a twenty-day suspension for charges filed in May 2024 for misconduct unrelated to attendance.

Kelly asserts that some level of progressive discipline, not termination, is appropriate since the most egregious DNR absences occurred in 2023; he was not paid for many of the absences; and because he suffered injuries requiring surgeries and limiting his ability to work. I did not find Kelly's argument persuasive. Not only did Kelly accrue five consecutive unauthorized absences without any reasonable or justifiable explanation, constituting a resignation not in good standing, but the number of unauthorized absences in 2024, and even prior to 2024, is remarkable.

Corrections officers are held to a higher standard compared to other public employees, and here, the appellant chronically and excessively failed to appear for work without just cause, leaving the County with the burden of having to constantly adjust their staffing to accommodate his unauthorized ANP and DNR absences. Kelly failed in his basic duty to simply appear for work. The Civil Service Commission has recognized that attendance at work is the most basic duty of an employee, especially in the area of public safety, and employees who cannot maintain an acceptable attendance record can expect

to be subject to disciplinary action, including removal. In re Kines, 2013 N.J. CSC LEXIS 507 (July 31, 2013). After reasonable consideration is given to an employee by an appointing authority, the employer is left with a serious personnel problem, and a point is reached where the absenteeism must be weighed against the public right to efficient and economic service. Terrell, 92 N.J.A.R. 2d (CSV) at 752. An employer is certainly entitled to be free of excessive disruption and inefficiency due to an inordinate amount of employee absences. Ibid.

The County was more than accommodating to appellant. And while Kelly seeks to be reinstated, after considering the evidence presented and after hearing Kelly testify, I am convinced that Kelly's habitual and excessive absenteeism will continue should he be returned to his position. Kelly is either unable or unwilling to report to work on a regular basis. Even after being served with the September PNDAs and officially being placed on notice of charges relating to his attendance, his unauthorized absences continued. I **CONCLUDE** that the County was justified in taking disciplinary action against appellant; that a resignation not in good standing is appropriate; and that the County was justified in imposing the penalty of removal.

### **ORDER**

I hereby **ORDER** that the charges against the appellant, except the charge relating to insubordination, be and hereby are **SUSTAINED**, and that the appellant be removed from his position as a corrections officer. It is **ORDERED** that the charge of insubordination, N.J.A.C. 4A:2-2.3(a)(2), be **DISMISSED**.

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. 40A:14-204.

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.

December 19, 2025

DATE



**SUSANA E. GUERRERO, ALJ**

Date Received at Agency:

December 19, 2025

Date Mailed to Parties:

December 19, 2025

jb

**APPENDIX**

**Witnesses**

**For Appellant:**

Shawn Kelly

**For Respondent:**

Lt. Ramon Pagan

**Exhibits**

**For Appellant:**<sup>1</sup>

- A-1 Document from MM Jersey City Breathing Ctr., concerning leave, dated August 1, 2023
- A-2 Incident Report, dated June 29, 2024
- A-3 Urgent Care document, dated February 28, 2024
- A-4 Concentra document, dated October 5, 2024
- A-5 Incident Report, dated September 22, 2024
- A-6 Emails, March 2024
- A-7 Incident Report, dated April 7, 2024
- A-8 Email from Kelly, dated April 7, 2024
- A-9 Emails, April 2024
- A-10 Emails, dated September 23, 2024, and September 24, 2024
- A-11 IRS document for Project 201
- A-12 Project 201 document

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<sup>1</sup> The appellant's exhibits identified as "P" exhibits at the hearing appear as "A" exhibits here.

For Respondent:<sup>2</sup>

- R-1 PNDA, dated September 30, 2024, covering an additional eighteen unauthorized absences between July 18, 2023, and September 16, 2024, with attached Request for Disciplinary Action sheets and calendars
- R-2 PNDA, dated September 30, 2024, covering 114 unauthorized absences between February 1, 2023, and July 17, 2024
- R-3 Rules and Regulations and Scheduling and Attendance Policy, Request for Disciplinary Action documents
- R-4 Internal Affairs documents
- R-5 Activity Reports
- R-6 PNDA concerning five consecutive unauthorized absences in November 2024 and Notice of Immediate Suspension, dated November 25, 2024
- R-7 Scheduling Policy
- R-8 Activity Reports
- R-9 Documents relating to prior discipline, including Settlement Agreement
- R-10 Employee Profile documents
- R-11 View Activity Report

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<sup>2</sup> At the hearing, the respondent's exhibits were marked as R-A, R-B, R-C, etc. These exhibits are identified here using numbers rather than letters (R-1 for R-A, R-2 for R-B, etc.).