



STATE OF NEW JERSEY

In the Matter of J.D., City of Newark,
Department of Public Safety

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

CSC Docket No. 2025-2365
OAL Docket No. CSR 08294-25

ISSUED: MARCH 17, 2026

The appeal of J.D., a Fire Fighter with the City of Newark, Department of Public Safety, of his removal, effective August 6, 2024, on charges, was heard by Administrative Law Judge Aurelio Vincitore (ALJ), who rendered his initial decision on January 23, 2026. 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 attached ALJ's initial decision, including a thorough review of the exceptions and reply, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of February 25, 2026, accepted and adopted the Findings of Fact and Conclusions of Law as contained in the ALJ's initial decision and his recommendation to uphold the removal.

As indicated above, the Commission thoroughly reviewed the exceptions and reply filed in this matter. Upon that review, it finds that the exceptions do not persuade the Commission that the ALJ's findings and conclusions or his recommendation to uphold the removal were arbitrary, capricious, or unreasonable. Accordingly, it upholds those actions for the reasons expressed by the ALJ. In his Findings of Fact, the ALJ indicated, in relevant part:

Probationary firefighters like [J.D.] acknowledge receipt of employee memoranda, rules, and regulations while in the Newark FD training academy through an electronic portal called Power DMS. [J.D.] received such rules and regulations, including those regarding the reporting of arrests and detentions, as evidenced by his signature on Power DMS. As such, [J.D.] was on notice that he had to report all charges and his

arrest and detainment to his supervisor immediately upon his first day reporting for duty.

Additionally, in recommending upholding the removal, the ALJ stated the following:

In this case, [J.D.] completed training and was on the job as of May 15, 2024, serving the Newark FD as a probationary firefighter on June 23, 2024. During this one-year probationary period, [J.D.]'s job performance and conduct were subject to review and scrutiny that applies to probationary firefighters. On June 23, 2024, after an arrest warrant was issued for an alleged violation of *N.J.S.A. 2C:12-1a(1)*, [J.D.] was taken into custody where he remained for four and a half days. Yet, [J.D.] failed to report this arrest and detainment to the Newark FD, which [J.D.] knew he was obligated to do the first day he returned to duty. Given this failure to abide by departmental rules and regulations concerning personal integrity and dependability during his working test period, I **CONCLUDE** that [J.D.] must be removed from his position as a firefighter with the Newark FD under *N.J.A.C. 4A:2-2.3(a)(12)*. Indeed, no credible evidence exists otherwise to substantiate [J.D.]'s claim that his discharge was improper.

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). In this regard, the Commission emphasizes that Fire Fighters, like Police Officers, are public safety employees who, by the very nature of their job duties, are held to a higher standard 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 Fire Fighter 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. Finally, Civil Service rules recognize that "[a]n employee may be separated for unsatisfactory performance at the end of the working test period" and that "[a]n employee may be disciplined during the working test period." *See N.J.A.C. 4A:4-5.4; see also In the Matter of Savon Brittingham* (CSC, decided October 16, 2024).

In the instant matter, it is undisputed that the appellant was arrested and detained while in his working test period. The appellant was also aware of the requirement under departmental rules to report his arrest and detainment to his supervisors and nonetheless failed to do so. Importantly, because of the vital and sensitive nature of the appellant's public safety position, the appointing authority had a compelling need to require the appellant to report this information in accordance with the subject policy. Moreover, the later expungement of the charge of simple assault, in violation of *N.J.S.A. 2C:12-1a(1)*, against the appellant did not relieve him of the obligation to report the charge to his supervisors. Accordingly, the charges as upheld by the ALJ are sustained, and the penalty of removal during the working test period is not disproportionate to the offense.

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 J.D.

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 25TH DAY OF FEBRUARY, 2026

Allison Chris Myers

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 08294-25

AGENCY DKT. NO. N/A

IN THE MATTER OF J [REDACTED] D [REDACTED]
v. CITY OF NEWARK FIRE DIVISION,

Leonard Schiro, Esq., (Mets, Schiro & Manetta, attorneys), for appellant, J [REDACTED]
D [REDACTED]

Ashley E. Morgan, Esq. (Chasan, Lamparello, Mallon and Cappuzzo,
attorneys), for respondent, City of Newark Fire Division

Kaitlin Chesney-Morris, Esq. (Assistant Corporation Counsel, City of Newark),
attorney for respondent, City of Newark

Record Closed: November 7, 2025

Decided: January 23, 2026

BEFORE **AURELIO VINCITORE**, ALJ

STATEMENT OF THE CASE

Appellant, J [REDACTED] D [REDACTED], a firefighter for respondent, City of Newark Fire
Division (Newark FD), removed D [REDACTED] from his position during his working test

period because D [REDACTED] failed to report incidents involving law enforcement in violation of department rules and regulations. May the Newark FD remove D [REDACTED] from his position? Yes. Under N.J.S.A. 11A:4-15(a), a violation of department rules and regulations during a firefighter's working test period may result in removal from that position.

PROCEDURAL HISTORY

On December 27, 2024, Newark FD served D [REDACTED] with a preliminary notice of disciplinary action (PNDA) seeking D [REDACTED]'s removal for the failure to inform Newark FD about an incident involving law enforcement in another municipality. The PNDA charged D [REDACTED] 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 (violation of Newark Fire Division Rules and Regulations) in violation of N.J.A.C. 4A:2-2.3(a)(12).

On March 5, 2025, after a departmental hearing, Newark FD sustained all the charges and specifications.

On April 19, 2025, Newark FD served D [REDACTED] with a final notice of disciplinary action (FNDA) removing him from his position, effective August 6, 2024.

On May 2, 2025, D [REDACTED] filed an appeal with the Civil Service Commission and the Office of Administrative Law for determination as a contested case under N.J.S.A. 52:14F-1 to -13 and N.J.S.A. 52:14B-1 -15.

I scheduled for the initial prehearing telephone conference call for June 24, 2025, but Newark did not appear, so I rescheduled the initial prehearing telephone conference call for July 10, 2025, but neither party appeared then either. I rescheduled the initial prehearing telephone conference call for August 6, 2024, but Newark again failed to appear. Both parties finally appeared on August 28, 2025, and again on September 5, 2025, when we scheduled the hearing. D [REDACTED]'s counsel was unavailable during

the month of October 2025, so a one-day hearing was scheduled for and held on November 7, 2025, at the conclusion of which I closed the record.

FINDINGS OF FACT

Based upon the testimony the parties provided and my assessment of their credibility, together with the documents the parties submitted and my assessment of their sufficiency, I **FIND** the following **FACTS**:

On May 15, 2024, D [REDACTED] began his career with the Newark FD as a firefighter.

On June 15, 2024, D [REDACTED] provided a written report to his supervisors at Newark FD informing them that he was served with a temporary restraining order (TRO) in Barnegat Township due to an allegation of domestic violence. (R-1.) D [REDACTED] provided Newark FD with subsequent updates about pending court dates related to the TRO. D [REDACTED], however, did not provide any written notification about a separate and more serious charge of simple assault under N.J.S.A. 2C:12-1a(1). That charge was later expunged on November 21, 2024.

On June 23, 2024, after an arrest warrant was issued for the allegation of simple assault under N.J.S.A. 2C:12-1a(1) violation, D [REDACTED] was taken into custody where he remained for four and a half days. (R-19.) D [REDACTED] returned to work on June 30, 2024, and filed a written report to Battalion Chief Gay, which only referenced the court date pertaining to the TRO. It did not mention his arrest and detainment for simple assault. (R-3.)

Probationary firefighters like D [REDACTED] acknowledge receipt of employee memoranda, rules, and regulations while in the Newark FD training academy through an electronic portal called Power DMS. D [REDACTED] received such rules and regulations, including those regarding the reporting of arrests and detainments, as evidenced by his

signature on Power DMS. As such, D [REDACTED] was on notice that he had to report all charges and his arrest and detainment to his supervisor immediately upon his first day reporting to duty.

On August 2, 2024, Captain Jeray Walker of the Newark FD, Professional Standards Unit, initiated an investigation into the TRO and received additional information from the Barnegat Township Police Department about the arrest and detainment for the alleged violation of N.J.S.A. 2C:12-1a(1), which D [REDACTED] never disclosed. (R-4.)

From December 3, 2024, through December 14, 2024, Captain Aikens of the Professional Standards Unit conducted a final investigation into the incident D [REDACTED] failed to report. This investigation included an audio statement from D [REDACTED] with union representation present on December 14, 2024. (R-19.) On December 16, 2024, Newark FD's Professional Standards Unit issued a report recommending removal. (R-17.)

CONCLUSIONS OF LAW

Under N.J.S.A. 11A:4-15(a), a probationary firefighter's working test period is twelve months. The purpose of the probationary or working test period under the Civil Service System is to give the appointing authority an opportunity to evaluate an employee's work performance and conduct to determine whether the employee merits permanent status. N.J.A.C. 4A:1-1.3 and N.J.A.C. 4A:4-5.1. A basic condition of permanent or absolute appointment to any civil service position is a favorable opinion of the employee's fitness as formed by the appointing authority during the working test period. Cipriano v. Department of Civil Service of the State of New Jersey, 151 N.J. Super. 86 (App. Div. 1977). Moreover, firefighters, like police officers, are a special kind of public employee and because of their role with the public, they must present an image of personal integrity and dependability. See Moorsetown v. Armstrong, 89 N.J. Super. 560, 566 (App. Div. 1965)

Under Newark FD, Memorandum 17-14 Addendum, all firefighters are expected to document any encounter with any police agency. (R-14 and R-15.) Each firefighter is obligated to file a report with their supervisor detailing the event on their first day appearing back to duty. This obligation is acknowledged by firefighters through Power DMS.

Additionally, Newark FD, GO-A3, sets forth that the director may dismiss any probationary firefighter when there is an adverse report as to their qualifications submitted by a commanding officer, through the fire chief, or upon being found guilty of violating any department guideline. (R-11.)

Further, the Newark Fire Union Labor Agreement, Article XXI, Section 1, "Probationary Period/New Hires," also states that at any time during the probationary period of any employee, Newark may terminate the employment of such an employee. (R-16.)

In this case, D [REDACTED] completed training and was on the job as of May 15, 2024, serving the Newark FD as a probationary firefighter on June 23, 2024. During this one-year probationary period, D [REDACTED]'s job performance and conduct were subject to review and scrutiny that applies to probationary firefighters. On June 23, 2024, after an arrest warrant was issued for an alleged violation of N.J.S.A. 2C:12-1a(1), D [REDACTED] was taken into custody where he remained for four and a half days. Yet, D [REDACTED] failed to report this arrest and detainment to the Newark FD, which D [REDACTED] knew he was obligated to do the first day he returned to duty. Given this failure to abide by departmental rules and regulations concerning personal integrity and dependability during his working test period, I **CONCLUDE** that D [REDACTED] must be removed from his position as a firefighter with the Newark FD under N.J.A.C. 4A:2-2.3(a)(12). Indeed, no credible evidence exists otherwise to substantiate D [REDACTED]'s claim that his discharge was improper.

ORDER

I **ORDER** that appellant is removed from his position as a firefighter with the Newark FD and that this case is **DISMISSED** with **PREJUDICE**.

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.



January 23, 2026

DATE

JOANN LASALA CANDIDO, ALAJ
on behalf of **AURELIO VINCITORE, ALJ**

Date Received at Agency:

1/23/26

Date Mailed to Parties:

1/23/26

id

APPENDIX

Witnesses

For Appellant:

J [REDACTED] D [REDACTED]

For Respondent:

Captain Jeray Walker

Captain Kevin Aikens

Exhibits

For Appellant:

- P-1 August 6, 2024- Preliminary Notice of Disciplinary Action
- P-2 December 18, 2024- Preliminary Notice of Disciplinary Action
- P-3 June 15, 2024- Notification from D [REDACTED] to B/CM Bullock of Court Date
- P-4 June 17, 2024-Court Notice of Rescheduling
- P-5 June 18, 2024-Notification from D [REDACTED] to B/CM of New Court Date
- P-6 June 25, 2024-Court Notice Rescheduling
- P-7 June 27, 2024- Court Notice Rescheduling
- P-8 June 30, 2024- Notification from D [REDACTED] to Batt. Chief Gay of New Court Date
- P-9 July 2, 2024- Court Notice Rescheduling
- P-10 July 8, 2024- Notification from D [REDACTED] to Batt. Chief Gay of New Court Date
- P-11 Notification of Dismissal
- P-12 July 20, 2024- Notification from D [REDACTED] to Batt. Chief Lyones of Dismissal
- P-13 November 21, 2024- Expungement Order
- P-14 Letter from FF Guinta to Director Miranda with Cert. of Disposition
- P-15 D [REDACTED] Mugshot

For Respondent:

R-1 Report by J [REDACTED] D [REDACTED], dated June 15, 2024R-2 Report by J [REDACTED] D [REDACTED], dated June 18, 2024R-3 Report by J [REDACTED] D [REDACTED], dated June 30, 2024R-4 Professional Standards Unit Preliminary Investigation Report, undatedR-5 Fax from Capt. Walker to Barnegat Police Records, dated July 18, 2024R-6 Barnegat Township Police Department Incident Report, dated June 13, 2024R-7 Barnegat Township Police Department Supplemental Investigation Report, dated June 13, 2024R-8 Complaint-Warrant, dated June 20, 2024R-9 Preliminary Notice of Disciplinary Action, dated August 6, 2024R-10 Final Notice of Disciplinary Action, dated August 22, 2024R-11 Newark Fire Department General Order A-3, dated March 1, 1988R-12 Newark Fire Department General Order G-1. Dated October 15, 2010R-13 Newark Fire Department Rules & Regulations, dated March 1, 1988R-14 Department of Public Safety Memorandum 17-14, dated January 4, 2017R-15 Department of Public Safety Memorandum 17-14 Addendum, dated March 13, 2024R-16 Newark Fire Union Labor Agreement, Article XXI, Section 1 Probationary Period/New Hires, undatedR-17 Professional Standards Unit Investigation Report, dated December 16, 2024R-18 Pre-Interview Advisement Form, dated December 14, 2024R-19 Audio Statement of J [REDACTED] D [REDACTED], dated December 14, 2024R-20 Preliminary Notice of Disciplinary Action, dated December 18, 2024R-21 Final Notice of Disciplinary Action, dated April 9, 2025