STATE OF NEW JERSEY

In the Matter of V.P., Vineland Developmental Center, Department of Human Services	:	**DECISION OF THE CIVIL SERVICE COMMISSION**
CSC Docket No. 2023-2551 OAL Docket No. CSV 04895-23	:	

ISSUED: JUNE 9, 2026

The appeal of V.P., a Cottage Training Technician with the Vineland Developmental Center, Department of Human Services (DHS), of her removal effective May 5, 2023, on charges, was heard by Administrative Law Judge Catherine A. Tuohy (ALJ), who rendered her initial decision on April 17, 2026. Exceptions were 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 having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting on May 20, 2026, adopted the ALJ's Findings of Fact and Conclusions of Law and her recommendation to modify the removal to a 90 calendar day suspension.

In its exceptions, the appointing authority argues that the ALJ's initial decision contains numerous errors. Specifically, the appointing authority asserts that "the ALJ went to great lengths to credit a witness who lacked any relevant knowledge . . . while disregarding the testimony of an actual eyewitness and victim . . . and the only witness qualified to testify to penalty . . . ." The appointing authority further contends that the ALJ failed to properly consider the appellant's disciplinary history. In this regard, it argues that the ALJ minimized the appellant's prior 25-day suspension as it was "on the record" rather than time served. The appointing authority maintains that the ALJ improperly dismissed charges pursuant to DHS Administrative Order 4:08 C-25.3 as the ALJ "simply glossed over" the definition of

workplace violence which includes "interfering with fellow employees on state property." Further, the appointing authority presents that while the ALJ acknowledged that the removal was based on two separate incidents, she treated them as a single incident for penalty purposes without evaluating whether progressive discipline was properly implemented. Finally, the appointing authority argues that given that more than half of the charges were sustained and given the appellant's lengthy disciplinary history, the recommended penalty is arbitrary.

As indicated above, the Commission thoroughly reviewed the exceptions filed in this matter. Upon that review, it does not find anything persuasive to overturn the ALJ's recommendation to modify the removal to a 90 calendar day suspension. The ALJ's initial decision was well-reasoned and her findings and conclusions were based predominately on her assessment of the credible evidence in the record. The Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.*, 149 *N.J.* 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See In re Taylor*, 158 *N.J.* 644 (1999) (quoting *State v. Locurto*, 157 *N.J.* 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra*). The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. *See N.J.S.A.* 52:14B-10(c); *Cavalieri v. Public Employees Retirement System*, 368 *N.J. Super.* 527 (App. Div. 2004). In this matter, the exceptions filed are not persuasive in demonstrating that the ALJ's determinations, or her findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. As such, the Commission has no reason to question those determinations or the findings and conclusions made therefrom.

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

In this matter, the Commission agrees with the ALJ that removal is not the appropriate penalty. In this regard, it rejects the appointing authority's exceptions that the ALJ failed to properly consider the appellant's disciplinary history and minimized the appellant's prior 25-day suspension. Rather, in her determination, the ALJ presented the appellant's disciplinary history in a thorough and detailed discussion, which included the August 1, 2018 settlement agreement which resulted in the 25-day "on the record" suspension. The ALJ further noted that the appellant "had no prior major discipline before the incident at issue in this case, ***aside from*** a twenty-five-day 'on the record suspension'" (emphasis added). Moreover, in her discussion of the penalty, the ALJ determined, in part:

> Even though [the appellant] was 'written up' several times, the fact remains that [the appellant] only had one prior major discipline of a twenty-five-day suspension "on the record" with no loss of pay, five and a half years before this incident . . . . Although major discipline is appropriate for the sustained charges, [the appellant's] removal after eighteen years of employment when the only previous major discipline she received consisted of a twenty-five-day suspension "on the record," with no loss of pay, or actual suspension, is excessive. Principles of progressive discipline and the facts in this case weigh in favor of discipline short of removal.

Thus, the ALJ clearly indicates throughout the decision that the 25-day "on the record" suspension constituted major discipline and considered this in her determination of the penalty.

Regarding the charge pursuant to DHS Administrative Order 4:08 C-25.3, the ALJ noted:

> As discussed in the findings of fact, although it is evident on the video that [the appellant] is upset and yelling during her encounter with HR personnel, there is nothing to suggest that she acted violently. There was ***no testimony*** from any witnesses that [the appellant] threatened, intimidated, coerced, or ***interfered with fellow employees on state property***. There were no threatening gestures observed. There was no banging on the plexiglass. No police or security were summoned to the scene.

(Emphasis added.)

Finally, the Commission is not persuaded by the appointing authority's argument that the ALJ did not appropriately consider the nature of each incident in her assessment of the penalty because she did not indicate separate penalties. Rather, the ALJ provided a cogent and thorough penalty analysis.

Therefore, the Commission finds that while the appellant's actions in the office were wholly inappropriate, and the language used in the call was derogatory, given her lengthy service and prior disciplinary record, removal in this case is not warranted. However, the Commission emphasizes that it is in no way minimizing the appellant's misconduct and notes that the 90 calendar day suspension should serve as sufficient warning that any future misconduct by the appellant may result in her removal from employment.

Since the removal has been modified, the appellant is entitled to be reinstated with back pay, benefits, and seniority pursuant to *N.J.A.C.* 4A:2-2.10 from 90 calendar days after the first date of separation without pay until the date of actual reinstatement.

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 decision of the Superior Court of New Jersey, Appellate Division, *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 are finally resolved. In the interim, as the court states in *Phillips, supra*, if it has not already done so, upon receipt of this decision, the appointing authority shall immediately reinstate the appellant to her permanent position.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant was not justified. The Commission, therefore, modifies that action to a 90 calendar day suspension.

The Commission orders that the appellant be granted back pay, benefits, and seniority from 90 calendar days after the first date of separation without pay to the actual date of reinstatement. 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. Pursuant to *N.J.A.C.* 4A:2-2.10, the parties shall make a good faith effort to resolve any dispute as to the amount of back pay. However, under no circumstances should the appellant's reinstatement be delayed pending resolution of any potential back pay dispute.

The parties must inform the Commission, in writing, if there is any dispute as to back pay 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 20TH DAY OF MAY, 2026

Mary Cruz
Acting 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. CSV 04895-23
AGENCY DKT. NO. 2023-2551

IN THE MATTER OF V[redacted] P[redacted],
DEPARTMENT OF HUMAN SERVICES,
VINELAND DEVELOPMENTAL CENTER.

V[redacted] P[redacted], appellant, pro se

Jana R. DiCosmo, Deputy Attorney General, for respondent, Department of Human Services, Vineland Developmental Center, (Jennifer Davenport, Attorney General, New Jersey, attorney)

BEFORE **CATHERINE A. TUOHY**, ALJ:

Record Closed: March 6, 2026 Decided: April 17, 2026

STATEMENT OF THE CASE

Appellant, V[redacted] P[redacted], Cottage Training Technician (CTT), appeals her removal effective May 5, 2023, pursuant to a Final Notice of Disciplinary Action (FNDA) (31-B) dated May 5, 2023, for violations of A.O. 4:08: C-7.1 Fighting or creating a disturbance on State property; A.O. 4:08: C-9.2 Insubordination, intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect or use of insulting or abusive language to supervisor; A.O. 4:08: C-16.1 Notoriously disgraceful conduct; A.O. 4:08: C-25.3

Threatening, intimidating, coercing or interfering with fellow employees on State property; A.O. 4:08: E-1.4 Violation of a rule, regulation, policy, procedure order or administrative decision; N.J.A.C. 4A:2-2.3(a)(6) Conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(9) Discrimination that affects equal employment opportunity (EEO); and N.J.A.C. 4A:2-2.3(a)(12) Other sufficient cause.

At issue is whether appellant is guilty of the charges presented, and if so, whether removal is the appropriate penalty.

PROCEDURAL HISTORY

On November 23, 2021, respondent issued a Preliminary Notice of Disciplinary Action (PNDA) (31-A) setting forth the charges and specifications made against appellant. (R-1.) Following a departmental hearing held on April 25, 2023, respondent issued an FNDA on May 5, 2023, sustaining the charges in the preliminary notice and removing appellant effective May 5, 2023. (R-2.) Appellant filed an appeal on May 10, 2023, and the matter was transmitted by the Civil Service Commission Division of Appeals and Regulatory Affairs to the Office of Administrative Law (OAL), where it was filed on June 2, 2023, for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

A Prehearing Order was entered on September 9, 2025. Numerous telephone status conferences were held throughout the course of this matter. Appellant initially had legal representation but terminated her counsel on August 7, 2025. The hearing was conducted in person on October 27, November 17, and November 25, 2025, and the record remained open to allow for receipt of transcripts and submission of closing briefs. The record closed following receipt of closing submissions on March 6, 2026.

FACTUAL DISCUSSIONS AND FINDINGS

Testimony

[redacted] testified on behalf of respondent. She has worked for the Department of Human Services (DHS) at the Vineland Developmental Center (VDC) for a little over eleven years and currently holds the senior position of Personnel Assistant 1, where she oversees the Recruitment Department. She is also the backup supervisor for the American Disabilities Act unit, the Leave Unit, and the Human Resources Department when the managers of those departments are out of the office. Prior to working at the VDC, she worked at the Woodbridge Developmental Cener for twenty years.

Ms. [redacted] is familiar with Ms. P[redacted] as she has handled her leaves of absence. She has no personal relationship with Ms. P[redacted] outside of work and has had no personal disputes with her. She had no negative interactions with Ms. P[redacted] until the incident of June 10, 2021. The video surveillance footage from the Human Resources office from June 10, 2021, at 11:57 a.m. was played. (R-4.) There was no audio recording. Ms. [redacted] identified [redacted] standing behind the plexiglass, the other side of which is the waiting area. She identified Ms. P[redacted], wearing a baseball hat, coming into the video at 11:57:47. Ms. [redacted] also identified the HR secretary [redacted] as present in the video. Ms. [redacted] stated that although there was no audio, Ms. P[redacted] was irate and screaming and yelling at Ms. [redacted], by virtue of her hand gestures going up and down and the way she was moving around. Ms. [redacted] went into Ms. [redacted] office to let her know that Ms. P[redacted] was out front yelling at one of her staff members, so Ms. [redacted] came out to the front area, and Ms. P[redacted] was talking to her the same way. Ms. P[redacted] took her mask down, which was not permitted since it was during COVID. Ms. [redacted] is seen walking away in the video as she goes to the back to Ms. [redacted]. Ms. [redacted] comes back out in the video with copies of Ms. P[redacted] medical notes. Ms. [redacted] stamps in Ms. P[redacted] copy of her medical note, and Ms. [redacted] is there to make sure everything is okay and then tells Ms. [redacted] to leave again, so she leaves. The video stamp is 12:01. Ms. [redacted] estimated that Ms. P[redacted] was engaging with either Ms. [redacted] or Ms. [redacted] for approximately two

minutes. Ms. [redacted] testified she felt threatened, was nervous and scared for her life, and did not know what Ms. P[redacted] would have done if the plexiglass was not there.

Immediately after the incident in the HR office, Ms. [redacted] reported what had occurred to her HR manager, [redacted] Ms. [redacted] told her to report it to Residential and complete an Incident Report. Ms. [redacted] completed her Incident Report on June 10, 2021. (R-3.) She obtained witness statements from [redacted], [redacted], [redacted], [redacted], and [redacted]. Ms. [redacted] also provided her written statement, and all were attached to the incident report. (R-3.) When asked if she recalled the specific language Ms. P[redacted] used, Ms. [redacted] said she blacked out but was told she used the "F" word. She reviewed her written statement to refresh her recollection. (R-3 at DHS 013.) She reviewed it and did not recall any profanity being used. All that she did recall was that Ms. P[redacted] said it was Ms. [redacted] fault that she lost her insurance. Ms. [redacted] told Ms. [redacted] to leave until Ms. P[redacted] calmed down.

After the June 10th incident, Ms. [redacted] learned from Ms. [redacted] that their workers' compensation liaison, [redacted] had a telephone conversation with Ms. [redacted]. Ms. P[redacted] had contacted Mr. [redacted] and was really loud on the phone. She blamed Ms. [redacted] for losing her insurance and said to [redacted] "That bitch made me los[e] my insurance." She received an email documenting this conversation from Mr. [redacted]. (R-3 at DHS 017.)

After Ms. [redacted] obtained the statements, she was contacted by Ms. [redacted], the EEO Investigator, on the telephone and was interviewed. Ms. [redacted] made notes of her conversation with Ms. [redacted] (R-6), which Ms. [redacted] reviewed and stated were accurate. (R-6 at DHS 145–146.)

The charges were substantiated that Ms. P[redacted] discriminated against Ms. [redacted] based on her gender by calling her a bitch.

On cross-examination, Ms. [redacted] admitted that Ms. P[redacted] had always referred to her as "Ms. [redacted]" in all of the eleven years that she had worked there and has

always respected her. Ms. P was not crying when she came into the HR department that day. Ms. P did take off her mask when Ms. came out to the front.

Ms. admitted that Ms. P did not call her a "bitch" directly; she referred to Ms. as a "bitch" when speaking with .

testified on behalf of respondent. She works for the Department of Human Services, Office of EEO as an Affirmative Action Officer 2, and has done so for more than ten years. She enforces the New Jersey Law on Discrimination, which prohibits discrimination against protected categories, and conducts investigations as to whether there was a violation of the State Policy. The EEO Director is , who assigned her Ms. P case to investigate. Ms. prepared a report at the conclusion of her investigation. (R-5.) Ms. interviewed the complainant, on September 15, 2021 (R-6); the respondent, V P, on September 22, 2021 (R-7); and a witness, , on September 29, 2021 (R-8). Ms. indicated in her interview statement that she did not hear Ms. P refer to her as a "bitch." Mr. indicated that he had a conversation with Ms. P regarding her benefits and during that conversation he indicated that she referred to Ms. as a "bitch." Ms. P in her interview statement indicated that she may have referred to Ms. as a "bitch" because she was upset about her benefits.

The basis of the investigation was that there was an allegation that Ms. P referred to as a "bitch." Ms. 's investigation concluded that there was a substantiation that Ms. P violated the policy by referring to Ms. in a gender-specific pejorative term—"bitch." Ms. 's report was submitted for review by the EEO Director, , and also reviewed by the Assistant Commissioner, who would make a final determination. A final determination letter regarding substantiation was sent to Ms. P by the Assistant Commissioner. (R-9.)

The New Jersey State Policy Prohibiting Discrimination in the Workplace (R-20 at DHS 073–079) is an accurate copy of the State policy. The purpose of the policy is to ensure that all employees come to work in an environment that is free from discrimination or harassment. The protected category in this case involving Ms. P was "Gender."

The policy was violated because Ms. P[redacted] referred to Ms. [redacted] using a specific gender pejorative term. Prohibited Conduct includes "Using derogatory references with regard to any of the protected categories in any communication." (R-20 at DHS 075.) It can be written or spoken. It is a zero-tolerance policy; whether it was meant to be said or not, it is still a violation. It is not a defense that someone was upset when they said it.

On cross-examination, Ms. [redacted] testified she knew Ms. P[redacted] and that Ms. [redacted] had come out to the VDC to investigate discrimination cases brought by Ms. P[redacted] as well as against Ms. P[redacted]. This one is the only one that Ms. [redacted] substantiated. She did not substantiate a prior discrimination complaint brought by Ms. P[redacted].

On September 22, 2021, at 2:05 p.m. Ms. [redacted] interviewed Ms. P[redacted] on the telephone. (R-7.) She asked a question and then Ms. P[redacted] answered the question. The interview was not recorded. Prior to COVID, the interviews were done face to face, via question and answer format. She would type out her question and record the responses by typing the responses. Once the interview was completed, Ms. P[redacted] would review the interview statement and sign it. Once COVID arrived, they were not permitted direct contact with employees and were working remotely, and interviews were conducted by telephone. Once the interview was completed, the questions and answers were read back to Ms. P[redacted]. At the end of the interview statement, Ms. [redacted] signed it, certifying the accuracy of the document. (R-7 at DHS 149.)

When Ms. [redacted] was assigned the investigation and received the written statements from the other witnesses, she was not provided with any written statement from Ms. P[redacted]. Ms. [redacted] knew that Ms. P[redacted] was out on workers' compensation when this incident occurred. Ms. P[redacted] was still an employee of the state and under an obligation to give Ms. [redacted] an interview.

Ms. [redacted] testified that they do have police officers on the grounds of the VDC. Ms. P[redacted] inquired that if she was causing such a hostile environment, why were the police not called? Ms. [redacted] stated that she could not speak on behalf of the HR

personnel, but the DHS does have police on the grounds, and if there had been an issue they could have called the DHS police if they felt it was necessary.

The state policy (R-20) refers to the policy as: "This is a zero tolerance policy. This means that the state and its agencies reserve the right to take either disciplinary action, if appropriate, or other corrective action, to address any acceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment."

Ms. P[redacted] referencing Ms. [redacted] as a "bitch" was a violation of the Policy on Discrimination in the Workplace. Ms. [redacted] did not make the decision to terminate Ms. P[redacted]; someone from the Office of Employee Relations made the determination, and she does not know who that was.

Ms. [redacted] did not review the video in this case. Ms. [redacted] did not take interviews of the other women in the HR Office at the time of the incident, Ms. [redacted] and [redacted], because they did not corroborate that they heard Ms. P[redacted] call Ms. [redacted] a "bitch." She substantiated the charge because [redacted] confirmed Ms. P[redacted] referred to Ms. [redacted] as a "bitch."

[redacted] testified on behalf of appellant. She had worked at the VDC for thirty-nine years. She started working there in 1986 and retired in 2025. She has known Ms. P[redacted] for approximately twenty years. Ms. P[redacted] was always respectful to her when she worked at the VDC and always referred to her as "Ms."

Ms. [redacted] started out as a Direct Care Human Service Assistant back in 1986 and worked her way up to Cottage Training Supervisor and then to Assistant Supervisor of Professional Residential Services. She supervised Ms. P[redacted] when Ms. [redacted] became a Cottage Training Supervisor and supervised various cottages where Ms. P[redacted] was a member of the Direct Care staff. She has supervised Ms. P[redacted] on multiple occasions. She became familiar with the staff she supervised and made rounds to become familiar with her staff and build a rapport because they are charged with taking care of the most vulnerable population.

Ms. P[redacted] had come to Ms. [redacted] office to complain about being discriminated against on the job a couple of times.

Ms. [redacted] explained that Ms. P[redacted] was very passionate about the services clients received, and Ms. P[redacted] felt that some of the people she worked with were not giving the consumers the proper care and that Ms. P[redacted] would let them know. There were times that Ms. [redacted] had to have a talk with Ms. P[redacted] to tell her that she was not the supervisor and to let the supervisors handle those issues, but she thanked Ms. P[redacted] for her compassion.

Ms. [redacted] recalled a time in approximately 2021 or 2022 when Ms. P[redacted] stopped in her office to talk about things and received a call on her radio to call in to her supervisor, Ms. [redacted]. Ms. [redacted] let Ms. P[redacted] use her office phone to call Ms. [redacted]. Ms. P[redacted] had a radio because she was a driver at this time and that was how the drivers were summoned to different locations. Ms. [redacted] would radio them and ask them their location. Ms. P[redacted] called Ms. [redacted] who asked her why she was in Ms. [redacted] office and told her to come to Ms. [redacted] office. Ms. [redacted] did not have a problem with Ms. [redacted] herself, but she did have a problem with Ms. [redacted] supervisor, [redacted], and her supervisor, CEO [redacted]. Ms. [redacted] knew that Ms. P[redacted] was going to have problems at the VDC after that phone call because those people had issues with Ms. [redacted]. [redacted], [redacted], and [redacted] all worked together at another developmental center before transferring to the VDC. Ms. [redacted] had a higher-level position, and anyone who thought favorably of Ms. [redacted] did not fare well with [redacted], [redacted], and [redacted]. Ms. P[redacted] disciplinary history can be tied to those individuals. Ms. [redacted] overheard conversations between Ms. [redacted] and [redacted] about Ms. P[redacted]. There was no one for Ms. [redacted] to report this to because they would not believe her because they were all tied together and they did not like Ms. P[redacted].

Ms. P[redacted] should not have lost her job over this incident. She should have received discipline, yes. Ms. [redacted] has seen people do way worse than Ms. P[redacted] and only get moved around and maintain their job and not get disciplined. She does not know what Ms. P[redacted] did because they would not show her because they knew Ms. [redacted]

would look at it and say something. Ms. P did call Ms. when they stopped her medical insurance. Ms. was out on workers' compensation, and they never stopped her medical insurance, even when she did not pay. Ms. said not to worry about it and bring it in when she could. They stopped Ms. P insurance, but because Ms. was a supervisor, there are certain things she knows that they can and cannot do. Ms. is here testifying because they did Ms. P wrong. She should not have lost her job, but when these people get their hands on something that they just do not like or do not agree to, she has seen them do some dirty stuff.

Ms. is still involved in some things with the VDC and has an attorney. Ms. P could not even get a reference for another job. They also did not give her unemployment benefits, which she was supposed to have. Ms. had heard people call people "Bs" and she hates saying words like that because she does not curse. She herself had been called a "MFer" in front of people, and she had to pick up the phone to defend herself and call the police, report it to Ms. , and report it to everybody else and the employee that did that was just moved to another building.

Ms. believes Ms. P was a pawn because of her relationship with Ms. and believes there was discriminatory action taking place.

The VDC is a great place to work, and Ms. had been there for many years and retired in good standing because she had to go out in order to keep it in good standing. She has some litigation pending regarding the VDC.

When asked if Ms. P deserves her job back, Ms. replied that she had seen some horrible things done to clients by employees during the last five or six years of her employment at VDC. Consumers had sustained severe head injuries and suffered abuse and neglect. Reports were written up and sent to the proper people, or so she thought, only to discover that the reports came back that the clients were lying. Horrible people got away with abuse based on who wrote the report and based on who investigated the report. Part of the reason Ms. left her job was because a client said she thought Ms. job was to protect her and she got a head injury from abuse from an employee that deserved to get fired before this client was abused. Those people

did not deserve to work at the VDC but somehow managed to escape through the system because of who they knew.

Ms. P[redacted] deserves to work at the VDC because she cares about those clients, served them with respect and integrity, and treated them like human beings. This is why Ms. [redacted] and Ms. P[redacted] chose to work at the VDC. Not because they were somebody's friend, or the friend of the CEO. Ms. [redacted] could honestly say without a shadow of a doubt that Ms. P[redacted] should have her job back. She should not have been fired over whatever they said she did in HR, because that was with employees; it had nothing to do with the consumers. She knows there is the code of conduct and disciplinary rules and also knows that reports can be fudged and an employee's file can be stacked. Ms. [redacted], as a former supervisor, wrote employees up, disciplined them, and terminated them. She went to the VDC at seventeen and a half years old and left at fifty-seven and had seen it all. Ms. [redacted] is not saying that Ms. P[redacted] was a stellar employee but was a good employee when it came to the consumers. Ms. P[redacted] could be rough around the edges with her coworkers if they were not rendering the care to the consumers she thought they should be rendering, but she cared about the clients and never mistreated a client. Ms. P[redacted] should be welcomed back because she served the clients well.

Ms. [redacted] was the Supervisor of Professional Residential Service when she retired.

She understands Ms. P[redacted] was terminated for causing a scene and a hostile work environment when she was upset and went to HR about her health benefits and for referencing Ms. [redacted] as a "B" according to Mr. [redacted]. Ms. [redacted] had seen worse conduct, and people maintained their job. [redacted] and Ms. [redacted] should be here for creating a hostile work environment. [redacted], [redacted], and [redacted] all came from the same developmental center and were all buddies and if someone did not follow along with them, they would have a problem. 99.9 percent of the people that loved to work at the VDC had left or were terminated.

Ms. P[redacted] did not deserve to be fired.

Ms. [redacted] had been out on workers' compensation and is aware that they are supposed to pay their medial insurance every two weeks. She has never heard about paying three months' payments in full. HR can do whatever they want—cut off someone's insurance or cover them.

On cross-examination, Ms. [redacted] stated she was not present for the incident in the HR office on June 10, 2021. The litigation she is involved with involves discipline for allegedly failing to show up for a deposition.

[redacted] testified on behalf of respondent. She has worked at the VDC since 2017 and has been the Section Chief of the Healthcare Facility since 2023. Prior to Section Chief, she was a Supervisor of Professional Residential Services, Assistant Supervisor of Residential Living, Cottage Training Supervisor, Cottage Training Technician, and a Human Service Assistant. She worked her way up from an entry level position to where she is now. She has worked for the DHS for twenty-three years. In her current position she assists the Chief Executive Officer with all matters.

Ms. [redacted] knows V[redacted] P[redacted] from when she was a training technician and Ms. [redacted] was the Supervisor for Professional Residential Living. Ms. P[redacted] worked in the "out of cottage programs," where she drove a vehicle to pick up clients and take them to and from their programs.

Ms. [redacted] had a brief personal relationship with Ms. P[redacted] outside of work where they were friends. Ms. [redacted] transferred to the VDC in 2017, and sometime in 2018 Ms. P[redacted] came under her management and Ms. [redacted] decided that it was not in Ms. [redacted] best interest to maintain a friendship with Ms. P[redacted] because of Ms. P[redacted] conduct at work.

Ms. P[redacted] was removed for workplace violence. Her conduct at the Human Resources building was aggressive, and it was reported that she threatened the employees there. She also violated discrimination policy by referring to the supervisor as a gender pejorative term. The video (R-4) was played. Ms. P[redacted] appears to be yelling

at the employees and making gestures with her hands, using the phone. Ms. P[redacted] had a mask on at the beginning of the interaction, removed it, and later placed it back on.

Ms. [redacted] is familiar with the policies and procedures of the DHS in place at the VDC. As part of administration, she references and enforces the policy and retrains as often as necessary. The "General Conduct While on Duty" policy requires that all employees will "Display personal conduct that is befitting an employee of the DHS, the Division of Developmental Disabilities (DDD) and VDC." (R-19 at 1.) Ms. P[redacted] conduct that day as reported and seen on the video did not display conduct befitting an employee of the DHS. The policy also provides that all employees are not permitted to "Use profane, indecent, or abusive language toward or in the presence of individuals served, co-workers or visitors." (R-1 at 3.) The incident report and the statement from the witnesses at HR that day indicate that Ms. P[redacted] violated this provision of the policy as well.

The DHS also has a Workplace Violence Policy. (R-22.) The policy definition of workplace violence "is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the workplace. It ranges from threats and verbal abuse to physical assaults and even homicide, it can involve employees, clients, customers and visitors." The following acts are considered situations involving workplace violence: "Violence against co-workers, supervisors, or managers by a present or former employee." Even though there was a plexiglass barrier preventing Ms. P[redacted] from actually reaching anyone at HR, it is still considered workplace violence. "Threats or threatening behavior is overt expression, verbal or nonverbal, of an intent to cause physical or mental harm. It is intended to instill fear in the recipient thereof. An expression constitutes a threat without regard to whether the party communicating it has the present ability to carry out the threat or without regard as to whether the expression of harm is one of an immediate nature." (R-22 at 2.) An Executive Order from former Governor Christine Todd Whitman states that violence in the workplace would not be tolerated. (R-21.) All employees receive a copy of the policy.

The New Jersey State Policy Prohibiting Discrimination in the Workplace was another policy that was violated and listed in the charges against Ms. P[redacted]. (R-20.) The VDC became aware that Ms. P[redacted] used a gender-specific pejorative term because an

employee in the central office who deals with workers' compensation stated that Ms. P[redacted] told him that she called one of the staff by that term.

The DHS Disciplinary Action Program, Administrative Order 4:08 (R-18) is the guideline for imposing disciplinary action based on the offenses listed and the number of prior offenses for purposes of imposing progressive discipline. Pursuant to the FNDA (R-2) the following charges were sustained against Ms. P[redacted]: A.O. 4:08: C-7.1 Fighting or creating a disturbance on State property; C-9.2 Insubordination, intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect or use of insulting or abusive language to supervisor; C-16.1 Notoriously disgraceful conduct; C-25.3 Threatening, intimidating, coercing or interfering with fellow employees on State property; E-1.4 Violation of a rule, regulation, policy, procedure, order, or administrative decision; N.J.A.C. 4A:2-2.3(a)(6) Conduct unbecoming a public employee; N.J.A.C. 4A:2-2.3(a)(9) Discrimination that effects equal employment opportunity; and N.J.A.C. 4A:2-2.3(a)(12) Other sufficient cause.

The VDC considered Ms. P[redacted] conduct in the HR office to be a disturbance. She was charged with insubordination because the HR staff was trying to get Ms. P[redacted] to calm down and when they were not successful, the Supervisor, Ms. [redacted], came out to calm Ms. P[redacted], and she was not listening to her. Failing to follow an order is not required for insubordination. The incident described by HR staff and the subsequent use of a discriminatory pejorative term were considered notoriously disgraceful conduct. Ms. P[redacted] was charged with violating C-25.3 because the incident caused operations at HR to be disrupted because of Ms. P[redacted] outbursts, and even after she had left, the staff had to pause operations to report the incident as opposed to carrying out their normal HR operations.

With all of the offenses listed there is a recommended first, second, and third penalty listed in A.O. 4:08, and the DHS followed those recommendations.

Although violations of C-7.1 and C-16.1 were Ms. P[redacted] first offense, removal is permitted. Removal is also permitted for a first infraction of C-25.3. The third infraction for a C-25.3 violation is removal, and there is no lesser penalty for a third violation. A

violation of E-1.4 calls for removal for the third violation. Ms. [redacted] does not know why Ms. P[redacted] was not removed for a third violation of E-1.4 when this was her fourth violation of E-1.4.

When discipline is rescinded, it is not considered in establishing a penalty. A penalty reached as a result of a settlement agreement is still considered based on the penalty agreed to between the employee and management.

A summary of Ms. P[redacted] disciplinary history was produced. (R-11 at DHS 037.) She had two prior violations of C-25.3, one from June 5, 2006, where she received an "Official Reprimand" and one from September 5, 2014, where she received a "Written Warning." The incident in the HR office would be her third violation of C-25.3, which is why the VDC is seeking a removal. The VDC considered Ms. P[redacted] disciplinary history in considering progressive discipline and determining the penalty to be imposed.

Ms. P[redacted] received training regarding all of the DHS policies. Her VDC Training Report is a transcript of all her training and indicates that she first received training on July 11, 2005, and her last training was on March 23, 2023. (R-23.) Ms. P[redacted] acknowledged receipt of the policies at employee orientation when she became employed. (R-24.) Although her last training of March 23, 2023, was after the November 23, 2021, PNDA was served, the FNDA was not issued until May 5, 2023, following a hearing on April 25, 2023, so Ms. P[redacted] continued to receive training regarding updated policies before she was formally removed.

The Human Services Police Department (HSPD) did not have an office at the VDC back in 2021 and did not have one at the VDC until June 2023. They were located mainly at Ancora. Ms. [redacted] stated that there were safety concerns with Ms. P[redacted] posting threatening Facebook posts that they reported to the HSPD, and it was determined that there was a need to increase police presence on the VDC grounds.

On cross-examination, Ms. [redacted] did not know Ms. P[redacted] had a permanent ADA accommodation to be a driver rather than a CTT. Her attention was called to the "Request for Reasonable Accommodation Form" completed by Dr. [redacted] and signed June

13, 2018. (P-1 at 4.) On the date of the incident, June 10, 2021, Ms. [redacted] believed Ms. P[redacted] was not on duty and was out on workers' compensation. Ms. [redacted] did not recall receiving a statement from Ms. P[redacted] when she received the other witness statements following this incident, although Ms. P[redacted] would have been permitted to write a statement. Ms. P[redacted] asked if Ms. [redacted] believed it was fair to proceed with discipline without getting a statement from her. Ms. [redacted] testified the statements are typically collected the same day as the incident and if Ms. P[redacted] was not on the grounds that may be why there was no statement obtained from her. Ms. [redacted] indicated that there was no substantiation until a full investigation was done, including the Equal Employment Opportunity Commission (EEOC), and statements Ms. P[redacted] made in the investigation, and all were considered in determining what the discipline would be. Ms. P[redacted] brought to Ms. [redacted] attention that Ms. [redacted] never heard Ms. P[redacted] call her the "B" word or use profanity. Ms. [redacted] stated she considered all of the statements that were submitted, including the workers' compensation witness and the HR witnesses. Ms. [redacted] explained that she did not substantiate Ms. P[redacted] for discrimination; the EEO did. The decision to remove Ms. P[redacted] was based off all the information they received, the policies that were violated that day, workplace violence and conduct while on duty, and a review of her disciplinary history. Ms. [redacted] stated that Ms. P[redacted] never directly disrespected her personally; however, since they were friendly at one point, she felt Ms. P[redacted] work conduct, knowing Ms. [redacted] was the manager and would have to respond to these incidents, was disrespectful to her.

Ms. [redacted] wrote a book and signed the cover to Ms. P[redacted] which read:

> To my ride or die – You already know that without you I was sinking. I'm glad we both could be there when we were there and going through it. To new beginnings and everlasting happiness, love you always.
>
> [P-13.]

Ms. [redacted] did not write this to a disrespectful person. Ms. [redacted] had been to Ms. P[redacted] home and Ms. P[redacted] had been to hers. There was a text message from Ms. [redacted] to Ms. P[redacted], which stated:

> I love you like a sister but I'm still your supervisor so don't do that ish again. With that being said bring your ass over here later. [redacted] cooking up a whole feast. [redacted] is coming and so is my brother [redacted], the one I make music with; smoked turkey, cabbage, mac and cheese, beer battered shrimp, fried cod, string beans and potatoes and corn bread.
>
> [P-14.]

There were other texts in the series indicating a date of February 23, 2020. (P-14.) [redacted] was another supervisor for Professional Residential Services—not Ms. P[redacted] direct supervisor, but a manager like Ms. [redacted]. There are three women depicted in a picture, Ms. P[redacted], Ms. [redacted], and [redacted]. (P-15.) They were all friends and were out at a poetry event to watch Ms. [redacted] perform. Ms. [redacted] and Ms. [redacted] were very close.

Ms. [redacted] sent an August 3, 2018, email registering Ms. P[redacted] for the DHS Leadership Academy. (P-16.) Ms. P[redacted] asked her if she was such a problem, would she be recommending her for training. Ms. [redacted] said she would sign her up if Ms. P[redacted] requested it and the training was available.

Ms. [redacted] did not know that Ms. [redacted] made Ms. P[redacted] pay her insurance three times in full and then terminated her insurance. She had no knowledge of this as this was an HR matter. (P-4.)

Ms. P[redacted] had a departmental hearing in April 2023 and was able to tell her side of the story as to what happened on the date of this incident at the HR office.

The notation in the book in 2019 (P-13) and the August 3, 2018, referral for leadership training (P-16) were all made before Ms. [redacted] made the decision to distance herself from Ms. P[redacted] and end their friendship. Even if Ms. [redacted] had known that Ms. P[redacted] insurance had been terminated, Ms. P[redacted] response violated workplace policies.

Ms. [redacted] works with the EEO department to determine what discipline should be imposed after reviewing the case. The PNDA was signed by the Employee Relations Director, [redacted]. (R-1.) Ms. [redacted] had input in deciding to remove Ms. P[redacted]. Ms. [redacted] signed the FNDA removing Ms. P[redacted]. (R-2.)

According to R-11, Ms. P[redacted] had no discipline from 2016 until when she was removed. They considered that there had been five years without discipline, but also considered the fact that Ms. P[redacted] spent a lot of time on leave during that time. She was not working during those full five years. Ms. P[redacted] had been on leave and came back in 2018. Ms. [redacted] did not come to the VDC until 2017 and was not involved in the prior disciplines.

The 2006 discipline was amended to an official reprimand and there was no suspension, and the May 24, 2010, discipline was amended to an official reprimand. The February 7, 2012, discipline was rescinded all together, as was the November 15, 2012, discipline. In 2014 she received two written warnings. On April 22, 2016, there was a settlement agreement for a twenty-five-day suspension "on the record." According to R-11, aside from the reprimands and warnings, the most serious discipline Ms. P[redacted] received prior to her removal was a twenty-five-day suspension "on the record." Anything more than five days is considered major discipline and they consider the circumstances surrounding the infractions and follow the guidelines for imposing discipline. Ms. [redacted] indicated that creating a disturbance and intimidating other employees had happened before and they were not able to correct the behavior, so following the guidelines and considering progressive history, they believed removal was the only option.

Ms. [redacted] testified that an "on the record" suspension is pursuant to the union contract where an employee has on their record that they were suspended but does not actually lose any time from work. She did not serve twenty-five days or lose pay for twenty-five days—that is what the "on the record" means. There was a settlement agreement regarding this discipline, which was from 2015 and 2016. Ms. P[redacted] signed the settlement agreement August 1, 2018. (R-11 at DHS 058 and 061.) When an employee is out on leave, the discipline is not finalized until they return to work.

Ms. [redacted] has not previously seen P-11, and did not know the circumstances surrounding [redacted] signing on behalf of Ms. P[redacted] on November 29, 2021. She did not know what the appeal was for.

[redacted] testified on behalf of appellant. She is currently the Assistant Commissioner of Human Resources and Employee Relations for the DHS, but at the time she spoke to Ms. P[redacted], she was the HR manager at the DDD. She spoke to Ms. P[redacted] on the phone in 2023. Ms. P[redacted] was upset when she first spoke to her because her health benefits had been terminated. Ms. [redacted] did not recall the details of the conversation. Ms. [redacted] emailed [redacted], Ms. P[redacted] workers' compensation lawyer, as to what Ms. P[redacted] had to do to reinstate her health benefits. Ms. [redacted] responded back to Ms. [redacted] that Ms. P[redacted] did everything. Ms. P[redacted] again called Ms. [redacted] in 2025 because she was upset her hearing was postponed and was upset about her attorney who she felt was not representing her. She suggested Ms. P[redacted] call the main union office.

[redacted] testified on behalf of appellant. She is the EEO director for the DHS and receives discrimination complaints based on a protected category and assigns the complaints to one of their five investigators. She spoke with Ms. P[redacted] on the telephone in 2023, and Ms. P[redacted] was upset because there was an issue with her health benefits and she felt she was being bullied. She remembers emailing Ms. P[redacted] and advising her that she was assigning Ms. [redacted] to her case. Ms. P[redacted] has filed and has had complaints filed against her. Ms. [redacted] has been with the department since 2017 and would have reviewed any complaints involving Ms. P[redacted] since 2017. Ms. [redacted] reviewed the report from Ms. [redacted] regarding the June 10, 2021, complaint and substantiated it based on the proof she had. Ms. [redacted] had a typed telephone interview statement from Ms. P[redacted] included in the investigation packet. Ms. [redacted] said the interview statement was taken on September 22, 2021, at 2:05 p.m., which Ms. [redacted] said sounds right based on the timeline of the investigation, but she did not recall the exact date of the interview.

P-12 contains phone records from Ms. P[redacted]. The witness testified that she could not identify Ms. [redacted] telephone number as Ms. [redacted] had three phones—a

landline, a state cell phone, and a personal cell phone—and could have called Ms. P[redacted] from any of those lines. There is an entry on September 22, 2021, at 1:35 p.m. of an incoming call to Ms. P[redacted] from an unavailable number that lasted for twenty-four minutes, which would be Ms. [redacted] educated guess that this was the call from Ms. [redacted] Ms. [redacted] has no reason to doubt the thoroughness or truthfulness of Ms. [redacted] investigations. If Ms. P[redacted] complained about discrimination, it would have been investigated, and if substantiated, a report would have been issued. Ms. [redacted] is not aware of any complaints made by Ms. P[redacted] that were substantiated, based on her review of the EEO files and records.

[redacted] testified on behalf of respondent. He is employed by the Department of the Treasury, Division of Risk Management as a Claims Investigator 3. He handles workers' compensation claims. He is familiar with Ms. P[redacted] as he was the claim investigator on her case. He recalls a phone conversation with Ms. P[redacted] on June 14, 2021, when she called upset about HR and her health benefits. He told Ms. P[redacted] that he did not deal with health insurance, only workers' compensation. She told him that HR gave her a hard time and she was upset with them and that she called [redacted] a "b--ch." He spoke to HR to see what was going on, and they requested that he send an email, which he did. (R-3 at DHS 017.) In his email he wrote:

> [redacted], I spoke with the above employee on 6/14/21. She was upset regarding her personal insurance lapse. I informed her I have nothing to do with her personal insurance. She explained to me that her personal insurance rate change[d] because she is now treating under a new claim. She was very upset and honest with me. She even told me she called [redacted] an explicit name when she went to HR.

The explicit name he was referring to was "bitch."

He was then contacted by [redacted] and gave a phone interview on September 29, 2021, which was transcribed by Ms. [redacted]. (R-8.) Although the statement identifies him as a Caucasian male, he is an African American. He does not recall going over ethnicity with Ms. [redacted]. He was asked in his interview why Ms. P[redacted] contacted him on June 14, and he was truthful in his interview in R-8 and his email R-3.

Screenshots from his work cell phone show contact information for Ms. P[redacted] (R-25 at DHS 206), a call history and a June 14, 2021, outgoing call at 3:09 p.m. lasting fourteen minutes, twenty-seven seconds (R-25 at DHS 207), and his telephone information, which was 1-609-954-5482. Phone records for Ms. P[redacted] in P-12 with handwriting saying "[redacted], Claims Investigator" indicate a phone call that matches his state cell number at 3:09 p.m. from his cell phone 609-954-5482 that lasted fifteen minutes, the same duration listed in his call history. (R-25 at DHS 207.) The telephone number he has on the R-3 email is 609-984-2347, which is his office landline. He does not include his state cell number on his emails. He was issued a state cell phone during COVID. At the time of these calls, Mr. [redacted] conducted business on both his office landline and state-issued cell phone.

V[redacted] P[redacted] testified on her own behalf. She was employed at the VDC from July 9, 2005, all the way up until her removal on May 5, 2023. She was injured on March 23, 2015, and hurt her shoulder catching a falling consumer. Ms. P[redacted] injured her right elbow and rotator cuff, and had a surgical repair, developed a frozen shoulder, and then had to have another surgery. She believes she was out of work for almost three years and did not return until June 2018. When she returned to work, she had restrictions in that she could not lift more than thirty-five pounds and received a permanent accommodation to work in transportation as a driver and escort. (P-1.) She had already been driving and doing escort since 2010 and was both a CTT and a driver. She was injured again and went out on workers' compensation April 5, 2021, when she had additional problems with her shoulder. (P-3.) Ms. P[redacted] explained that when someone goes out on workers' compensation, they are still responsible for paying for their health and dental benefits, so she was sending in her money orders every month. (P-4.) She made payments by money order dated May 4, 2021, June 8, 2021, and July 27, 2021. (P-4.)

On June 10, 2021, she had a workers' compensation doctor's appointment in Mantua and received a call from the pharmacy telling her that her insurance was dropped. She received the pharmacy call at 9:16 a.m. from 856-875-8276. (P-12.) She did not know that and was shocked because she had made her payments. The first thing she

did was call the VDC and ask them why they dropped her insurance. She called and spoke to [redacted] Her telephone records indicate that she called her job telephone number 856-696-6000 from her cell phone at 9:18 a.m., on June 10, 2021, and the call lasted three minutes. (P-12.) Ms. [redacted] told Ms. P[redacted] she did not know anything about her insurance being dropped. The VDC HR department knew Ms. P[redacted] was on her way there because she told Ms. [redacted] that she had to drop off her paperwork from the workers' compensation doctor. Ms. P[redacted] needed a referral from her personal physician to get a scan done and had to wait thirty days because her insurance was cancelled. On her way to the VDC at 9:32 a.m., she called 609-292-7524 to try and speak to someone at the DHS health department in Trenton. The call lasted four minutes and no one answered. She called that number again at 10:46 a.m. and spoke to someone for fifty-one minutes. (P-12.) She was upset and did not understand why her health insurance was dropped when she made all of her payments.

Ms. P[redacted] stated that when she got to the VDC, she went up to the plexiglass and spoke to Ms. [redacted]. Ms. P[redacted] was upset when she told Ms. [redacted] that they dropped her insurance. Ms. [redacted] said she was sorry. Ms. P[redacted] said she talks with her hands and has a problem with talking with her hands.

The video of the incident was played. (R-4.) There was no sound. Ms. P[redacted] walks in wearing a baseball cap and a mask, and nobody is at the desk yet when she walks in, so Ms. P[redacted] waits. She steps away from the plexiglass while she is waiting and leaves her medical documentation on the shelf that is there. The first person Ms. P[redacted] sees and talks to is Ms. [redacted]. Ms. P[redacted] tells her that they dropped her insurance when she did exactly what they told her to do regarding making the payments and she did not understand why they dropped her insurance. Although Ms. P[redacted] says she is a loud speaker, she was not yelling and screaming, but she was upset. She still has her mask on while talking to Ms. [redacted] and gives her paperwork to Ms. [redacted]. Another person named [redacted] comes in and then leaves. Ms. [redacted] tells Ms. P[redacted] she does not know why her insurance was dropped, at which point Ms. P[redacted] asks her to please go get [redacted] because she does not understand why her insurance was dropped. Ms. [redacted] was in charge of the workers' compensation paperwork. [redacted] came in but did not have a mask on and left. Ms. P[redacted] said she

was still there but she could not be seen behind the door. [redacted] came back with a mask on, and that is when Ms. P[redacted] took off her mask and said to [redacted] "I know you turned it off" and that [redacted], you was [sic] once my friend." She let [redacted] know that she knew it was her because Ms. P[redacted] had called Trenton and that she had paid her insurance three times in full and if so, then her insurance was paid for. Ms. P[redacted] was very upset, but she absolutely did not go off and cuss them out. Ms. P[redacted] explained that she knew it was [redacted] who cut off her insurance because she had the power to turn the insurance off with the click of the computer. Ms. P[redacted] said that [redacted] did it for her before; she dropped her insurance and then turned it right back on.

Next, [redacted] is visible in a pink shirt. She did not yell or say anything to [redacted]. Next, Ms. [redacted] gives Ms. P[redacted] back her paperwork and then [redacted] comes back in. Ms. P[redacted] takes her paperwork and leaves, and then [redacted] leaves. Ms. P[redacted] pointed out that [redacted] is looking up at the TV video monitor and stopped the recording. Ms. P[redacted] believes she was set up and that the VDC only records what it wants to record.

Ms. P[redacted] testified that she did not call [redacted] [redacted] a "b - - ch" at any time during the conversation.

Ms. P[redacted] believes she got removed because she is the type of employee that loves the consumers. There is nothing in her binder regarding her job performance. She is there for the consumers and not to be friends with the employees. She feels she was set up because she was really close friends with Ms. [redacted] and Ms. [redacted] and her other supervisor had a relationship. Ms. P[redacted] thinks she knew too much.

Ms. P[redacted] insurance was reinstated thirty days later.

Ms. P[redacted] returned to work In January 2022 after being out on workers' compensation. She had to take a class on discrimination that the job sent her for. She asked what happened while she was out on workers' compensation because she wanted to give her statement about what happened. The VDC was trying to remove her while she was out, and she was not receiving any certified letters and did not know that the

EEO found her case substantiated. Ms. P said she never spoke to Ms. and never gave an interview to her. She never spoke to about this incident and never told him she called Ms. the "B" word. She did speak to Mr. sometime in July because she had to get his okay for the Disco scan and did receive an email from him with a copy of her insurance card.

Ms. P feels that Mr. violated her HIPPA rights by getting involved.

When Ms. P returned to work in 2022, she had to attend a discrimination class on January 26, 2022. She went back to work and was being bullied by HR, , and her secretary, . She had already been back at work for a month and received two paychecks, and her insurance still was not reinstated. When she returned back to work, she was told she had to give them a money order for $350 and then later on was told that she did not have to. They were giving her a hard time about her insurance and cut her insurance off. That is when Ms. P got her workers' compensation lawyer, , involved, who sent a March 22, 2023, letter to . (P-6.) In response, Ms. sent a March 24, 2023, email to Ms. with instructions to reinstate coverage. (P-6.) By letter dated March 24, 2023, wrote to Ms. P to come in and pick up the money order that had to be returned to her. (P-6.) Ms. P felt that she was reliving the same problem she had in 2021 with her health insurance. This time she did not get upset; she got Trenton involved.

The PNDA was dated November 23, 2021, for what occurred on June 10, 2021, and said that she caused a disturbance and a hostile environment. It said she acted in an unprofessional manner and was threatening and cursing. (P-7.) She was removed May 5, 2023, and walked off the grounds like a criminal. Ms. P feels that she has been retaliated against, discriminated against, slandered, and bullied.

After she was terminated, she got another job with the Kids Academy, but the VDC held her back from getting that job. (P-8.) When Ms. P was removed, she still had an open workers' compensation case and had an appointment with Dr. April 24, 2023, but she could not see him because her benefits were cut.

Ms. P had told Mr. that she had previous discrimination cases against the VDC, which Ms. testified to. (P-10.)

On February 9, 2023, after Ms. P returned to work, she requested Dr. to put her out again on mental health issues because she was being bullied and harassed. (P-5.)

Ms. P filed a discrimination complaint against the VDC with the DHS's Office of EEO based on disability and retaliation. Ms. sent her a March 29, 2023, letter acknowledging receipt of her complaint. (P-6.)

signed V P name to the appeal on her behalf. (P-11.) She spelled Ms. P last name incorrectly. Ms. P never gave her permission to do so and later filed falsification charges against her in Winslow Township on August 7, 2025. (P-11.) The PNDA was dated November 23, 2021, and Ms. P never knew she was being charged with major discipline. She was out on workers' compensation and never received a certified letter that she was being disciplined, and Ms. did not advise her of same.

Ms. P was out on workers' compensation for three years. She got hurt in 2015 and was out for 2015, 2016, and 2017 and came back in 2018. According to her disciplinary history (R-11), she received discipline for an incident that occurred on January 26, 2016, when she was not working involving her stepdaughter and a trespassing charge at Vineland High School, which was dismissed on April 12, 2016. (P-12.) Ms. P points out that there are a number of infractions listed for times she was not working and was out on leave.

Respondent clarified that the dates of the incidents listed in the disciplinary history (R-11) are actually the dates of the PNDAs. Also, regarding the incident at the Vineland High School, Ms. P was disciplined for not reporting that she had been arrested, not for the underlying offense itself, which was dismissed.

Ms. P[redacted] said [redacted] number is not in her phone log. (P-12.) He testified that he received a phone call from Ms. P[redacted] at 11:30 a.m. June 14 and she was upset and told him that she called [redacted] the "B" word. Ms. [redacted] also said she interviewed Ms. P[redacted] on September 22 at 2:05 p.m., and her number is also not on Ms. P[redacted] phone log; there is not even a phone call at 2:05 p.m. listed.

The 2019 book inscription from Ms. [redacted], Ms. P[redacted] supervisor, and the text messages show how close the two of them once were. (P-13 and P-14.) Ms. P[redacted] believes these are relevant because Ms. P[redacted] believes she was set up and removed because she knew too much. They all had been very, very close.

Ms. P[redacted] has never been disrespectful to any of the women at her job. When she asked Ms. [redacted] if she was respectful to her, she said yes that she addressed her as "Ms. or Mrs." Ms. P[redacted] did admit that she would respond to someone if something was not right, but she is not a mean person. She did speak up when her insurance was dropped, and some people do not like that she speaks up for what is right. She misses her consumers very much. She had been at the VDC since 2005. After she got fired, everyone was calling and texting her to ask what was going on as she had been there so long. She was set up by HR and upper management, bullied, and made to leave.

Ms. P[redacted] testified that if she was causing a hostile environment as the VDC is alleging, someone would have called the police, even if they were not on the grounds. Ms. P[redacted] pointed out that in the video, she is not pushing stuff over or banging on the plexiglass or tossing chairs and things like that. If that were the case, she would not be here fighting her removal; she would have resigned. She waited this long to come and represent herself and tell the truth at this hearing.

Ms. P[redacted] purchased her home in 2019 and got removed in 2023. She could have lost everything, but her sister helped her and her mother helped her with her mortgage. It was really hard for her to hold onto and not lose everything. She tried to get another job, and the VDC hindered her.

Ms. P[redacted] admits to being upset the day she went to HR, but not to yelling and cursing. Ms. P[redacted] argues that the VDC fabricated a story, and she feels like she was slandered, bullied, discriminated and retaliated against.

On cross-examination, the R-4 video was played. Ms. P[redacted] is the individual in the white baseball cap and white t-shirt by the plexiglass. The time and date stamp indicated it was June 10, 2021, at 11:57:52. At 11:58:11 Ms. P[redacted] has her arm raised and raises her arm and hand multiple times. Ms. P[redacted] explained that she was talking with her hands. She was upset. In 2023, she did not get upset that time and called Trenton and did not even go to HR. She agreed that she handled the situation better in 2023 because they were doing the same thing to her; it was a repeat. Despite the witnesses' statements, Ms. P[redacted] did not say to Ms. [redacted] "Why the f—k are you asking if she's okay." She also did not say to Ms. [redacted] "It's your f—king fault" that her insurance benefits were dropped. She is also certain she did not call Ms. [redacted] a "B." Although she does use the word frequently, it is like a culture thing that they do, but no, she would not do that in HR, even if she was upset, because she is in HR at her workplace and she knows better.

Ms. P[redacted] is aware that her claim against the VDC regarding discrimination was not substantiated by Ms. [redacted] investigation.

Ms. P[redacted] received the call from her pharmacy at 9:15 a.m. that her benefits were cut off, and when she arrived at the VDC at approximately 11:57 a.m. to explain the situation to Ms. [redacted], almost three hours later, she was still upset, not angry, but upset. Her doctor is in Mantua and she had to drive all the way to Vineland to return her paperwork.

Ms. P[redacted] claims that [redacted] was lying. She also claims that Ms. [redacted] never interviewed her.

Discussion

Credibility contemplates an overall assessment of the story of a witness in light of its rationality, internal consistency, and manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718 (9th Cir. 1963); see In re Polk, 90 N.J. 550 (1982). "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.) (citation omitted), certif. denied, 10 N.J. 316 (1952). Credibility findings "are often influenced by matters such as observations of the character and demeanor of witnesses and common human experience that are not transmitted by the record." State v. Locurto, 157 N.J. 463 (1999). A fact finder is expected to base decisions on credibility on his or her common sense, intuition, or experience. Barnes v. United States, 412 U.S. 837 (1973). A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App Div. 1958). 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, 554–55 (1954).

In general, I believed Ms. P[redacted] to be a credible witness in that she admitted that she was upset about her insurance lapsing; however, she denied acting violently or threatening her coworkers. She testified that she is a "loud speaker" and has a habit of "talking with her hands," which explains her gestures in the video. Although Ms. P[redacted] denied making a statement to Ms. [redacted] and denied speaking to Mr. [redacted], her testimony in this regard is not credible. Neither of these witnesses had motive to lie. Phone records produced supported that they were in contact with Ms. P[redacted] on the days the statements were made.

Aside from Ms. [redacted], no other witnesses who were present at the HR office on June 10, 2021, were called to testify at this hearing. The video surveillance footage from the HR office on June 10, 2021 (R-4) had no audio recording. Ms. [redacted] had no recollection of what Ms. P[redacted] said during the incident aside from blaming her for her

insurance lapsing. Ms. [redacted] did not recall any profanity being used by Ms. P[redacted] and did not hear Ms. P[redacted] call her a bitch. There was no testimony that Ms. P[redacted] threatened any of her coworkers, and the video does not show Ms. P[redacted] engaging in any violent conduct. Ms. [redacted] testified that she has known Ms. P[redacted] for several years as she has handled her leaves of absence. She has no personal relationship with Ms. P[redacted] outside of work and has had no personal disputes with her. She had no negative interactions with Ms. P[redacted] until the incident of June 10, 2021. Ms. [redacted] admitted that in the eleven years she has known Ms. P[redacted], Ms. P[redacted] had always treated her with respect and referred to her as "Ms. [redacted]." To the extent that Ms. [redacted] testified that she felt threatened, nervous, afraid for her life, and did not know what Ms. P[redacted] would have done if the plexiglass was not there, her testimony was not credible and exaggerated, especially in light of her inability to specifically recollect what Ms. P[redacted] said during the incident as well as the video surveillance showing Ms. P[redacted] regaining her composure after initially appearing to be yelling and Ms. [redacted] coming out front and taking a seat, while Ms. [redacted] stamped in Ms. P[redacted] paperwork. It is also noted that Ms. [redacted]'s written statement provided shortly after this incident makes no mention of any threats or threatening conduct (R-3 at 013).

The most persuasive testimony in this case came from [redacted]. She worked at the VDC for thirty-nine years starting in 1986, working her way up the ranks until retiring in 2025 as the Supervisor of Professional Residential Services. She started at the VDC at seventeen and a half years old and retired at fifty-seven and had seen it all. She is fully familiar with the disciplinary process and had been responsible for imposing discipline on employees. She supervised Ms. P[redacted] and found her to be compassionate and caring for the VDC clients and always treating them with respect and dignity. She admitted that Ms. P[redacted] could be rough around the edges with her coworkers if they were not rendering the care to the consumers she thought they should be rendering, but she cared about the clients and never mistreated a client. Ms. [redacted] understood that Ms. P[redacted] was terminated for causing a scene and a hostile work environment when she was upset and went to HR about her health benefits and for referring to Ms. [redacted] as a "B" according to [redacted]. Ms. [redacted] had seen far worse conduct, and people maintained their jobs. Although Ms. P[redacted] should be disciplined, she should not have been terminated. Although Ms. [redacted] is currently

involved in some litigation with the VDC, I found her testimony to be highly persuasive, truthful, and credible.

Based upon due consideration of the testimonial, documentary, and video evidence presented at this hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** the following as **FACTS**:

Appellant was hired as a CTT on November 12, 2005.

On March 23, 2015, she sustained injuries to her right elbow and shoulder trying to catch a falling consumer. She underwent surgery, had complications, and was out of work for an extended period of time on a workers' compensation medical leave of absence. She returned to work in approximately June 2018 with a permanent accommodation that she would be utilized in transportation as a driver, since she could not lift thirty-five pounds or greater and could not do prolonged or repetitive right upper extremity movement. (P-1.) Ms. P[redacted] went out again on a workers' compensation medical leave of absence in approximately April of 2021. (P-3.)

While still out of work on workers' compensation, on June 10, 2021, Ms. P[redacted] learned via a telephone call from her pharmacy, while she was at a doctor's appointment, that her health insurance coverage had lapsed. She called HR at the VDC and advised them and then drove to the VDC in order to turn in her workers' compensation records from her doctor. She arrived at the HR department a few minutes before noon on June 10, 2021.

The video surveillance footage from the Human Resources office from June 10, 2021 (R-4) contained no audio recording and started at 11:52:31 a.m. At 11:54:04 Ms. P[redacted] is seen in the video wearing a white adidas hat and white shirt and wearing a black mask covering her mouth and nose. She walks over to the counter and opening slot in the plexiglass that separates the waiting room area from the office behind the plexiglass where the HR employees are located. She places her paperwork on the counter in front of the window in the plexiglass. At 11:54:08 she picks up a pen and appears to be signing in on a sign-in sheet located on the counter to the right in the video. On the left side of

the counter in the video is a yellow bell, presumably to notify staff that someone needs assistance at the counter. Ms. P[redacted] does not ring the bell. At 11:54:45 after signing in, she puts the pen down and backs away from the counter out of view. At 11:55:25 she comes back in view and is waiting in front of the plexiglass. At 11:55:38 she is seen shifting back and forth as she waits. At 11:55:43 she is seen adjusting her hat. At 11:55:50 she picks up the pen and begins writing on her papers. At 11:56:20 the door is blocking the view and it cannot be seen if someone from in the office is there. At 11:56:50 Ms. P[redacted] walks away from the plexiglass and out of view. At 11:56:54 she is back in view and waiting, shifting side to side. At 11:57:02 Ms. P[redacted] is waiting, shifting back and forth. At 11:57:21 a woman in a pink shirt appears in the video having come out from the office ([redacted] Ms. P[redacted] is at the window looking at her paperwork. At 11:57:26 the woman leaves and Ms. P[redacted] has her papers in her hand. At 11:57:29, with her papers in her hand, Ms. P[redacted] moves away from the window and goes to sit down in the waiting area. At 11:57:32 Ms. P[redacted] sits down in a chair in the waiting area. At 11:57:36 Ms. [redacted] appears on video, waves hello to Ms. P[redacted] and waves her to come to the window. Ms. P[redacted] goes up to the window and hands Ms. [redacted] her paperwork. At 11:57:46 Ms. P[redacted] is seen with her hands out open in front of her, still appearing calm. At 11:57:55 Ms. P[redacted] is waving her right hand. At 11:58:09, appearing upset, Ms. P[redacted] steps away from the plexiglass. At 11:58:56 Ms. P[redacted] pulls down her facemask and appears agitated and points at someone who cannot be seen with the door blocking the view. Ms. P[redacted] appears to be yelling with her mask off and makes a gesture with her right hand as if making a telephone call at 11:59:06. At 11:59:24 Ms. P[redacted] pulls her facemask back up. At 11:59:32 Ms. P[redacted] is pacing, and she moves out of view at 11:59:43. She is back in view at 11:59:46. At 11:59:59 she is walking around and out of view, and she is back in view at 12:00:28 and appears calm. At 12:00:35 Ms. P[redacted] is waiting at the window. At 12:00:37 Ms. [redacted] seen in the video stamping in Ms. P[redacted] documents. Ms. [redacted] comes out from the office and is seen on video at 12:00:40 and sits down in a chair near the inside counter where Ms. [redacted] was standing. Ms. [redacted] hands the paperwork through the window to Ms. P[redacted] at 12:00:44, and Ms. P[redacted] accepts the documents at 12:00:45 and then leaves the office at 12:00:46. (R-4.)

At the hearing, the state introduced R-4 and started the video at 11:57:47. Upon reviewing the entire video surveillance from the beginning at 11:52:31 a.m., it was noted that Ms. P[redacted] came to the HR office and was calm. She signed in and waited for someone to assist her. She was not ringing the bell demanding to be waited on. At one point while waiting, she takes her paperwork from the counter and goes to sit down in the waiting area. Ms. P[redacted] is in the HR office three and a half minutes before Ms. [redacted] appears and waves hello and calls her over to the window to assist her. At 11:57:55 Ms. P[redacted] is seen waving her right hand, and at 11:58:09 she appears upset. Ms. P[redacted] appears agitated and to be yelling once she pulls down her facemask at 11:58:56 until she pulls it back up at 11:59:24. Less than a minute and a half elapsed from the time Ms. P[redacted] appeared visibly upset and began yelling until she appeared calmer and put her facemask back up. Ms. P[redacted] did not grab or 'snatch' the documents from Ms. [redacted] hands. She was handed her documents through the window and took them from Ms. [redacted] and then left the HR office at 12:00:46.

Although it is evident that P[redacted] is upset and appears to be yelling during her encounter with HR personnel, there is nothing to suggest that she acted violently. She did not even ring the bell for assistance when she arrived. There were no threatening gestures observed. There was no banging on the plexiglass. No police or security were summoned to the scene.

Ms. [redacted] prepared and signed a written statement following the incident (R-3 at DHS 013):

> Today at 11:43, [redacted] asked me to go to the front desk area to assist [redacted] because she can hear V[redacted] P[redacted] yelling/screaming at [redacted]. When I got to the front area, I asked [redacted] was she ok and if she needed my assistance. V[redacted] interjected and said what do I mean if she needs your assistance. I responded and said that I was speaking with my staff, [redacted]. V[redacted] continued to be loud and disrespectful so I instructed [redacted] not to continue helping V[redacted] while she was speaking to her in that manner. [redacted] then stated that she has to make a copy of her Worker's Comp medical note so I waited until she returned with V[redacted] copies. While waiting for [redacted] to return, V[redacted] proceeded to yell at me stating that it's my fault that she lost her insurance and

> she's telling me to my face. I responded and said Ok even though she failed to pay the difference of her health benefit for PP11. When [redacted] came back with her copies V[redacted] snatched them from her hand.
>
> [R-3 at 013.]

Ms. [redacted] reviewed her written statement to refresh her recollection as to whether she recalled the specific language Ms. P[redacted] used, but Ms. [redacted] did not recall any profanity being used. All that she did recall was that Ms. P[redacted] said it was Ms. [redacted] fault that she lost her insurance.

Ms. [redacted] did not hear Ms. P[redacted] call her a "b - - ch."

Ms. [redacted] was also contacted by [redacted] from the DHS EEO and she gave a phone interview on September 15, 2021, at 10:35 a.m., which was transcribed by Ms. [redacted]. (R-6.) Ms. [redacted] asked Ms. [redacted] the following:

> During the incident that involved Ms. P[redacted], did you hear her refer to you as a bitch?

Ms. [redacted] responded:

> No. There is a video of the incident but there is no sound, you can see her going off. I don't remember her cursing at me but she told [redacted] that I was a bitch.
>
> [R-6 at DHS 145.]

[redacted] from the DHS EEO also interviewed Ms. P[redacted] by telephone on September 22, 2021, at 2:05 p.m. and transcribed the interview. (R-7.)

Ms. [redacted] asked Ms. P[redacted]:

> The basis of [redacted] complaint is that you referred to her as a bitch. How do you respond to the allegation?

Ms. P[redacted] answered:

> I probably did call her a bitch because I was hurt, upset and off my meds. They tried to drop my medical insurance and I was so mad.

Ms. [redacted] then asked:

> Did you speak with the WC representative, [redacted]?

Ms. P[redacted] answered:

> Yes, I told them what they did.

Ms. [redacted] asked her:

> Did you refer to Ms. [redacted] as a bitch when you were speaking with him?

Ms. P[redacted] answered:

> I'm not going to say that I did or that I didn't because I can't remember.

Ms. [redacted] then asked Ms. P[redacted] if there was anything she would like to add, and Ms. P[redacted] answered:

> [redacted] antagonized me. They opened the wrong workers[']comp case. They knew I was going out for my hip. The payment of the insurance was different but because this was a new case, the payment went up. They made it seem like I wasn't paying the right amount which I was but because the workers['] comp was new, the payment of my medical and dental was a little higher.
>
> [R-7 at 149.]

[redacted] is employed by the Department of the Treasury, Division of Risk Management as a Claims Investigator 3 and handles workers' compensation claims. He is familiar with Ms. P[redacted] as he was the claim investigator on her case. He recalled a

phone conversation with Ms. P[redacted] on June 14, 2021, when she called upset about HR and her health benefits. He told Ms. P[redacted] that he did not deal with health insurance, only workers' compensation. She was upset and telling him that HR gave her a hard time and she was upset with them and that she called [redacted] a "b--ch." He spoke to HR to see what was going on and they requested that he send an email, which he did (R-3 at DHS 017). In his email he wrote:

> [redacted], I spoke with the above employee on 6/14/21. She was upset regarding her personal insurance lapse. I informed her I have nothing to do with her personal insurance. She explained to me that her personal insurance rate change[d] because she is now treating under a new claim. She was very upset and honest with me. She even told me she called [redacted] an explicit name when she went to HR.

Mr. [redacted] testified that the explicit name he was referring to was "bitch".

Mr. [redacted] was also contacted by [redacted] from the DHS EEO and he gave a phone interview on September 29, 2021 which was transcribed by Ms. [redacted]. (R-8.) Ms. [redacted] asked Mr. [redacted] to please explain why Ms. P[redacted] contacted him on June 14th. His response was:

> I believe she was upset that her health insurance was going to lapse or be cancelled. I don't know anything about that, I'm the investigator that's assigned to VDC to determine if the employee's [sic] are getting the right treatment, if their wc is compensable and issue comp payment. She was telling me what happened at VDC. She said that she was upset and she spoke to[redacted] about her insurance collapsing and she said that she called her a "b" to her face.

Ms. [redacted] asked him what was the "b" word? His response was:

> She said she called her a bitch. I guess she was frustrated. I have only spoken to her once or twice.

Ms. [redacted] also asked him regarding R-3:

> "In your email to [redacted], you stated that Ms. P[redacted] called Ms. [redacted] an explicit name. Was the word "bitch" the explicit name?"

Mr. [redacted] answered "Yes." (R-8 at DHS 150–151.)

Following Ms. [redacted] investigation of [redacted] complaint of Gender Discrimination against Ms. P[redacted], she rendered a report dated October 18, 2021 (R-5) and provided it to [redacted], Director of the EEO Office. Ms. [redacted] substantiated the allegation that V[redacted] P[redacted] discriminated against [redacted] based on her gender by calling her a "bitch." She came to this conclusion based on Ms. P[redacted] admission that she might have called Ms. [redacted] a "bitch" and that witness [redacted] corroborated Ms. P[redacted] use of the word in reference to Ms. [redacted]. (R-5 at DHS 143.)

The disciplinary charges against Ms. P[redacted] were based on both the incident in the HR office on June 10, 2021, and her subsequent conversation with [redacted] on June 14, 2021, where she admitted to him she referred to Ms. [redacted] as a "bitch".

The DHS has implemented a Table of Offenses and Penalties as part of its Disciplinary Action Polices and Responsibilities, Administrative Order 4:08, which represents the Department's policies of corrective rather than punitive actions, progressive discipline, a progressive range of penalties for a specific type of offense, and the consideration of appropriate and demonstrable mitigating factors. (R-18.)

All penalties imposed mut be within the range of penalties set forth in the Table for the particular type of offense and the number of the infraction, unless consideration of mitigating factors would cause the penalty to be deemed inappropriate. Mitigating factors can be length of service, disciplinary record, or other legitimate reason. (R-18 at DHS 168.)

Ms. P[redacted] had the following disciplinary history (R-11 as amended):

- The June 5, 2006, PNDA was for a Personal Conduct violation C-25 "Threatening, intimidating, coercing or interfering with fellow employees on state property." No appeal was filed, and appellant received an "**Official Reprimand**." This was a first infraction.

- The July 11, 2006, PNDA was for Performance violations of B-4 "Failure or excessive delay in carrying out an order which would **not** result in danger to persons or property" and General violation of E-1 "Violation of a rule, regulation, policy, procedure, order or administrative decision." An appeal was filed, and appellant received an "**Official Reprimand**" pursuant to a settlement agreement of January 11, 2007. Both of these were first infractions.

- The December 10, 2007, PNDA was for an Attendance violation of A-2 "Absent from work as scheduled without permission but with giving proper notice of intended absence." No appeal was filed and appellant received a "**Written Warning**." This was a first infraction.

- The May 4, 2010, PNDA seeking removal was appealed and a settlement agreement entered August 5, 2010, dropping some of the charges, and appellant received an "**Official Reprimand**" for Personal Conduct violation C-9 "Insubordination: Intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect or use of insulting or abusive language to supervisor" and N.J.A.C. 4A:2-2.3(a)(6) "Conduct unbecoming a public employee." Both were first infractions.

- The September 5, 2014, PNDA was for Personal Conduct violation C-9 "Insubordination: Intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect or use of insulting or abusive language to supervisor" was not appealed and appellant received a "**Written Warning**." This was a first infraction.

- The September 5, 2014, PNDA was for Personal Conduct violation C-25 "Threatening, intimidating, coercing or interfering with fellow employees on state property" was not appealed and appellant received a "**Written Warning**." This was a second infraction.

- The April 22, 2016, PNDA and the May 16, 2016, PNDA were both appealed and a settlement agreement dated August 1, 2018, entered wherein some charges were dropped and appellant received a **25DS (On the Record Suspension)** for violations of E-1 "Violation of a rule, regulation, policy, procedure, order or administrative decision," N.J.A.C. 4A:2-2.3(a)(6) "Conduct unbecoming a public employee" and N.J.A.C. 4A2-2.3(a)(12) "Other sufficient cause."

Although the two PNDAs were combined in the settlement agreement, the charges remaining in PNDA April 22, 2016, were for E-1 and N.J.A.C. 4A:2-2.3(a)(12). That would be the second infraction for E-1 and first infraction for N.J.A.C. 4A:2-2.3(a)(12). The charges remaining in PNDA May 16, 2016, were for E-1 "Violation of a rule, regulation, policy, procedure, order or administrative decision," N.J.A.C. 4A:2-2.3(a)(6) "Conduct unbecoming a public employee" and N.J.A.C. 4A2-2.3(a)(12) "Other sufficient cause." The charges in PNDA May 16, 2016, constituted a third infraction for a violation of E-1; a second infraction for N.J.A.C. 4A:2-2.3(a)(6); and a second infraction for N.J.A.C. 4A:2-2.3(a)(12).

Ms. P[redacted] had no prior major discipline before the incident at issue in this case, aside from a twenty-five-day "on the record suspension," which meant she was not actually suspended and lost no pay.

LEGAL DISCUSSION AND CONCLUSIONS OF LAW

Appellant's rights and duties are governed by laws including the Civil Service Act and accompanying regulations. A civil service employee who commits a wrongful act related to her employment may be subject to discipline, and that discipline, depending upon the incident complained of, may include a suspension or removal. N.J.S.A. 11A:1-

2, 11A:2-6, 11A:2-20; N.J.A.C. 4A:2-2. The appointing authority employer has the burden of proof to establish the truth of the disciplinary action brought against a civil service employee. N.J.A.C. 4A:2-1.4(a). The standard of proof in administrative proceedings is by a preponderance of credible evidence. N.J.S.A. 11A:2-21; N.J.A.C. 4A:2-1.4(a); see Atkinson v. Parsekian, 37 N.J. 143, 149 (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). Stated differently, 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); see also Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959).

Appeals before the Civil Service Commission are conducted as hearings de novo. E. Paterson v. Dep't of Civil Serv., 47 N.J. Super. 55 (App. Div. 1957); Newark v. Civil Serv. Comm'n, 114 N.J.L. 406, 413 (1935). De novo means to consider anew, afresh for a second time. Houman v. Pompton Lakes, 155 N.J. Super. 129 (Law Div. 1977). It is as if there had been no prior hearing and as if no decision had been previously rendered. Hous. Auth. of Newark v. Norfolk Realty Co., 71 N.J. 314, 326 (1976). An appeal to the Commission from municipal action must be heard de novo and determined only on evidence presented anew to it. Borough of Park Ridge v. Salimone, 36 N.J. Super. 485, 498 (App. Div. 1955), aff'd, 21 N.J. 28 (1956). The testimony taken at the local hearing has no place before the Commission and is not properly reviewable. Cnty. of Essex v. Civil Serv. Comm'n, 98 N.J.L. 671, 675 (Sup. Ct. 1923).

The disciplinary charges against Ms. P[redacted] were based on both the incident in the HR office on June 10, 2021, and her subsequent conversation with [redacted] on June 14, 2021, where she admitted to him she called Ms. [redacted] a "bitch."

The VDC's June 10, 2021, Incident Report (R-3) had annexed written statements from the following witnesses who were present at the HR office on June 10, 2021: [redacted], [redacted], [redacted], [redacted] [redacted], [redacted], [redacted] and [redacted] Respondent only produced [redacted] and [redacted] to testify at the hearing. These were the only witnesses

produced by respondent with first-hand knowledge of the facts. The remainder of the witnesses' statements that were annexed to R-3 are hearsay.

Hearsay is defined as an out-of-court statement offered to prove the truth of the matter asserted. See N.J.R.E. 801. Hearsay is generally admissible in administrative proceedings. N.J.A.C. 1:1-15.5(a). However, per the residuum rule, "some legally competent evidence must exist to support each ultimate finding of fact." N.J.A.C. 1:1-15.5(b). As the Supreme Court explained in Weston v. State:

> [A] fact finding or a legal determination cannot be based upon hearsay alone. Hearsay may be employed to corroborate competent proof, or competent proof may be supported or given added probative force by hearsay testimony. But in the final analysis for a court to sustain an administrative decision, which affects the substantial rights of a party, there must be a residuum of legal and competent evidence in the record to support it.
>
> [60 N.J. 36, 51 (1972).]

As set forth above, an appeal to the Commission from municipal action must be heard de novo and determined only on evidence presented anew to it. Since respondent did not produce at hearing the authors of the written witness statements annexed to the R-3 incident report, aside from [redacted] and [redacted], these statements are inadmissible hearsay.

As set forth in the findings of fact, on June 10, 2021, at 11:52:31 a.m., Ms. P[redacted] came to the HR office to turn in her workers' compensation paperwork and to discuss her lapse of insurance coverage. Although there is no audio recording, the surveillance video shows that initially Ms. P[redacted] is calm, signs in, and patiently waits to be assisted. (R-4.) At one point while waiting, she takes her paperwork from the counter and goes to sit down in the waiting area. Ms. P[redacted] is in the HR office three and a half minutes before Ms. [redacted] appears to assist her. At 11:57:36 Ms. [redacted] appears on video, waves hello to Ms. P[redacted] and waves her to come to the window. Ms. P[redacted] goes up to the window and hands Ms. [redacted] her paperwork. At 11:57:46 Ms. P[redacted] is seen with her hands out open in front of her, still appearing calm. At 11:57:55 Ms. P[redacted] is

waving her right hand. At 11:58:09, appearing upset, Ms. P[redacted] steps away from the plexiglass. At 11:58:56 Ms. P[redacted] pulls down her facemask and appears agitated and points at someone who cannot be seen with the door blocking the view. Ms. P[redacted] appears to be yelling with her mask off and makes a gesture with her right hand as if making a telephone call at 11:59:06. At 11:59:24 Ms. P[redacted] pulls her facemask back up. At 11:59:32 Ms. P[redacted] is pacing, and she moves out of view at 11:59:43. She is back in view at 11:59:46. At 11:59:59 she is walking around and out of view, and she is back in view at 12:00:28 and appears calm. At 12:00:35 Ms. P[redacted] is waiting at the window. At 12:00:37 Ms. [redacted] is seen in the video stamping in Ms. P[redacted] documents. Ms. [redacted] comes out from the office and is seen on video at 12:00:40 and sits down in a chair near the inside counter where Ms. [redacted] was standing. Ms. [redacted] hands the paperwork through the window to Ms. P[redacted] at 12:00:44, and Ms. P[redacted] accepts the documents at 12:00:45 and then leaves the office at 12:00:46. (R-4.) Less than a minute and a half elapsed from the time Ms. P[redacted] appeared visibly upset and began yelling until she appeared calmer and put her facemask back up. Although it is evident that Ms. P[redacted] is upset and yelling during her encounter with HR personnel, there is nothing to suggest that she acted violently. She did not even ring the bell for assistance when she arrived. There were no threatening gestures observed. There was no banging on the plexiglass. No police or security were summoned to the scene.

Also as set forth in the findings of fact, on June 14, 2021, Ms. P[redacted] spoke with [redacted] and told him that she went to HR and was upset about her insurance lapsing and called [redacted] a bitch. (R-3 at DHS 017 and R-8.) Ms. P[redacted] was substantiated by the EEO investigation for discrimination against [redacted] based on her gender by calling her a “bitch.” (R-5.)

Appellant has been charged with a violation of DHS Administrative Order 4:08: C-7.1 Fighting or creating a disturbance on State property. As set forth in the findings of fact on June 10, 2021, Ms. P[redacted] created a disturbance on state property when she went into the HR office and was yelling at HR employees.

Therefore, I **CONCLUDE** that respondent has met its burden of proof in establishing a violation of DHS Administrative Order 4:08: C-7.1 by a preponderance of the credible evidence.

Appellant has also been charged with a violation of DHS Administrative Order 4:08: C-9.2, Insubordination, intentional disobedience or refusal to accept a reasonable order, assaulting or resisting authority, disrespect or use of insulting or abusive language to supervisor. There has been no competent evidence presented that Ms. P[redacted] was insubordinate or refused to accept a reasonable order, assaulted or resisted authority. However, Mr. [redacted] testimony that Ms. P[redacted] called Ms. [redacted] a "bitch" constituted disrespectful, insulting, and abusive language to a supervisor.

Therefore, I **CONCLUDE** that respondent has met its burden of proof in establishing a violation of DHS Administrative Order 4:08: C-9.2 by a preponderance of the credible evidence.

Appellant has also been charged with a violation of DHS Administrative Order 4:08: C-16.1, Notoriously disgraceful conduct. There has been no evidence introduced in this case that appellant's conduct rises to the level of "notoriously disgraceful conduct." "Notoriously disgraceful conduct" typically refers to severe violations of employee conduct codes that are publicly embarrassing to the institution, criminally charged, or involve the abuse and neglect of individuals with developmental disabilities, none of which are present in this case.

Therefore, I **CONCLUDE** that respondent has not met its burden of proof in establishing a violation of DHS Administrative Order 4:08: C-16.1 by a preponderance of the credible evidence and this charge is dismissed.

Appellant has also been charged with a violation of DHS Administrative Order 4:08: C-25.3, Threatening, intimidating, coercing or interfering with fellow employees on State property. As discussed in the findings of fact, although it is evident on the video that P[redacted] is upset and yelling during her encounter with HR personnel, there is nothing to suggest that she acted violently. There was no testimony from any witnesses that P[redacted]

threatened, intimidated, coerced, or interfered with fellow employees on state property. There were no threatening gestures observed. There was no banging on the plexiglass. No police or security were summoned to the scene.

Therefore, I **CONCLUDE** that respondent has not met its burden of proof in establishing a violation of DHS Administrative Order 4:08: C-25.3 by a preponderance of the credible evidence and this charge is dismissed.

Appellant has also been charged with a violation of DHS Administrative Order 4:08: E-1.4 Violation of a rule, regulation, policy, procedure, order, or administrative decision.

The New Jersey State Policy Prohibiting Discrimination in the Workplace (R-20) states that:

> It is also a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background or any other protected category set forth in 1(a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.
>
> [R-20 at 2.]

As set forth in the findings of fact, Ms. P[redacted] reference to Ms. [redacted] as a "bitch" constituted a derogatory reference to Ms. [redacted] gender and was a violation of the policy. Ms. P[redacted] was substantiated for discrimination against [redacted] based on her gender by calling her a "bitch" as set forth in the EEO Investigative Report. (R-5.)

VDC Administrative Procedure, General Conduct While on Duty (11:6) states that all employees will "Display personal conduct that is befitting an employee of the DHS, the Division of Developmental Disabilities (DDD) and VDC." (R-19.)

As set forth in the findings of facts and as discussed above, appellant's conduct in this case violates both policies. Therefore, I **CONCLUDE** that respondent has met its

burden of proof in establishing a violation of DHS Administrative Order 4:08: E-1.4 by a preponderance of the credible evidence.

Appellant was also charged with a violation of Executive Order #49 "Violence in the Workplace." As set forth in the findings of fact and as discussed above, there was no evidence introduced that Ms. P[redacted] conduct in the HR office on June 10, 2021, rose to the level of "workplace violence." Therefore, I **CONCLUDE** that respondent has not met its burden of proof in establishing a violation of Executive Order #49 and this charge is dismissed.

Appellant has also been charged with a violation of N.J.A.C. 4A:2-2.3(a)(6) "Conduct unbecoming a public employee." "Conduct unbecoming a public employee" is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atlantic 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, 252 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)).

As set forth in the findings of fact, on June 10, 2021, Ms. P[redacted] conduct in yelling at the HR employees, even though she was upset about her lapse in health insurance coverage, was unprofessional and conduct unbecoming a state employee. Ms. P[redacted] calling Ms.[redacted] a "bitch" also constituted conduct unbecoming a state employee.

Therefore, I **CONCLUDE** that respondent has met its burden of proof in establishing a violation of N.J.A.C. 4A:2-2.3(a)(6) by a preponderance of the credible evidence.

Appellant has also been charged with a violation of N.J.A.C. 4A:2-2.3(a)(9), Discrimination that effects equal employment opportunity (as defined in N.J.A.C. 4A:7-1.1) including sexual harassment. There was no evidence introduced that P[redacted] engaged in discrimination that effects equal employment opportunity.

Therefore, I **CONCLUDE** that respondent has not met its burden of proof in establishing a violation of N.J.A.C. 4A:2-2.3(a)(9) by a preponderance of the credible evidence and this charge is dismissed.

Appellant has also been charged with a violation of N.J.A.C. 4A:2-2.3(a)(12) Other sufficient cause. Other sufficient cause is an offense for conduct that violates the implicit standard of good behavior that devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct.

As set forth in the findings of facts and as discussed above, appellant's conduct in this case violates the implicit standard of good behavior one would expect from a public employee. Therefore, I **CONCLUDE** that respondent has met its burden of proof in establishing a violation of N.J.A.C. 4A:2-2.3(a)(12) by a preponderance of the credible evidence.

PENALTY

The remaining issue is penalty. The Civil Service Commission's review of a penalty is de novo. N.J.S.A. 11A:2-19 and N.J.A.C. 4A:2-2.9(d) specifically grant the Commission authority to increase or decrease the penalty imposed by the appointing authority. General principles of progressive discipline involving penalties of increasing severity are used where appropriate. W. New York v. Bock, 38 N.J. 500, 523 (1962). Typically, the Board considers numerous factors, including the nature of the offense, the concept of progressive discipline, and the employee's prior record. [redacted] v. N. Princeton Developmental Ctr., 96 N.J.A.R.2d (CSV) 463.

"Although we recognize that a tribunal may not consider an employee's past record to prove a present charge, West New York v. Bock, 38 N.J. 500, 523 (1962), that past record may be considered when determining the appropriate penalty for the current offense." In re Phillips, 117 N.J. 567, 581 (1990). Ultimately, however, "it is the appraisal of the seriousness of the offense which lies at the heart of the matter." Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994).

However, where the charged dereliction is an act which, in view of the duties and obligations of the position, substantially disadvantages the public, good cause exists for removal. See Golaine v. Cardinale, 142 N.J. Super. 385 (Law Div. 1976), aff'd, 163 N.J. Super. 453 (App. Div. 1978); In re Herrmann, 192 N.J. 19 (2007). The question to be resolved is whether the discipline imposed in this case is appropriate. Some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. In re Carter, 191 N.J. 474, 484 (2007), (citing Rawlings v. Police Dep't of Jersey City, 133 N.J. 182, 197–98 (1993) (upholding dismissal of police officer who refused drug screening as "fairly proportionate" to offense).

Ms. P[redacted] had been employed since 2005 by the VDC as a CTT and was out of work on workers' compensation leave when she was notified that her health insurance benefits were cut off on June 10, 2021. She was upset when she went to the HR office as evidenced by her body language displayed in the video tape from that date. Unfortunately, there was no sound to determine what exactly was being said. The only eyewitness produced at the hearing who was present in the HR office on June 10, 2021, was Ms. [redacted], who did not recall what Ms. P[redacted] said, other than that Ms. P[redacted] blamed Ms. [redacted] for her health insurance lapsing. No witnesses testified that Ms. P[redacted] threatened them in any way. The video does show Ms. P[redacted] pulling down her facemask and yelling, waving her arms and pointing. It does not show her committing any acts of violence on the HR staff, making any threatening gestures towards staff, or banging on the plexiglass that separated her from the HR office workers. The incident at HR lasted less than a minute and a half. On June 14, 2021, Ms. P[redacted] spoke with her workers' compensation claim manager, [redacted] and told him what happened at the

HR office on June 10, 2021, and that she was upset about her insurance lapsing and admitted to him that she called Ms. [redacted] a "bitch."

Appellant has been found to have violated 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 Administrative Order 4:08: C-7.1; C-9.2; and E-1.4, for her conduct on June 10, 2021, at the HR office and for referring to Ms. [redacted] as a "bitch" in her conversation with [redacted] on June 14, 2021. Although I have sustained those charges, I am inclined to follow the theory of progressive discipline in this case and impose a lesser penalty than removal for various reasons.

A review of appellant's disciplinary history (R-11) shows several incidents over the course of her eighteen years of employment. The June 2021 incidents occurred after she had been employed for fifteen and a half years. However, prior to the discipline at issue in this case, her last discipline was over five and a half years prior, in 2016. Even though Ms. P[redacted] was 'written up' several times, the fact remains that Ms. P[redacted] only had one prior major discipline of a twenty-five-day suspension "on the record" with no loss of pay, five and a half years before this incident. To now seek removal after eighteen years of employment is unjust, when no principles of progressive discipline have been followed to date and Ms. P[redacted] has never actually been suspended a day in the course of her entire employment. As Ms. [redacted] testified to, rather convincingly, Ms. P[redacted] has always cared for the VDC consumers and treated them with respect and dignity. Although Ms. P[redacted] deserves discipline for her infractions, she does not deserve to be terminated.

Although major discipline is appropriate for the sustained charges, Ms. P[redacted] removal after eighteen years of employment when the only previous major discipline she received consisted of a twenty-five-day suspension "on the record," with no loss of pay, or actual suspension, is excessive. Principles of progressive discipline and the facts in this case weigh in favor of discipline short of removal.

I **CONCLUDE** that Ms. P[redacted] misconduct does not warrant removal. Considering principles of progressive discipline, I **CONCLUDE** that the imposition of discipline of a ninety-day suspension without pay is appropriate for the sustained charges of 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 for violations of Administrative Order 4:08: C-7.1; C-9.2; and E-1.4.

Therefore, I **CONCLUDE** that the original penalty of removal be **MODIFIED** to a ninety-day suspension without pay.

ORDER

It is **ORDERED** that the charges of 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 for violations of Administrative Order 4:08: C-7.1; C-9.2; and E-1.4 are **SUSTAINED**.

It is also **ORDERED** that the penalty of removal against appellant be **MODIFIED** to a ninety-day suspension without pay.

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.

April 17, 2026
DATE

CATHERINE A. TUOHY, ALJ

Date Received at Agency: April 17, 2026

Date Mailed to Parties: April 17, 2026

CAT/cab

APPENDIX

Witnesses

For appellant:

[redacted]

For respondent:

[redacted]

Exhibits

For appellant:

P-1 Accommodation dated June 13, 2018

P-2 [redacted] emails

P-3 May 4, 2021, Inspira Health Prescription for orthopedic referral for right shoulder and elbow

P-4 May 4, 2021, letter re: medical and dental payments due; Copies of money Orders, January 12, 2022, authorization for non-DOT trug test for return to duty; February 15, 2022, orthopedic referral for arthrogram right shoulder

P-5 February 9, 2023, request for accommodation for mental health Dr. [redacted]

P-6 [redacted] March 23 emails re: health benefits; 1st page of hearing report dated April 25, 2023; March 29, 2023, letter from [redacted] to [redacted] re: discrimination complaint; March 24, 2023, letter from [redacted] to [redacted] to pick up her money order

P-7 PNDA dated November 23, 2021, and FNDA dated May 5, 2023

P-8 Emails from [redacted] re: Kids Academy job; June 7, 2023, letter from [redacted] re: post employment restrictions

P-9 Dr. [redacted] appointment for workers' compensation claim

P-10 Nash Law Firm letters

P-11 PNDA Appeal form signed by [redacted] for V[redacted] P[redacted] November 29, 2021; August 7, 2025, Winslow Township PD incident report filed by P[redacted]

P-12 Certification of Disposition, Vineland Municipal Court, April 12, 2016; P[redacted] phone logs

P-13 Book inscription to P[redacted] from [redacted]

P-14 Text messages; photos

P-15 Photo of P[redacted], [redacted] and [redacted]

P-16 Email from [redacted] to P[redacted] re: DHS Leadership Academy; DHS Leadership Academy Request for Participation for P[redacted] by [redacted], dated August 2, 2018

For respondent:

R-1 PNDA

R-2 FNDA

R-3 June 10, 2021, [redacted] Incident Report with attached various witness statements and [redacted] email

R-4 Video surveillance of HR office

R-5 [redacted] EEO Investigation Report

R-6 [redacted] Interview Statement to [redacted] dated September 15, 2021

R-7 P[redacted] Interview Statement to [redacted] dated September 22, 2021

R-8 [redacted] Interview Statement to [redacted], dated September 29, 2021

R-9 Substantiation Determination Letter

R-10 Discrimination int the Workplace Policy

R-11 Discipline History at 37 as corrected by signed certification of [redacted], December 5, 2025, and pages 58 and 61

(R-12,13,14,15,16 and 17 not in evidence)

R-18 Administrative Order 408

R-19 General Conduct While on Duty

R-20 State Policy Prohibiting Discrimination

R-21 Executive Order 49

R-22 DHS Workplace Violence Policy

R-23 P[redacted] Summary of Training

R-24 New Employee Orientation

R-25 DHS 206, 207 and 208