



STATE OF NEW JERSEY

In the Matter of Barbara Diller,
 Hunterdon Developmental Center,
 Department of Human Services

CSC DKT. NO. 2022-1725
 OAL DKT. NO. CSV 01189-22

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

ISSUED: September 2, 2026

The appeal of Barbara Diller, Senior Therapy Program Assistant, Hunterdon Developmental Center, Department of Human Services, resignation not in good standing, effective October 20, 2021, on charges, was heard by Administrative Law Judge Elia A. Pelios (ALJ), who rendered his initial decision on July 29, 2026. Exceptions were filed on behalf of the appellant and a reply to exceptions was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, including a thorough review of the exceptions and reply, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of September 2, 2026, adopt the ALJ's findings of facts, conclusions and recommendation to modify the resignation not in good standing (RNGS) to a resignation in good standing.

The appellant was separated via a RNGS based on allegations that she failed to return to duty for five or more consecutive business days following an approved leave of absence. *See N.J.A.C. 4A:2-6.2(c)*. In his initial decision, the ALJ found that:

The record reflects that despite sporadically providing the required monthly PERS #22 form on three occasions, appellant did not return to duty or provide additional information for several months after her last submission. Moreover, she failed to report to work for five or more consecutive business days following a reminder by respondent of her need to either report or provide documentation, and she did not make a request for extension of her leave. Her assertions that she did not receive a follow-up letter or that the respondent's mask mandate

remained in effect and prevented her return to work are of no moment and do not change the facts that she was required to submit a new form every month; knew of that requirement and failed to comply with that requirement and also failed to return to work. Accordingly, I **CONCLUDE** that the respondent has met its burden in demonstrating a violation of *N.J.A.C. 4A:2-6.2(c)*. The charge is **SUSTAINED**.

The ALJ also dismissed the charges of conduct unbecoming a public employee and other sufficient cause finding them to be “cumulative or even redundant.”

Regarding the penalty, the ALJ recommended modifying the RNGS to a resignation in good standing. He noted the appellant’s 16 years of service and only previous minor disciplinary history. He concluded:

Appellant did fail to properly provide updates required to maintain or extend her leave and was non communicative for months on end. She also did not report or respond to efforts to encourage her to belatedly extend her leave without repercussion. It is also noted that this was at a difficult time where she did have concerns for her own health and well-being. While it does not excuse the violation, given the substantial length of service and otherwise relatively unremarkable disciplinary history, I **CONCLUDE** that the penalty of Resignation Not In Good Standing is not the appropriate outcome. Resignation in good standing seems to be a more appropriate outcome to this matter. I hereby **MODIFY** the penalty to Resignation in Good Standing.

Upon its *de novo* review, the Commission agrees with the ALJ regarding the charges and reduction in penalty.

In her exceptions, the appellant argues that the RNGS was improperly upheld since the appointing authority was aware of the medical reasons for her absences, and thus, her failure to submit additional PERS #22 forms was not material. She also contends that it was never established that she received the September 29, 2021, letter from the appointing authority. Finally, she argues that the appointing authority failed to engage in any accommodation dialogue.

In reply, the appointing authority argues that, as *N.J.A.C. 4A:2-6.2(c)* indicates that violation of its provisions “shall” result in a RNGS, that the ALJ had no “discretion to modify the penalty.”

The Commission finds the appellant’s exceptions wholly unpersuasive. The ALJ clearly found that the appellant had an obligation to follow the appointing authority’s policy regarding the PERS #22 forms, regardless of its awareness of her condition. The Commission agrees, as it is incumbent on an employee to properly follow appointing authority guidelines and policies, and that failure to do so may

result in negative employment consequences. Moreover, the record established that the appellant never requested an accommodation, thus, the appointing authority's purported failure to engage in a dialogue on that issue is of no moment. Finally, the Commission rejects her contention regarding the September 29, 2021, letter. The ALJ specifically found the appellant's testimony on that issue not credible. He stated:

Appellant's testimony that she never received the September 29, 2021 letter is unpersuasive and, frankly, not credible. Her testimony reveals an understanding and knowledge that she was required to provide the PERS #22 form every thirty days and it appears that she did manage to receive selective pieces of mail during the time period in questions which undercuts her assertion that her mail was held at the post office for months. Such assertion, if true, means she did not receive any other correspondence or bills and is not believable given potential for ancillary repercussions which were not reported. Even if it were true, her failure to follow up and retrieve her mail from the post office does not relieve her of any obligations or notice provided in any of the held mail. Such obligations are not so easily avoided. Accordingly, I **CONCLUDE** that her testimony that she did not receive the letter or her mail does not serve to weigh in favor of mitigation.

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 also, 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 u. Public Employees Retirement System*, 368 N.J. Super. 527 (App. Div. 2004). The Commission finds no persuasive evidence in the appellant's exceptions or the record to demonstrate that the ALJ's determination in that regard was in error. As such, the appellant has not defeated the presumption that mail correctly addressed, stamped and mailed is generally received by the party to whom it was addressed. *See SSI Medical Services, Inc. v. State Department of Human Services*, 146 N.J. 614 (1996); *Szczesny v. Vasquez*, 71 N.J. Super. 347, 354 (App. Div. 1962).

The Commission similarly rejects the appointing authority's argument that the RNGS is mandated based on the regulatory language. Pursuant to N.J.S.A. 11A:2-19 and N.J.A.C. 4A:2-2.9(d), the Commission has the *de novo* authority to increase or decrease a penalty imposed by an appointing authority. The "shall" in N.J.A.C. 4A:2-

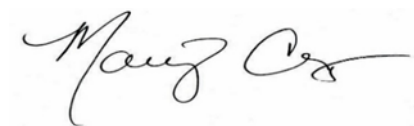
6.2(c) clearly only pertains to when a RNGS is imposed under that section by an appointing authority. In this matter, the Commission agrees with the ALJ that, given the appellant's prior record of service, that the RNGS should be modified to a resignation in good standing.

ORDER

The Civil Service Commission finds that the action of the appointing authority in resigning the appellant not in good standing was not justified. Rather, the Civil Service Commission modifies that action to a resignation in good standing.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 2ND DAY OF SEPTEMBER, 2026



Mary Cruz
Acting Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Shannon L. Dalton
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 01189-22

AGENCY DKT. NO. 2022-1725

**IN THE MATTER OF BARBARA DILLER,
DEPARTMENT OF HUMAN SERVICES,
HUNTERDON DEVELOPMENTAL
CENTER.**

William A. Nash, Esq., for appellant (Nash Law firm, LLC, attorneys)

Kevin K.O. Sangster, Deputy Attorney General, for respondent (Jennifer Davenport, Attorney General of New Jersey, attorney)

Record Closed: June 18, 2026

Decided: July 29, 2026

BEFORE **ELIA A. PELIOS**, ALJ:

STATEMENT OF THE CASE

This matter comes before the Office of Administrative Law (OAL) as appellant Barbara Diller's action challenging her removal by her employer, respondent Department of Human Services – Hunterdon Developmental Center for charges of violations of Resignation Not in Good Standing (N.J.A.C. 4A:2-6.2(c) Conduct Unbecoming, N.J.A.C. 4A:2-2.3(a)(6) and Other Sufficient Cause (N.J.A.C. 4A:2-2.3(a)(12) – specifically, violation

of Section Administrative Order 4:08 – A-3 and E-1.1 of the of the New Jersey Department of Human Services Disciplinary Action Policy.

PROCEDURAL HISTORY

Appellant did not request a local hearing and a Final Notice of Disciplinary Action was issued notifying appellant of her resignation not in good standing, effective October 20, 2021.

The matter was transmitted to the OAL on February 15, 2022. On March 6, 2023, respondent filed a motion for summary decision. Responsive papers and a cross-motion for summary decision were filed by appellant on March 27, 2023. Additional responsive papers were filed by all parties. Oral argument was held on the motion on July 21, 2023. On January 30, 2025 I issued an order denying the motions.

After several attempts to resolve the matter were unsuccessful, the hearing was held on April 14 and 15, 2026. Written summations were submitted by the parties and the record closed on June 18, 2026.

FACTUAL DISCUSSION

Respondent presented Beth Bird and Patricia Kozelnik as witnesses. Diller testified on her own behalf and presented Dr. Joseph Cesanek as a witness.

Beth Bird, a Personnel Assistant 2 at the Hunterdon Developmental Center, provided testimony focusing on the administrative aspects of Barbara Diller's medical leave. She outlined the facility's Leave of Absence Policy, noting that employees are required to submit updated medical documentation, known as a PERS 22 form, every 30 days to maintain an approved leave status. Ms. Bird confirmed that Ms. Diller was initially placed on unpaid leave starting in January 2021, which was covered under the FMLA for the first 60 days before converting to a standard unpaid leave of absence.

Ms. Bird detailed the timeline of medical submissions, noting that the final PERS 22 form from Ms. Diller's physician was received in June 2021. This document listed an approximate return date of July 25, 2021, but included a notation that Ms. Diller could only return to work when she was able to "lose the face mask." Ms. Bird testified that the facility's mask mandate remained in effect during this period.

Despite the lack of new medical documentation after June 2021, Ms. Bird stated that the facility sent a certified letter to Ms. Diller in late September requesting an updated PERS 22 by October 13, 2021. When no documentation was provided and Ms. Diller did not report to work, her absences were marked as unauthorized, leading to the initiation of job abandonment proceedings.

Patricia Kozelnik, the Acting Employee Relations Officer, testified regarding the disciplinary actions taken against Ms. Diller and the facility's COVID-19 safety protocols. She stated that she processed the Preliminary and Final Notices of Discipline after receiving Ms. Diller's file from Human Resources in October 2021. Ms. Kozelnik confirmed that Ms. Diller was charged with job abandonment following five consecutive days of unauthorized absences.

Ms. Kozelnik addressed the mask mandate, explaining that it was strictly enforced across the facility, particularly in the residential cottages where Ms. Diller worked. She testified that there were no exemptions to the mask policy during the relevant timeframe. While she acknowledged seeing the physician's note regarding Ms. Diller's inability to wear a mask, Ms. Kozelnik stated that this did not excuse the failure to submit the required monthly medical updates.

Furthermore, Ms. Kozelnik clarified the facility's procedure for reasonable accommodations under the Americans with Disabilities Act (ADA). She testified that the ADA process is formal and must be initiated by the employee, who is required to sign for and complete a specific application. According to Ms. Kozelnik, Ms. Diller never requested an ADA accommodation, and the submission of a PERS 22 form with a doctor's note does not automatically trigger the interactive accommodation process.

Dr. Joseph Cesanek, a family physician with 30 years of experience, testified that he has been Barbara Diller's primary doctor for approximately two decades. He diagnosed her with asthma, COPD, and anxiety. Dr. Cesanek explained that COPD permanently stretches the lungs, making breathing less efficient, and that wearing an N95 mask severely exacerbated Ms. Diller's condition by causing her to retain carbon dioxide and triggering severe anxiety and claustrophobia.

Throughout his testimony, Dr. Cesanek detailed the various medical forms he completed on Ms. Diller's behalf. He consistently noted on these forms that she was unable to work due to the mask mandate, rather than the COPD itself, which she had managed successfully prior to the pandemic. He explained that his estimated return-to-work dates were purely speculative, based on his hope that the state's mask mandate would be lifted, as "unknown" was often rejected as an answer on official disability forms.

Dr. Cesanek emphasized that Ms. Diller's inability to work was directly tied to the requirement to wear a mask. He stated that once the mask mandate was lifted, she would likely be able to return to her duties. He also clarified that he only required her to visit his office frequently to fulfill the administrative requirements of her employer, not because her medical condition necessitated monthly check-ups.

Barbara Diller testified about her long tenure at the Hunterdon Developmental Center, which began in 2005. She worked as a Certified Training Technician and later as a Senior Therapy Program Assistant. Ms. Diller explained that her breathing difficulties worsened significantly during the pandemic when she was required to wear an N95 mask, gown, and face shield. She described experiencing severe asthma attacks and feeling as though she was gasping for air, which forced her to frequently retreat to her office to remove the mask and recover.

Ms. Diller detailed her efforts to comply with her employer's administrative requirements while on leave. She stated that she initially applied for temporary disability after being advised to do so by Human Resources (HR) and her union president. When her temporary disability ran out, she attempted to apply for early disability retirement. She believed that once she applied for permanent disability, she was no longer required to

submit the monthly PERS-22 medical forms, a misunderstanding she attributed to a lack of communication and guidance from her employer during the pandemic.

Finally, Ms. Diller testified about significant issues with her mail delivery, which she claimed prevented her from receiving critical disciplinary notices from her employer. She only discovered that her job was in jeopardy after receiving a phone call from her union president, which prompted her to visit the post office where she found a stack of her held mail, including the final notices of discipline. She expressed deep distress over the loss of her job and the subsequent financial and personal hardships it caused.

Based on the testimony provided and evidence in the record, I **FIND** that:

Appellant Barbara Diller served as a Senior Therapy Program Assistant (STPA) at HDC until her termination for job abandonment, effective October 20, 2021. Appellant did not report to work on January 25, 2021 or at any time thereafter. On February 3, 2021, respondent issued a letter addressing her absence and instructing her to complete and submit a PERS #22 form, a copy of which was provided. The letter noted that appellant was required to submit a PERS #22 every thirty days during her absence and warned that noncompliance could result in disciplinary action. Appellant submitted the form on February 26 and March 11, 2021, but did not provide another until June 2021. Each form provided noted that she would be able to return to work when she was no longer required to wear a mask. She remained absent thereafter without supplying further medical documentation. On September 29, 2021, respondent notified appellant that her absences were being recorded as unauthorized and that failure to submit an updated PERS #22 or return to work could lead to disciplinary measures. Appellant did not report for five consecutive scheduled workdays (October 14, 17, 18, 19, and 20, 2021) nor did she provide medical documentation for those dates. Respondent charged appellant with job abandonment. At all relevant times, respondent had a mask mandate in effect.

LEGAL DISCUSSION

Public employees' rights and duties are governed and protected by the provisions of the Civil Service Act, N.J.S.A. 11A:1-1 to 12-6, and the regulations promulgated pursuant

thereunder. N.J.A.C. 4A:1-1.1 et seq. However, public employees may be disciplined for a variety of offenses involving their employment, including the general causes for discipline as set forth in N.J.A.C. 4A:2-2.3(a) and removal as set forth under N.J.A.C. 4A:2-6.2(c).

In an appeal concerning major disciplinary action, the burden of proof is on the appointing authority to show that the action taken was justified. N.J.S.A. 11A:2-21. The burden is to establish by a preponderance of the competent, relevant, and credible evidence that the employee is guilty as charged. Atkinson v. Parsekian, 37 N.J. 143 (1962); In re Polk License Revocation, 90 N.J. 550 (1982).

Here, respondent sustained charges against appellant for Resignation Not in Good Standing (N.J.A.C. 4A:2-6.2(c) Conduct Unbecoming, N.J.A.C. 4A:2-2.3(a)(6) and Other Sufficient Cause (N.J.A.C. 4A:2-2.3(a)(12) - specifically, violation of Section Administrative Order 4:08 – A-3 and E-1.1 of the of the New Jersey Department of Human Services Disciplinary Action Policy.

Regarding the charge of resignation, not in good standing pursuant to N.J.A.C. 4A:2-6.2(c). That regulation directs:

An employee who has not returned to duty for five or more consecutive business days following an approved leave of absence shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. A request for extension of leave shall not be unreasonably denied.

In general, the regulation “was intended to cover unwarranted and unjustified absences or those undertaken ‘without notice’ of the reason for such absence and of the time when the employee expects to return.” Cumberland County Welfare v. Jordan, 81 N.J. Super. 406, 412 (App. Div. 1963).

In the present matter, the appointing authority, respondent Hunterdon Developmental Center (HDC), contends that the termination of Barbara Diller was both lawful and appropriate, primarily arguing that she abandoned her position. According to respondent, Diller failed to return to work or provide the required medical documentation

for five consecutive days, which legally constitutes a resignation not in good standing. They emphasize that she was well aware of the policy requiring her to submit updated medical forms every thirty days while on leave, yet she repeatedly failed to do so despite multiple reminders.

Furthermore, respondent asserts that appellant's prolonged unauthorized absence adversely affected the facility's efficiency and strained its resources, supporting the charge of conduct unbecoming a public employee. Regarding her claims related to the mask mandate, HDC argues they did not fail to accommodate her because she never formally requested an accommodation or initiated the interactive process required under the ADA. Ultimately, they maintain that the severity of the job abandonment justifies the penalty of removal.

Appellant, Barbara Diller, argues that her termination was unjustified because her absence was medically necessary rather than an act of job abandonment. She contends that the employer's mandatory N95 mask policy severely exacerbated her documented COPD and asthma, making it impossible for her to breathe or perform her duties. Because her physician repeatedly certified that she could only return to work once the mask mandate was lifted, she maintains that her absence was neither unwarranted nor indicative of an intent to permanently sever her employment.

Furthermore, she asserts that the respondent failed to prove she ever received the critical September 29, 2021, letter demanding her return, as her mail was being held at the post office and no signed receipt was ever produced. Even if a technical reporting violation did occur, she argues that an administrative paperwork lapse by a disabled employee does not constitute conduct unbecoming a public employee. Ultimately, she asserts that terminating a sixteen-year employee over a known medical issue violates the core principles of progressive discipline.

The appellant asserts that the charges brought against her are unsupported by the record. She emphasizes that the respondent was fully aware of her medical restrictions from the beginning of 2021 yet failed to engage in any interactive process to

accommodate her disability. Instead of working with her, the employer treated a documented, disability-related absence as a willful abandonment of her position.

Ms. Diller argues that the legal standard for job abandonment requires a clear intent to permanently leave the job, which she never demonstrated. Instead, she consistently communicated through her physician that she was ready and willing to return as soon as the mask mandate was lifted. By failing to recognize the ongoing medical barrier created by their own policy, she argues that the employer acted contrary to New Jersey civil service law. She is therefore seeking full reinstatement to her position with back pay, benefits, and seniority.

The record reflects that despite sporadically providing the required monthly PERS #22 form on three occasions, appellant did not return to duty or provide additional information for several months after her last submission. Moreover, she failed to report to work for five or more consecutive business days following a reminder by respondent of her need to either report or provide documentation, and she did not make a request for extension of her leave. Her assertions that she did not receive a follow-up letter or that the respondent's mask mandate remained in effect and prevented her return to work are of no moment and do not change the facts that she was required to submit a new form every month; knew of that requirement and failed to comply with that requirement and also failed to return to work. Accordingly, I **CONCLUDE** that the respondent has met its burden in demonstrating a violation of N.J.A.C. 4A:2-6.2(c). The charge is **SUSTAINED**.

The respondent also sustained a charge of unbecoming conduct, which is an elastic phrase, encompassing 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, supra, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Conduct unbecoming may include behavior, which is otherwise unsuitable, indecorous, or improper under the circumstances; it may be less serious than a violation of the law, but which is inappropriate on the part of a public employee because

it is disruptive of governmental operations. Holland v. Rowan University, CSV 10953-98, Initial Decision (April 29, 2005), adopted in part and rejected in part, Merit System Board (July 27, 2005) <http://lawlibrary.rutgers.edu.html>.

In the present matter, consideration of the record against the arguments put forward tends toward a determination that this charge is cumulative or even redundant. I therefore **CONCLUDE** that respondent has not met its burden in demonstrating that petitioner acted in a manner consistent with a finding of conduct unbecoming. That charge is **DISMISSED**.

Similarly, the charges that constitute the basis for the charge of “other sufficient cause” also raise the same concerns as outlined above. Accordingly, I **CONCLUDE** that respondent has not met its burden of demonstrating that these charges should be sustained. That charge is also **DISMISSED**.

PENALTY

As the charge of a violation of N.J.A.C. 4A:2-6.2(c) has been sustained, it is necessary to determine what penalty, if any, is appropriate. This inquiry often involves the concept of progressive discipline, which provides that “past misconduct can be a factor in the determination of the appropriate penalty for present misconduct.” In re Hermann, 192 N.J. 19, 29 (2007) (citing Bock, 38 N.J. at 522). An employee’s past record includes “an employee’s reasonably recent history of promotions, commendations and the like on the one hand and, on the other, formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated, so to speak, by having been previously brought to the attention of and admitted by the employee.” Bock, 38 N.J. at 523-24.

The concept of progressive discipline may “support the imposition of a more severe penalty for a public employee who engages in habitual misconduct” or “mitigate the penalty for a current offense . . . for an employee who has a substantial record of employment that is largely or totally unblemished by significant disciplinary infractions.” Hermann, 192 N.J. at 30-33. However, progressive discipline may be

bypassed “when the misconduct is severe, when it is unbecoming to the employee’s position or renders the employee unsuitable for continuation in the position, or when application of the principle would be contrary to the public interest.” Id. at 33.

The Civil Service Commission’s review of 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 apply. Town of 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. George 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).

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); see also In re Herrmann, 192 N.J. 19, 33 (2007) (DYFS worker who snapped lighter in front of five-year-old):

. . . judicial decisions have recognized that progressive discipline is not a necessary consideration when reviewing an agency head’s choice of penalty when the misconduct is severe, when it is unbecoming to the employee’s position or renders the employee

unsuitable for continuation in the position, or when application of the principle would be contrary to the public interest.

Thus, progressive discipline has been bypassed when an employee engages in severe misconduct, especially when the employee's position involves public safety and the misconduct causes risk of harm to persons or property. See, e.g., Henry v. Rahway State Prison, 81 N.J. 571, 580 (1980).

The Commission has authority to increase the penalty beyond that established by the appointing authority's Final Notice of Disciplinary Action, but not to removal from suspension. N.J.S.A. 11A:2-19. The Civil Service Commission may increase or decrease the penalty imposed by the appointing authority, but removal shall not be substituted for a lesser penalty. See Sabia v. City of Elizabeth, 132 N.J. Super. 6, 15–16 (App. Div. 1974), certif. denied, Elizabeth v. Sabia, 67 N.J. 97 (1975).

Maintenance of strict discipline is important in military-like settings such as police departments, prisons and correctional facilities. Rivell v. Civil Serv. Comm'n, 115 N.J. Super. 64, 72 (App. Div.), certif. denied, 50 N.J. 269 (1971); City of Newark v. Massey, 93 N.J. Super. 317 (App. Div. 1967). Refusal to obey orders and disrespect of authority cannot be tolerated. Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191, 199 (App. Div. 1997).

The need for proper control over the conduct of inmates in a correctional facility and the part played by proper relationships between those who are required to maintain order and enforce discipline and the inmates cannot be doubted. We can take judicial notice that such facilities, if not properly operated, have a capacity to become "tinderboxes."

[Bowden v. Bayside State Prison, 268 N.J. Super. 301, 305-06 (App. Div. 1993), certif. denied, 135 N.J. 469 (1994).]

In the present matter, respondent needs to be able to rely on the attendance of its employees in order to provide an adequate and appropriate level of service to its clients, who are members of a vulnerable population. Appellant's testimony that she never received the September 29, 2021 letter is unpersuasive and, frankly, not credible. Her testimony reveals an understanding and knowledge that she was required to provide the

PERS#22 form every thirty days and it appears that she did manage to receive selective pieces of mail during the time period in questions which undercuts her assertion that her mail was held at the post office for months. Such assertion, if true, means she did not receive any other correspondence or bills and is not believable given potential for ancillary repercussions which were not reported. Even if It were true, her failure to follow up and retrieve her mail from the post office does not relieve her of any obligations or notice provided in any of the held mail. Such obligations are not so easily avoided. Accordingly, I **CONCLUDE** that her testimony that she did not receive the letter or her mail does not serve to weigh in favor of mitigation.

Appellant's disciplinary history covers a period of sixteen years and is generally unremarkable, showing a handful of written warnings and one oral reprimand and one five-day suspension for chronic absenteeism. This is certainly relevant to the matter at hand and is to be considered in contemplating penalty in this matter. It is noted that the five-day suspension for absenteeism covers absences in 2020 during the height of the pandemic. That absenteeism appears to be an issue going back to 2006 does not weigh in appellant's favor.

Appellant did fail to properly provide updates required to maintain or extend her leave and was non communicative for months on end. She also did not report or respond to efforts to encourage her to belatedly extend her leave without repercussion. It is also noted that this was at a difficult time where she did have concerns for her own health and well-being. While it does not excuse the violation, given the substantial length of service and otherwise relatively unremarkable disciplinary history, I **CONCLUDE** that the penalty of Resignation Not In Good Standing is not the appropriate outcome. Resignation in good standing seems to be a more appropriate outcome to this matter. I hereby **MODIFY** the penalty to Resignation in Good Standing.

ORDER

Based on the foregoing, it is hereby **ORDERED** that the charge of Resignation not in good standing is **SUSTAINED**. The Charges of Conduct Unbecoming and Other Sufficient Cause are **DISMISSED**. The penalty of resignation not in good standing is **MODIFIED** to resignation in good standing.

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.

July 29, 2026

DATE



ELIA A. PELIOS, ALJ

Date Received at Agency:

July 29, 2026

Date Mailed to Parties:

EAP/caa

APPENDIX

WITNESSES

For Appellant:

Doctor Joseph Cesanek
Barbara Diller

For Respondent:

Beth Bird
Patricia Kozelnik

EXHIBITS

Joint Exhibits:

J-1 Form PERS#22 for Barbara Diller, received by Hunterdon Developmental Center,
Human Resources, on June 2, 2021

For Appellant:

P-1 Handwritten note from Barbara Diller to Beth Burd [sic]

P-2 Temporary Disability Benefits Application for Barbara Diller

P-3 Request for Medical Information from the Division of Temporary Disability Insurance

P-4 Hunterdon Developmental Center Request for Approval of Sick Leave, PERS#22

P-5 Faxed Copy of Doctor's Certification, PERS#22

P-6 Admitted as J-1

P-7 Temporary Disability Insurance Medical Extension

P-8 Medical Examination Section, Division of Pensions and Benefits

P-9 Request for Approval of Sick Leave, PERS#22, for Barbara Diller

For Respondent:

R-1 Preliminary Notice of Disciplinary Action, dated December 14, 2021 and Final Notice of Disciplinary Action, dated January 3, 2022

R-2 2021 Timekeeping Record, Barbara Diller

R-3 Letter to Barbara Diller, dated February 3, 2021

R-4 Leave Approval Letter to Barbara Diller, dated February 26, 2021

R-5 Memorandum to Barbara Diller from Beth Bird, dated February 26, 2021

R-6 Form PERS#22 for Barbara Diller, received by Hunterdon Developmental Center, Human Resources, on February 26, 2021

R-7 Form PERS#22 for Barbara Diller, received by Hunterdon Developmental Center, Human Resources, on March 11, 2021

R-8 Admitted as J-1

R-9 Letter to Barbara Diller from Angelique Raffaele, dated September 29, 2021

R-10 Hunterdon Developmental Center, Human Resources Procedure No. 17, Re: Leave of Absence

R-11 Hunterdon Developmental Center, Human Resources Adm. Procedure No. 001, Re:
Sick Leave

R-12 Department of Human Services Disciplinary Action Program

R-13 Corrective/Disciplinary Action History for Barbara Diller

R-14 Employee Safety Training, Voluntary Use of Filtering Facepiece Respirators

Transcripts:

April 14, 2026

April 15, 2026