

## CHAPTER 2

### APPEALS, DISCIPLINE AND SEPARATIONS

#### Authority

N.J.S.A. 2C:51-2, 11A:1-2(e), 11A:2-6, 11A:2-11(h), 11A:2-13 et seq., 11A:4-15(c), 11A:7-1 et seq., 11A:8-4, 52:14B-10(c) and 49 C.F.R. Parts 382 et seq.

#### Source and Effective Date

R.1997 d.435, effective September 22, 1997.  
See: 29 N.J.R. 3102(a), 29 N.J.R. 4455(b).

#### Executive Order No. 66(1978) Expiration Date

Chapter 2, Appeals, Discipline and Separations, expires on September 22, 2002.

#### Chapter Historical Note

Chapter 2, Appeals, Discipline and Separations, was adopted as R.1987 d.407, effective October 5, 1987. See: 19 N.J.R. 1013(a), 19 N.J.R. 1827(a). See, also, Title Historical Note prior to N.J.A.C. 4A:1.

Pursuant to Executive Order No. 66(1978), Chapter 2 was readopted as R.1992 d.414, effective September 22, 1992. See: 24 N.J.R. 2491(a), 24 N.J.R. 3716(a)..

Pursuant to Executive Order No. 66(1978), Chapter 2 was readopted as R.1997 d.435, effective September 22, 1997. See: Source and Effective Date. See, also, section annotations.

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### SUBCHAPTER 1. APPEALS

#### 4A:2-1.1 Filing of appeals

(a) All appeals to the Commissioner or Board shall be in writing, signed by the person appealing (appellant) or his or her representative and must include the reason for the appeal and the specific relief requested.

(b) Unless a different time period is stated, an appeal must be filed within 20 days after either the appellant has notice or should reasonably have known of the decision, situation or action being appealed.

(c) The appellant must provide any additional information that is requested, and failure to provide such information may result in dismissal of the appeal.

(d) Except where a hearing is required by law or these rules, or where the Commissioner or Board finds that a material and controlling dispute of fact exists that can only be resolved by a hearing, an appeal will be reviewed on a written record. In written record appeals:

1. Each party must serve copies of all materials submitted on all other parties; and
2. A party may review the file at the Department of Personnel during business hours.

(e) A party in an appeal may be represented by an attorney, authorized union representative or authorized appointing authority representative. See N.J.A.C. 1:1-5.4 for contested case representation at the Office of Administrative Law.

Amended by R.1992 d.414, effective October 19, 1992.  
See: 24 N.J.R. 2491(a), 24 N.J.R. 3716(a).  
Added new (d)1.-2.

**Law Review and Journal Commentaries**

Civil Service—Disability Retirement—Police Seniority. Judith Nal-  
lin, 133 N.J.L.J. No. 13, 55 (1993).

**Case Notes**

Time in which fire fighter was required to appeal decision of township board of fire commissioners classifying fire fighters commenced when fire fighter learned of representations. *Matter of Tavani*, 264 N.J.Super. 154, 624 A.2d 75 (A.D.1993).

Appeals to Department of Personnel (DOP) and Merit System Board by police officer were timely. *Matter of Allen*, 262 N.J.Super. 438, 621 A.2d 87 (A.D.1993).

Removal of provisional juvenile detention officer from eligible list was improper without hearing by Merit System Board to resolve good faith factual disputes. *Matter of Wiggins*, 242 N.J.Super. 342, 576 A.2d 932 (A.D.1990).

**Civil Service Comm'n** acted within its discretionary powers to deny hearing and only allow petitioner to submit additional facts for review (citing former N.J.A.C. 4:1-5.1). *Honachefsky v. New Jersey Civil Service Comm'n*, 174 N.J.Super. 539, 417 A.2d 67 (App.Div.1980).

No timely appeal to the Merit Systems Board. N.J.S.A. 11A:1-1 et seq. *Pryor v. Township of Morristown*, 92 N.J.A.R.2d (CSV) 18.

Time limits for appeal construed to have been met when petitioner was advised a letter sent prior to final notice of disciplinary action would act to reinstate her appeal (citing former N.J.A.C. 4:1-5.3). *Clark v. New Jersey Dep't of Agriculture*, 1 N.J.A.R. 315 (1980).

**4A:2-1.2 Stay and interim relief requests**

(a) Upon the filing of an appeal, a party to the appeal may petition the Commissioner for a stay or other relief pending final decision of the matter.

(b) A request for a stay or interim relief shall be in writing, signed by the petitioner or his or her representative and must include supporting information for the request.

(c) The following factors will be considered in reviewing such requests:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm if the request is not granted;
3. Absence of substantial injury to other parties if the request is granted; and
4. The public interest.

(d) The filing of a petition for interim relief will not stay administrative proceedings or processes.

(e) Each party must serve copies of all materials submitted on all other parties.

(f) Following a final administrative decision by the Commissioner or the Board, and upon the filing of an appeal from that decision to the Appellate Division of Superior Court, a party to the appeal may petition the Commissioner for a stay or other relief pending a decision by the Court in accordance with the procedures and standards in (b) and (c) above. See N.J. Court Rules 2:9-7.

(g) See N.J.A.C. 1:1-12.6 for interim relief rules on matters pending before the Office of Administrative Law.

Amended by R.1989 d.569, effective November 6, 1989.

See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

Changed title from "Interim relief."

Added new (f) and relettered old (f) as (g) with stylistic revisions.

**4A:2-1.3 Adjournments**

(a) Any party requesting an adjournment of a hearing or other review must establish good and sufficient reason for such request. Such reason may include, but is not limited to:

1. Unavoidable appearance by an attorney for a party in any state or federal court; or
2. Illness of a party evidenced by an affidavit and a doctor's certificate.

(b) Where an adjournment is found not to be for good and sufficient reason, the Commissioner or Board may impose a fine or penalty.

(c) See N.J.A.C. 1:1-9.6 for Office of Administrative Law adjournment rules.

**Case Notes**

Appeal dismissed due to retirement and resignation of employees (citing former N.J.A.C. 4:1-5.9). *Tyler et al. v. City of Paterson*, 2 N.J.A.R. 272 (1979).

**4A:2-1.4 Burden of proof**

(a) In appeals concerning major disciplinary actions, N.J.A.C. 4A:2-2.1 et seq., the burden of proof shall be on the appointing authority.

(b) In appeals concerning minor disciplinary actions, see N.J.A.C. 4A:2-3.7(f) for burden of proof standards.

(c) In all other Commissioner and Board appeals, the burden of proof shall be on the appellant.

Amended by R.1989 d.569, effective November 6, 1989.

See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

Added new (b) and relettered old (b) as (c).

**Case Notes**

Police officer was reinstated when removed on hearsay evidence that was less than competent. *Rhodes v. Union City Police Department*, 95 N.J.A.R.2d (CSV) 643.

**4A:2-1.6 Reconsideration of decisions**

(a) Upon the receipt of a decision, a party to the appeal may petition the Commissioner or Board for reconsideration.

(b) A petition for reconsideration shall be in writing signed by the petitioner or his or her representative and must show the following:

1. The new evidence or additional information not presented at the original proceeding which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or

2. That a clear material error has occurred.

(c) Each party must serve copies of all materials submitted on all other parties.

**Case Notes**

A motion for reconsideration of a final administrative decision must be made within the period provided for the taking of an appeal. *Matter of Hill*, 241 N.J.Super. 367, 575 A.2d 42 (A.D.1990).

Senior corrections officer was an employee on date when complaint which formed basis of harassment conviction was filed, for purposes of forfeiture statute. *Moore v. Youth Correctional Institute at Annandale*, 230 N.J.Super. 374, 553 A.2d 830 (A.D.1989), affirmed 119 N.J. 256, 574 A.2d 983.

Senior corrections officer's criminal conviction for harassing his immediate superior was one "involving or touching" his employment. *Moore v. Youth Correctional Institute at Annandale*, 230 N.J.Super. 374, 553 A.2d 830 (App.Div.1989) affirmed 119 N.J. 256, 574 A.2d 983.

**4A:2-1.7 Specific appeals**

(a) For specific appeal procedures see:

1. Awards in State service (N.J.A.C. 4A:6-6.10);
2. Classification (N.J.A.C. 4A:3-3.9);
3. Discipline, major (N.J.A.C. 4A:2-2.1 et seq.);
4. Discipline, minor (N.J.A.C. 4A:2-3.1 et seq.);
5. Discrimination in State service (N.J.A.C. 4A:7-3.2 through 4A:7-3.4);
6. Employment list removal for medical reasons (N.J.A.C. 4A:4-6.5);
7. Employment list removal for psychological reasons (N.J.A.C. 4A:4-6.5);
8. Examinations (N.J.A.C. 4A:4-6.1 et seq.);
9. Grievances (N.J.A.C. 4A:2-3.1 et seq.);
10. Layoffs (N.J.A.C. 4A:8-2.6);
11. Overtime in State service (N.J.A.C. 4A:3-5.10 et seq.);
12. Performance Assessment Review in State service (N.J.A.C. 4A:6-5.3);
13. Reprisals (N.J.A.C. 4A:2-5.1 et seq.);

14. Resignations (N.J.A.C. 4A:2-6.1 et seq.);

15. Salary (job reevaluation) in state service (N.J.A.C. 4A:3-4.3);

16. Sick leave injury in State service (N.J.A.C. 4A:6-1.7); and

17. Supplemental compensation on retirement in State service (N.J.A.C. 4A:6-3.4).

(b) Any appeal not listed above must be filed in accordance with N.J.A.C. 4A:2-1.1.

Administrative correction to (a), with deletion of (a)11 and renumbering of old (a)12-18 to new (a)11-17.  
See: 22 N.J.R. 165(a).

**Case Notes**

Appeals to Department of Personnel (DOP) and Merit System Board by police officer were timely. *Matter of Allen*, 262 N.J.Super. 438, 621 A.2d 87 (A.D.1993).

**SUBCHAPTER 2. MAJOR DISCIPLINE****Cross References**

Applicability of this subchapter to SES members, see N.J.A.C. 4A:3-2.9.

**4A:2-2.1 Employees covered**

(a) This subchapter applies only to permanent employees in the career service or a person serving a working test period.

(b) Appointing authorities may establish major discipline procedures for other employees.

**Case Notes**

Department of Energy was not equitably estopped from returning employee to his permanent position as senior engineer when promotional examination was not given between date of his provisional appointment and date of demotion (citing former N.J.A.C. 4:1-16.8). *O'Malley v. Department of Energy*, 109 N.J. 309, 537 A.2d 647 (1987).

Doctrine of equitable estoppel inapplicable to allow provisional employee to retain position (citing former N.J.A.C. 4:1-16.8). *Omrod v. N.J. Dep't of Civil Service*, 151 N.J.Super. 54, 376 A.2d 554 (App.Div.1977) certification denied 75 N.J. 534, 384 A.2d 513.

**4A:2-2.2 Types of discipline**

(a) Major discipline shall include:

1. Removal;
2. Disciplinary demotion;
3. Suspension or fine for more than five working days at any one time;

4. Suspension or fine for five working days or less where the aggregate number of days suspended or fined in any one calendar year is 15 working days or more;

5. The last suspension or fine where an employee receives more than three suspensions or fines of five working days or less in a calendar year.

#### Case Notes

Employee suspended for 10 days from position as account clerk for failure to deposit money (\$700,000) within 48-hour period required by N.J.S.A. 40A:5-15 and late deposit by mail of \$355,000; 10-day suspension upheld and \$500 fine imposed. *Kennedy v. City of Burlington*, 11 N.J.A.R. 20 (1988).

#### 4A:2-2.3 General causes

(a) An employee may be subject to discipline for:

1. Incompetency, inefficiency or failure to perform duties;
2. Insubordination;
3. Inability to perform duties;
4. Chronic or excessive absenteeism or lateness;
5. Conviction of a crime;
6. Conduct unbecoming a public employee;
7. Neglect of duty;
8. Misuse of public property, including motor vehicles;
9. Discrimination that affects equal employment opportunity (as defined in N.J.A.C. 4A:7-1.1), including sexual harassment;
10. Violation of Federal regulations concerning drug and alcohol use by and testing of employees who perform functions related to the operation of commercial motor vehicles, and State and local policies issued thereunder; and
11. Other sufficient cause.

Amended by R.1990 d.308, effective June 18, 1990.

See: 22 N.J.R. 1015(b), 22 N.J.R. 1915(a).

Added misuse of public property, including motor vehicles.

Amended by R.1994 d.618, effective December 19, 1994.

See: 26 N.J.R. 3507(a), 26 N.J.R. 5000(a).

Amended by R.1995 d.415, effective August 7, 1995.

See: 27 N.J.R. 1837(a), 27 N.J.R. 2884(a).

Added (a)10, and recodified former (a)10 as (a)11.

#### Case Notes

Merit System Board of State Department of Personnel did not have exclusive jurisdiction for prosecution of forfeiture action against senior corrections officer. *State v. Lee*, 258 N.J.Super. 313, 609 A.2d 513 (A.D.1992).

Issue of forfeiture of public employment by turnpike utility worker did not have to be first addressed by administrative agency to determine whether there was any relationship between crimes committed and employment duties. *State v. Baber*, 256 N.J.Super. 240, 606 A.2d 891 (L.1992).

Turnpike utility worker's convictions for failure to deliver drugs to police and for simple assault upon two police officers were offenses "involving or touching" his job so as to justify forfeiture of employment. *State v. Baber*, 256 N.J.Super. 240, 606 A.2d 891 (L.1992).

Order directing forfeiture of public employment may be incorporated in sentence of criminal convictions. *State v. Baber*, 256 N.J.Super. 240, 606 A.2d 891 (L.1992).

Forfeiture of public employment, for conviction of failure to file gross income tax return was not a bill of attainder. *Ayars v. New Jersey Dept. of Corrections*, 251 N.J.Super. 223, 597 A.2d 1084 (A.D. 1991).

Forfeiture of public employment for conviction for failure to file gross income tax return did not violate double jeopardy. *Ayars v. New Jersey Dept. of Corrections*, 251 N.J.Super. 223, 597 A.2d 1084 (A.D. 1991).

Dismissal was appropriate sanction for refusal by correction officers to submit to mandatory drug testing. *Caldwell v. New Jersey Dept. of Corrections*, 250 N.J.Super. 592, 595 A.2d 1118 (A.D.1991), certification denied 127 N.J. 555, 606 A.2d 367.

When public employee is convicted of petty disorderly persons offense, analysis of nexus between crime and employment is required to determine if there is sufficient relationship between the two to warrant harsh penalty of forfeiture. *Moore v. Youth Correctional Institute at Annandale*, 119 N.J. 256, 574 A.2d 983 (1990).

When public employee is convicted of petty disorderly persons offense, connection between conviction and employment will have to be examined initially by governmental department in which employee works, then by appropriate administrative agencies, and employee will retain right to appeal to appellate division. *Moore v. Youth Correctional Institute at Annandale*, 119 N.J. 256, 574 A.2d 983 (1990).

Employees who are convicted of petty disorderly persons offense and recognize that their offense does touch and involve their employment can for good cause request county prosecutor or Attorney General to petition sentencing court for waiver of resultant forfeiture of public employment. *Moore v. Youth Correctional Institute at Annandale*, 119 N.J. 256, 574 A.2d 983 (1990).

Even in cases in which public employee does not obtain formal waiver of forfeiture of public employment resulting from conviction of petty disorderly persons offense, department should consider whether punishment of forfeiture fits crime. *Moore v. Youth Correctional Institute at Annandale*, 119 N.J. 256, 574 A.2d 983 (1990).

Inquiry into whether offense by public employee involves and touches on public employment to extent of meriting forfeiture of employment requires careful examination of facts and evaluation of various factors. *Moore v. Youth Correctional Institute at Annandale*, 119 N.J. 256, 574 A.2d 983 (1990).

Offense committed by public employee would not be considered not to involve or touch employment, so as to support forfeiture of public employment, based on fact that offense does not take place during employment hours or on employment grounds. *Moore v. Youth Correctional Institute at Annandale*, 119 N.J. 256, 574 A.2d 983 (1990).

Evidence supported determination that criminal conviction for harassing immediate superior warranted forfeiture of public employment. *Moore v. Youth Correctional Institute at Annandale*, 119 N.J. 256, 574 A.2d 983 (1990).

Whether public employee's conviction involves or touches employment does not depend upon whether criminally proscribed acts took place within immediate confines of employment's daily routine. *Moore v. Youth Correctional Institute at Annandale*, 230 N.J.Super. 374, 553 A.2d 830 (A.D.1989), affirmed 119 N.J. 256, 574 A.2d 983.

Senior corrections officer's criminal conviction for harassing his immediate superior was one "involving or touching" his employment as a senior corrections officer. *Moore v. Youth Correctional Institute at Annandale*, 230 N.J.Super. 374, 553 A.2d 830 (A.D.1989), affirmed 119 N.J. 256, 574 A.2d 983.

Department of Energy was not equitably estopped from returning employee to his permanent position as senior engineer when promotional examination was not given between date of his provisional appointment and date of demotion (citing former N.J.A.C. 4:1-1.1). *O'Malley v. Department of Energy*, 109 N.J. 309, 537 A.2d 647 (1987).

Tenure of public officer governed by Civil Service Commission; broad discretion conferred upon appointing authority regarding grounds for removal (citing former N.J.A.C. 4:1-6.9). *State v. DeMarco*, 107 N.J. 562, 527 A.2d 417 (1987).

Off-duty police officer, involved in fatal accident which was basis for his conviction of death by auto, disqualified from unemployment compensation effective the date of his suspension pending discharge (citing former N.J.A.C. 4:1-16.9). *Connell v. Board of Review*, 216 N.J. Super. 403, 523 A.2d 1099 (App.Div.1987).

Suspension for misuse of government vehicle reversed where evidence insufficient to sustain charges of unauthorized use. *Myers v. New Jersey Water Supply Authority*, 96 N.J.A.R.2d (CSV) 417.

Insubordination and neglect of duty justify termination of maintenance worker. *Harrington v. William Paterson College*, 96 N.J.A.R.2d (CSV) 415.

Removal of police officer who failed drug test was sustained after drug screening process was verified as accurate. *Gugliotta v. City of Newark Police Department*, 96 N.J.A.R.2d (CSV) 409.

Police officer's refusal to take drug test constitutes sufficient cause for termination. *Conyers v. City of Newark Police Department*, 96 N.J.A.R.2d (CSV) 406.

Off-duty corrections officer's inappropriate touching of his penis in public justifies six-month suspension for conduct unbecoming a public employee. *Brady v. Bergen County Sheriff's Department*, 96 N.J.A.R.2d (CSV) 403.

Cottage training technician's removal for verbal abuse of client was modified to suspension due to technician's previously unblemished disciplinary record and client's manipulative behavior. *Floyd v. Woodbridge Developmental Center*, 96 N.J.A.R.2d (CSV) 399.

Removal of state hospital human services technician was warranted for violation of agency policy prohibiting financial transactions with patients where technician sold patient a cup of coffee. *Reed v. Ancora Psychiatric Hospital*, 96 N.J.A.R.2d (CSV) 385.

Removal of treatment center youth worker with long history of tardiness was not justified after he offered reasonable excuses for latest occurrences. *Lofton v. Arthur Brisbane Child Treatment Center*, 96 N.J.A.R.2d (CSV) 382.

Hospital aide was properly suspended for failing to maintain monitoring checklist for patient. *Lackey v. Ancora Psychiatric Hospital*, 96 N.J.A.R.2d (CSV) 378.

Human services assistant's failure to report for duty without permission or notice justified removal. *Gbeintor v. North Princeton Developmental Center*, 96 N.J.A.R.2d (CSV) 377.

Suspension of emergency communications operator was warranted by her warning to relative of arrival by police; conduct violated agency policy and created dangerous situation. *Raymond v. Burlington County, Department of Emergency Management Services*, 96 N.J.A.R.2d (CSV) 357.

Nurse's breach of duty in failing to respond to resident's call for help, which resulted in another resident's death, warranted removal. *Warren v. John L. Montgomery Medical Center*, 96 N.J.A.R.2d (CSV) 350.

Sleeping while on duty in maximum security unit justifies removal of corrections officer with prior discipline record. *Stevens v. Atlantic County*, 96 N.J.A.R.2d (CSV) 348.

Inconsistent and contradictory testimony on cottage training technician's alleged abuse of client was insufficient to sustain removal action. *Roach v. New Lisbon Developmental Center*, 96 N.J.A.R.2d (CSV) 345.

Discharging weapon while off-duty warrants dismissal of corrections officer. *Rivera v. New Jersey Training School for Boys*, 96 N.J.A.R.2d (CSV) 341.

Removal from position of traffic signal repairer was justified where employee violated terms of previous disciplinary settlement. *Ringkamp v. City of Trenton*, 96 N.J.A.R.2d (CSV) 338.

Police officer's secret taping of promotional interview was not conduct unbecoming public employee warranting dismissal. *Oches v. Township of Middleton Police Department*, 96 N.J.A.R.2d (CSV) 328.

Dismissal from cottage training technician position on charges of client abuse was not warranted by technician's attention-getting tap on client's face. *Harcum v. New Lisbon Developmental Center*, 96 N.J.A.R.2d (CSV) 324.

Cottage training supervisor's inattention warranted dismissal where client was left strapped to rocking chair. *Carter v. North Jersey Developmental Center*, 96 N.J.A.R.2d (CSV) 322.

Positive drug test justifies removal of corrections officer where proper and accurate test procedures were employed. *Adams v. New Jersey Department of Corrections*, 96 N.J.A.R.2d (CSV) 320.

Emergency police communications clerk in training was properly removed for shutting down emergency call tracking system. *DeLeon v. Jersey City Police Department*, 96 N.J.A.R.2d (CSV) 316.

Suspension of civilian employee of sheriff's department was warranted by failure to comply with duty rules and lack of respect for authority. *Baldwin v. Monmouth County Sheriff's Office*, 96 N.J.A.R.2d (CSV) 309.

Department of Corrections failed to prove allegation that corrections officer improperly permitted parolee to reside at his home. *Montigue v. Department of Corrections*, 96 N.J.A.R.2d (CSV) 305.

Juvenile detention officer's refusal to submit to drug test warranted dismissal. *Velez v. Hudson County Department of Public Safety*, 96 N.J.A.R.2d (CSV) 293.

Police radio operator was allowed to resign in good standing based on finding that she was medically unfit to perform duties. *Pribramsky v. Little Egg Harbor Township Police Department*, 96 N.J.A.R.2d (CSV) 282.

Corrections officer properly suspended for being absent from post and for using excessive force on inmate. *Okezie v. Burlington County*, 96 N.J.A.R.2d (CSV) 280.

Reinstatement of medical security officer ordered after record failed to substantiate charge of patient abuse. *Mack v. Forensic Psychiatric Hospital*, 96 N.J.A.R.2d (CSV) 269.

Public works laborer's excessive tardies and absences justify termination. *Luckey v. Borough of Lindenwold*, 96 N.J.A.R.2d (CSV) 266.

Suspension without pay for 15 days and recoupment of three sick days was proper penalty for human services employee who falsified medical report to get three paid days off. *Landgraf v. Atlantic County Department of Human Services*, 96 N.J.A.R.2d (CSV) 264.

Human service assistant properly removed from position for abusing trust and well-being of mental patients by making them drink hot sauce. *Cowen v. New Lisbon Development Center*, 96 N.J.A.R.2d (CSV) 257.

Cottage training technician reinstated after allegations of patient abuse not proven. *Colvin v. Vineland Development Center*, 96 N.J.A.R.2d (CSV) 250.

Police officer was properly removed from position for sexually harassing female employees under his supervision. *Cain v. Morris County Sheriff's Office*, 96 N.J.A.R.2d (CSV) 244.

Suspension was warranted where employee on medical leave disobeyed order to remain away from facility unless he obtained supervisor's permission and insulted supervisor. *Bright v. Arthur Brisbane Child Treatment Center*, 96 N.J.A.R.2d (CSV) 240.



Police officer's failure to report personal crime investigation and loss of off-duty weapon justified suspension for neglect of duty and unbecoming conduct. *Sepulveda v. Hudson County Department of Public Safety*, 96 N.J.A.R.2d (CSV) 207.

Illness no excuse for development center employee's repeated absenteeism. *Parker v. New Lisbon Developmental Center*, 96 N.J.A.R.2d (CSV) 205.

Off-duty corrections officer who discharged weapon to threaten another properly removed from position. *Lange v. Bergen County Sheriff's Department*, 96 N.J.A.R.2d (CSV) 203.

Positive drug test justified corrections officer's dismissal. *Gordon v. Department of Corrections, Training Academy*, 96 N.J.A.R.2d (CSV) 200.

Unexcused tardiness justified dismissal of child treatment center employee. *Cagle v. Arthur Brisbane Child Development Center*, 96 N.J.A.R.2d (CSV) 197.

Division of State Police unable to substantiate charges of absenteeism, incompetence, and misuse of public property against terminated electrician. *Kelso v. Department of Law and Public Safety*, 96 N.J.A.R.2d (CSV) 188.

Institutional attendant's conduct undermining now-deceased resident's quality of life and failing to respond to calls for help justify 8-day suspension. *Doggett v. Monmouth County, John L. Montgomery Medical Home*, 96 N.J.A.R.2d (CSV) 180.

Corrections officer's refusal to answer warden's questions and subsequent loud, agitated, insolent responses constituted insubordinate conduct which merited 20-day suspension. *Woods v. Camden County Correctional Facility*, 96 N.J.A.R.2d (CSV) 175.

County corrections officer's chronic excessive absenteeism justifies suspension. *Perroth v. Monmouth County Sheriff's Office*, 96 N.J.A.R.2d (CSV) 166.

Removal from job for refusal to comply with order of supervisor determined too harsh for employee with only one disciplinary action against him in past five years. *Robinson v. Camden County*, 96 N.J.A.R.2d (CSV) 159.

Recreation therapy aid's false statements on job application regarding education, work experience, and criminal record justified her removal. *Gourdine v. Hudson, Environmental Public Health Department, County of*, 96 N.J.A.R.2d (CSV) 151.

Employee's poor judgment in driving state vehicle while intoxicated and in violation of department directive justifies three-month suspension. *Manion v. Department of Transportation*, 96 N.J.A.R.2d (CSV) 149.

Tax Division's removal of clerk justified when clerk instigated verbal confrontation with co-workers, made threatening gestures with stapler and engineered later confrontation. *Taylor v. State Treasury*, 96 N.J.A.R.2d (CSV) 138.

State corrections officer dismissed for maintaining improper relationship with inmate. *Robinson v. East Jersey State Prison, Department of Corrections*, 96 N.J.A.R.2d (CSV) 134.

County corrections officer with history of misconduct suspended for violating departmental policy by informing inmates of their pending transfers to state prison. *Ramundo v. Passaic County Sheriff's Department*, 96 N.J.A.R.2d (CSV) 131.

Police captain properly disciplined for misconduct at public meeting. *Marjarum v. Hamilton Township Police Department*, 96 N.J.A.R.2d (CSV) 122.

Suspension of county probation officer imposed pursuant to settlement agreement justified when officer adequately represented by counsel. *Kelly v. County of Union*, 96 N.J.A.R.2d (CSV) 119.

Psychiatric hospital's removal of medical security officer justified where officer was twice absent without permission and had long history of similar violations. *Hearns v. Forensic Psychiatric Hospital*, 96 N.J.A.R.2d (CSV) 116.

Care attendant's mistreatment of patient constituted conduct unbecoming public employee and warranted dismissal. *Washington v. John L. Montgomery Medical Home*, 96 N.J.A.R.2d (CSV) 100.

Corrections officer with history of chronic and persistent absences suffers removal for absence without permission. *Smith v. Northern State Prison*, 96 N.J.A.R.2d (CSV) 98.

Psychiatric hospital section chief's assault on and threats to co-worker justify removal. *O'Lone v. Ancora Psychiatric Hospital*, 96 N.J.A.R.2d (CSV) 95.

Developmental center employee's physical abuse of superior and long disciplinary record justify removal. *Ingram v. Woodbridge Developmental Center*, 96 N.J.A.R.2d (CSV) 94.

Physical disability and absence without leave justify county correction officer's termination. *Anderson v. Burlington County Jail*, 96 N.J.A.R.2d (CSV) 92.

County social services agency's removal of income maintenance worker justified when mental disorder rendered her unable to perform job duties. *Doe v. Morris County Board of Social Services*, 96 N.J.A.R.2d (CSV) 65.

Shorter suspensions for partial negligence justified by correction officers' proper performance of other duties and good work records. *Craft v. Riverfront State Prison*, 96 N.J.A.R.2d (CSV) 63.

Police officer removed for violating numerous department regulations including insubordination and absence from duty. *Chiles v. Plainfield City Police Department*, 96 N.J.A.R.2d (CSV) 49.

Developmental center human services assistant properly terminated for abusive conduct toward supervisor. *Pennoh v. North Princeton Developmental Center*, 96 N.J.A.R.2d (CSV) 28.

Correction officer suspended for violating department policy by not seeking medical attention for inmate sprayed with mace. *Harris v. Burlington County Jail*, 96 N.J.A.R.2d (CSV) 26.

Parking meter repairman's removal for insubordination too severe under principles of progressive discipline. *Grosso v. Township of Nutley*, 96 N.J.A.R.2d (CSV) 24.

Falsification of medical records and abandonment of position for unauthorized consecutive absences justifies developmental center employee's resignation and suspension. *Dortelus v. Woodbridge Developmental Center*, 96 N.J.A.R.2d (CSV) 20.

Senior therapy program assistant's threats against coworkers constitute conduct unbecoming public employee but do not warrant removal. *Chase v. Marlboro Psychiatric Hospital*, 96 N.J.A.R.2d (CSV) 14.

Suspension justified where developmental center licensed practical nurse engages in assaultive conduct on center grounds. *Apata v. North Princeton Developmental Center*, 96 N.J.A.R.2d (CSV) 10.

Institutional attendant's use of foul language and creation of disturbance on public premises warrants six-month suspension. *Robinson v. John L. Montgomery Medical Home*, 96 N.J.A.R.2d (CSV) 2.

Obscenities and threats of physical harm to supervisor and co-worker justified state truck driver's suspension. *Smith v. Department of Transportation*, 95 N.J.A.R.2d (CSV) 691.

Inability to conform to absence and tardiness of police justified public employee's removal. *LaBour v. Housing Authority*, 95 N.J.A.R.2d (CSV) 682.

Removal of a firefighter was justified after testing positive for cocaine. *Hayes v. Plainfield City Fire Department*, 95 N.J.A.R.2d (CSV) 679.

Brandishing knife and threatening supervisor warranted correction officer's removal for unbecoming conduct. *Brown v. East Jersey State Prison*, 95 N.J.A.R.2d (CSV) 671.

Residential live in specialist was justifiably suspended for negligence that caused injury to patient at developmental center. *Powell v. North Princeton Developmental Center*, 95 N.J.A.R.2d (CSV) 666.

Suspension rather than removal was warranted for refusing to obey directions of superiors. *Santana v. City of Perth Amboy*, 95 N.J.A.R.2d (CSV) 663.

Insubordination and neglect of duty warranted police officer's termination. *Kempton v. Township of Riverside*, 95 N.J.A.R.2d (CSV) 661.

Criminal record from activity that occurred before employment did not warrant removal given demonstrated rehabilitation. *Ermi v. Department of Public Property*, 95 N.J.A.R.2d (CSV) 655.

Chronic and excessive absences in violation of written policy justified removal of juvenile detention officer. *Stewart v. Department of Youth Services*, 95 N.J.A.R.2d (CSV) 650.

Suspension of correction officer was justified by reason of willing participation in physical altercation inside facility. *Wolarik v. Monmouth County Corrections*, 95 N.J.A.R.2d (CSV) 626.

Possession of contraband on state property warranted two-day suspension of prison storekeeper. *Cooper v. Department of Corrections*, 95 N.J.A.R.2d (CSV) 621.

Road repairer was appropriately removed upon failing to obtain required license and for driving while under suspension. *Beers v. Township of Byram*, 95 N.J.A.R.2d (CSV) 619.

Insubordination, threatening a supervisor, and neglect of duty justified building maintenance worker's removal. *Jackson v. City of Passaic Housing Authority*, 95 N.J.A.R.2d (CSV) 616.

Removal for insubordination was justified when corrections officer disregarded two direct orders to return to work. *Lennon v. New Jersey State Prison*, 95 N.J.A.R.2d (CSV) 585.

Short suspension following leave of absence to attend rehabilitation program was appropriate penalty for alcohol problem and good work record. *West v. City of East Orange*, 95 N.J.A.R.2d (CSV) 570.

Sexual harassment of co-workers and violation of confidentiality rules warranted hospital personnel assistant's removal. *Jones v. Marlboro Psychiatric Hospital*, 95 N.J.A.R.2d (CSV) 565.

Socializing with a drug offender justified juvenile unit supervisor's 30-day suspension. *Tobias v. New Jersey Training School*, 95 N.J.A.R.2d (CSV) 523.

Suspension and removal of corrections officer for abuse of emergency leave policy was justified. *Randall v. Riverfront State Prison*, 95 N.J.A.R.2d (CSV) 519.

Training technician's termination from position at developmental center was justified on resisting arrest and leading law enforcement officers on chase through workplace. *Pierce v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 517.

Insubordination was not a basis for removal of police officer when not based on a clear and unequivocal lawful order of a superior. *Nelson v. Department of Public Safety*, 95 N.J.A.R.2d (CSV) 508.

Removal was justifiably based upon road crew maintenance worker's excessive absences. *Timmins v. Department of Transportation*, 95 N.J.A.R.2d (CSV) 503.

Disrespect to supervisor warranted only one-day suspension when first major disciplinary action against corrections officer. *Stith v. Department of Corrections*, 95 N.J.A.R.2d (CSV) 499.

Removal of correctional officer was justified by attempt to buy drugs. *Salkowski v. State Prison*, 95 N.J.A.R.2d (CSV) 495.

Modified suspension was supported by licensed practical nurse's insubordination. *Miles v. Woodbridge Developmental Center*, 95 N.J.A.R.2d (CSV) 488.

Leaving workplace was without good cause and justified earlier suspension for insubordination. *Lyons v. Department of Transportation*, 95 N.J.A.R.2d (CSV) 482.

Repeated absenteeism without justifiable cause justified removal of cook at developmental center. *Bowman v. Woodbridge Developmental Center*, 95 N.J.A.R.2d (CSV) 473.

Falsification of jury service slip for attendance purposes justified public employee's removal. *Washington v. Division of Youth and Family Services*, 95 N.J.A.R.2d (CSV) 449.

Disruption of office by tax collection cashier justified ten-day suspension. *Vecchione v. Township of Middletown*, 95 N.J.A.R.2d (CSV) 442.

Suspension of correction officer for refusing mandatory overtime because of carpool was appropriate. *Iliopoulos v. Mountainview Youth Correctional*, 95 N.J.A.R.2d (CSV) 434.

Unauthorized use of telephones and neglect of duty warranted two 10 day suspensions of security officer at college. *Cumaoglu v. Ramapo College*, 95 N.J.A.R.2d (CSV) 428.

Use of profanity toward superior officer warranted six-month suspension of police officer. *Valese v. Town of Belleville Police*, 95 N.J.A.R.2d (CSV) 421.

Negligence that contributed to death of client justified removal of residential living specialist at developmental center. *Rittenburg v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 415.

Inappropriate examination of client's genital area by child welfare worker warranted removal. *Quinones v. Division of Youth and Family Services*, 95 N.J.A.R.2d (CSV) 409.

Excessive absenteeism warranted removal of cottage training technician from developmental center. *Grant v. North Princeton Developmental Center*, 95 N.J.A.R.2d (CSV) 397.

Ten-day suspension of truck driver was justified for loud and unruly conduct toward supervisor. *Gibbs v. Department of Highway*, 95 N.J.A.R.2d (CSV) 394.

Account clerk was given thirty-day suspension for refusing to submit planned performance objectives. *Garofalo v. Morris County*, 95 N.J.A.R.2d (CSV) 391, affirmed 96 N.J.A.R.2d (CSV) 302.

Inappropriate name calling warranted six-month suspension of hospital attendant. *Bland v. Burlington County*, 95 N.J.A.R.2d (CSV) 389.

Absenteeism justified only suspension when verified by employee's doctor as due to medical condition. *Coursey v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 386.

Suspensions changed to medical leaves when they resulted solely from police officer's medical condition. *Candiloro v. Aberdeen Police Department*, 95 N.J.A.R.2d (CSV) 374.

Conviction of weapons possession required building maintenance worker's removal. *Lopez v. North Princeton Developmental Center*, 95 N.J.A.R.2d (CSV) 361.

Threat of violence against superior officer justified removal of corrections officer. *Jones v. Hudson County Department*, 95 N.J.A.R.2d (CSV) 359.

Excessive absenteeism without permission warranted termination of cottage training technician at developmental center. *Costin v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 357.

Excessive absenteeism and failure to report to work warranted institutional attendant's removal. *Mills v. Montgomery Medical Home*, 95 N.J.A.R.2d (CSV) 353.

Overly familiar relationship with inmate warranted correction officer's removal. *McDaniel v. Passaic County Sheriff*, 95 N.J.A.R.2d (CSV) 348.

Training technician's removal was justified on basis of intentional patient abuse. *Witcher v. New Lisbon Developmental Center*, 95 N.J.A.R.2d (CSV) 340.

Improper co-worker interaction was established and justified eight-day suspension of human services assistant. *Timberlake v. Woodbridge Developmental Center*, 95 N.J.A.R.2d (CSV) 332.

Sexual harassment and intimidation warranted police officer's suspension. *Sepulveda v. Hudson County*, 95 N.J.A.R.2d (CSV) 323.

Two month suspension of health service technician for striking patient was warranted. *Joiner v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 319.

Display of incompetence as police dispatcher warranted removal. *Johnson v. Woodbridge Police Department*, 95 N.J.A.R.2d (CSV) 314.

Forged car inspection sticker warranted removal of police department communications operator. *Holmes v. City of Camden*, 95 N.J.A.R.2d (CSV) 310.

Abusiveness toward police officers at scene of accident warranted 60-day suspension of corrections officer. *Finn v. Burlington County Jail*, 95 N.J.A.R.2d (CSV) 302.

Removal of juvenile detention officer was warranted upon failure to complete required training course. *Dye v. Union County Juvenile*, 95 N.J.A.R.2d (CSV) 300.

Refusal to work overtime because of unsubstantiated family illness warranted suspension of corrections officer. *Senape v. Middlesex County Adult Jail Facility*, 95 N.J.A.R.2d (CSV) 297.

Ineligibility based on lack of required driver's license and vehicle justified housing inspector's removal. *Gross v. City of Paterson*, 95 N.J.A.R.2d (CSV) 295.

Leaving dangerous client without supervision justified removal of human services technician at psychiatric hospital. *Grice v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 293.

Mishandling of weapon warranted police officer's termination. *De-fazio v. Borough of Wildwood Crest*, 95 N.J.A.R.2d (CSV) 287.

Failure of firefighter to take drug test warranted removal. *Rowe v. City of Newark*, 95 N.J.A.R.2d (CSV) 279.

Ten-day suspension of guard for working on prison tower with expired weapons card was justified. *Pierce v. New Jersey State Prison*, 95 N.J.A.R.2d (CSV) 277.

Suspension of off-duty firefighter for use of racial epithet was not warranted when speech code applicable only to workplace. *Karins v. City of Atlantic City*, 95 N.J.A.R.2d (CSV) 272.

Reasonable suspicion of illegal drug use, when combined with refusal to submit to urinalysis, justified investigator's removal from police department. *Jersey City Police v. Harrison*, 95 N.J.A.R.2d (CSV) 269, affirmed 96 N.J.A.R.2d (CSV) 299, certification denied 144 N.J. 174, 675 A.2d 1122.

Removal was appropriate when prison security guard failed to identify or challenge individuals in secured setting. *Casey v. Atlantic County*, 95 N.J.A.R.2d (CSV) 262.

Removal of prison instructor was justified on basis of illegal drug possession. *Campbell v. Riverfront State Prison*, 95 N.J.A.R.2d (CSV) 259.

Attendant's suspension for excessive absenteeism warranted in light of lengthy history of poor attendance. *Cupid v. Montgomery Medical Home*, 95 N.J.A.R.2d (CSV) 251.

Prison employee bringing alcohol to inmate justifies removal of employee. *Bostick v. East Jersey State Prison*, 95 N.J.A.R.2d (CSV) 247.

Correctional officer suspended for failing to make required call-ins about his status. *Elliott v. Wagner Youth Correctional Facility*, 95 N.J.A.R.2d (CSV) 244.

Correctional officer was removed for maintaining relationship with inmate. *Clemons v. Department of Corrections*, 95 N.J.A.R.2d (CSV) 241.

Maintenance worker's suspension for failing to report for duty was supported by poor attendance record. *Heyward v. Burlington County Buildings*, 95 N.J.A.R.2d (CSV) 236.

Employee's use of profanity and racial slurs warranted maximum suspension. *Green v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 234.

Harassment of female co-worker warranted removal of male practical nurse for conduct unbecoming a public employee. *Brown v. Trenton Psychiatric Hospital*, 95 N.J.A.R.2d (CSV) 233.

Neglect of duty by sleeping while monitoring high and moderate risk clients at child treatment center justified removal of human services assistant. *Mahajan v. DEPE*, 95 N.J.A.R.2d (CSV) 229.

Beating a suspect, when combined with improper use of firearms, warranted police officer's termination for unbecoming conduct. *Cruz v. City of Camden*, 95 N.J.A.R.2d (CSV) 226.

Signing zoning official's name to zoning permit without approval warranted reprimand, but did not warrant termination. *Matter of Olivo*, 95 N.J.A.R.2d (CSV) 223.

Refusal to perform regular cleaning duties in restrooms assigned to him warranted 60 day suspension of maintenance worker. *Harrington v. William Paterson College*, 95 N.J.A.R.2d (CSV) 220.

Unbecoming conduct, improper use of firearm, and use of insulting language warranted thirty day suspension of police officer. *Fabian v. North Bergen Police*, 95 N.J.A.R.2d (CSV) 216.

Progressive discipline did not preclude removal of employee from public employment under circumstances. *Matter of Paul Dietrich v. Newark Housing Authority*, 95 N.J.A.R.2d (CSV) 202.

Falsification of time sheets, neglect of duty, and unauthorized absence warranted public employee's removal. *Pue v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 199.

Chronic or excessive absenteeism warranted 15-day suspension from public employment as senior practical nurse. *Warren v. Montgomery Medical Home*, 95 N.J.A.R.2d (CSV) 136.

Senior practical nurse suspended; chronic, excessive, and unauthorized absences. *Warren v. John L. Montgomery Medical Home*, 95 N.J.A.R.2d (CSV) 136.

Checks and counts made by corrections officer on night of escape attempt at youth facility were not so inconsistent with procedure as to warrant suspension for negligence. *Taylor v. Garden State Reception and Youth Correctional Facility*, 95 N.J.A.R.2d (CSV) 129.

Suspension of senior correction officer not justified; lack of proof of negligence contributing to escape attempt. *Taylor v. Garden State Reception and Youth Correctional Facility*, 95 N.J.A.R.2d (CSV) 129.

Removal of counselor; failure to notify that I.D. card and keys for jail locks were lost or stolen, failure to report of prior arrest, and becoming unduly familiar with inmate. *Robinson v. Burlington County*, 95 N.J.A.R.2d (CSV) 127.

Specified conduct of senior counselor at county jail warranted removal for conduct unbecoming an employee in public service. *Robinson v. Burlington County*, 95 N.J.A.R.2d (CSV) 127.

Failure to follow standard procedures in identification and apprehension of fugitive warranted removal of probation department cashier. *Newkirk v. County of Salem*, 95 N.J.A.R.2d (CSV) 125.

Removal of bookkeeping machine operator; justified. *Newkirk v. County of Salem*, 95 N.J.A.R.2d (CSV) 125.



Lack of veracity and communication skills as drug abuse counselor justified termination. *Memmott v. Department of Health*, 95 N.J.A.R.2d (CSV) 118.

Failure to detect major bypass that allowed untreated sewage to flow into river warranted six-month suspension for sewage plant supervisor. *Lowe v. Municipal Utilities Authority*, 95 N.J.A.R.2d (CSV) 114.

Supervising sewage plant operator's failure to detect bypass of untreated raw sewage; suspension. *Lowe v. Municipal Utilities Authority of the Town of West New York*, 95 N.J.A.R.2d (CSV) 114.

Avoidance after agreeing to random testing for drugs warranted dismissal from public employment. *Kender v. Passaic Valley Water Commission*, 95 N.J.A.R.2d (CSV) 112.

Removal of senior water repairer; refused to submit to drug test mandated by drug policy is justified. *Kender v. Passaic Valley Water Commission*, 95 N.J.A.R.2d (CSV) 112.

Six-day suspension warranted when absent from work as scheduled without permission and without proper notice. *Bucci v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 111.

Institutional trade instructor was justifiably removed from public employment for physical abuse of juvenile in his care. *Jacobs v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 108.

Removal of institutional trade instructor; physical assault of inmate. *Jacobs v. Human Services Department*, 95 N.J.A.R.2d (CSV) 108.

Reference made to non-ambulatory patient as being without a brain was verbal abuse warranting human service assistant's six-month suspension. *Sullivan v. Department of Military & Veterans' Affairs*, 95 N.J.A.R.2d (CSV) 106.

Suspension of human services assistant; verbal abuse of patient. *Sullivan v. Military & Veterans' Affairs Department*, 95 N.J.A.R.2d (CSV) 106.

Removal; employee left assigned work area without notice and permission. *Shoultz v. Camden County*, 95 N.J.A.R.2d (CSV) 104.

Removal was warranted when laborer left assigned work area without notice and without permission of supervisor. *Shoultz v. Camden County*, 95 N.J.A.R.2d (CSV) 104.

Termination; employee unable to perform basic functions. *Sallie v. Department of Transportation*, 95 N.J.A.R.2d (CSV) 100.

Removal of hospital attendant; patient abuse. *Edwards v. Buttonwood Hospital, Burlington County*, 95 N.J.A.R.2d (CSV) 95.

Using false excuse of staff shortage to refuse toilet assistance to patient was sufficient, with prior record, to warrant attendant's removal. *Edwards v. Buttonwood Hospital*, 95 N.J.A.R.2d (CSV) 95.

Act of correction officer in shooting a pregnant fellow officer with a stun gun three times was such irresponsibility as to warrant termination. *Curry v. Burlington County Jail*, 95 N.J.A.R.2d (CSV) 92.

Police officer's incapacity due to mental and physical disability was established by medical evidence and warranted removal. *Pitts v. City of Camden Police*, 95 N.J.A.R.2d (CSV) 89.

Removal justified; police officer incapacitated due to mental disability. *Pitts v. City of Camden Police Department*, 95 N.J.A.R.2d (CSV) 89.

Failure to comply with departmental goal that all firefighters become licensed drivers for backup purposes did not warrant removal under circumstances. *Whittle v. East Orange Fire*, 95 N.J.A.R.2d (CSV) 83.

Suspension of firefighter due to lack of driver's license; not justified. *Whittle v. East Orange Fire Department*, 95 N.J.A.R.2d (CSV) 83.

Medical security officer improperly removed; pulling hair of runaway patient. *Phelps v. Forensic Psychiatric Hospital*, 95 N.J.A.R.2d (CSV) 81.

Decision of supervising medical security officer at psychiatric hospital to subdue unruly patient did not warrant removal for physical abuse. *Phelps v. Forensic Psychiatric Hospital*, 95 N.J.A.R.2d (CSV) 80.

Removal of correction officer; disorderly persons conviction. *New Jersey State Department of Corrections v. Gomez*, 95 N.J.A.R.2d (CSV) 77.

Allegations against hospital attendant, including chronic and excessive absenteeism and insubordination, were established by evidentiary record and justified 30 day suspension. *Dunston v. Buttonwood Hospital*, 95 N.J.A.R.2d (CSV) 59.

Hospital attendant suspended; absenteeism, neglect of duty, and other insufficiencies. *Dunston v. Buttonwood Hospital*, 95 N.J.A.R.2d (CSV) 59.

Excessive absences justified removal of public employee from her position as attendant at hospital. *Amador v. Bergen Pines County Hospital*, 95 N.J.A.R.2d (CSV) 55.

Hospital attendant terminated; excessive absenteeism. *Amador v. Bergen Pines County Hospital*, 95 N.J.A.R.2d (CSV) 55.

Reinstatement was required when removal of water plant operator for failure to fulfill overtime requirements was not justified. *Onori v. City of Burlington*, 95 N.J.A.R.2d (CSV) 53.

County jail employee suspended; refusing mandatory overtime work. *Miranda v. Hudson County Public Safety*, 95 N.J.A.R.2d (CSV) 50.

Refusal of mandatory overtime at county jail by guard was without effectual excuse and warranted suspension. *Miranda v. Hudson County*, 95 N.J.A.R.2d (CSV) 50.

Admitted participation in illegal gambling operation did not warrant removal, but did warrant six-month suspension for employee with otherwise impeccable work record. *Haggerty v. Hudson County Probation Department*, 95 N.J.A.R.2d (CSV) 38, affirmed 95 N.J.A.R.2d (CSA) 240, certification denied 658 A.2d 729, 140 N.J. 329.

Probation officer was suspended; illegal gambling operation. *Haggerty v. Hudson County Probation Department*, 95 N.J.A.R.2d (CSV) 38, affirmed 95 N.J.A.R.2d (CSA) 240, certification denied 658 A.2d 729, 140 N.J. 329.

Failure of training technician to stop mental patients he was supervising from fighting warranted an admonishment, but did not warrant his termination. *Haldeman v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 26.

Removal of Cottage Training Technician because of incident occurring under his charge; not justified. *Haldeman, v. Department of Human Services, Woodbine*, 95 N.J.A.R.2d (CSV) 26.

Failure to obtain driver's license as a condition of employment as youth worker transporting residents in group home was blatant insubordination warranting removal. *Livingston v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 23.

Worker was removed from position for refusing to obtain drivers' license. *Livingston v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 23.

Government employee suspended on the basis of shouting and using threatening language and gestures. *Sigler v. Trenton State College*, 95 N.J.A.R.2d (CSV) 16.

Threatening conduct when combined with remarks about murder warranted six month suspension with counseling. *Sigler v. Trenton State College*, 95 N.J.A.R.2d (CSV) 16.

Boast by male employee of having 'made it' with female co-worker was verbal abuse warranting ten day suspension. *Hall v. North Princeton Developmental Center*, 95 N.J.A.R.2d (CSV) 12.

Employee suspended for verbal mistreatment of co-worker. *Hall v. North Princeton Developmental Center*, 95 N.J.A.R.2d (CSV) 12.

The termination of a Human Services Assistant was rescinded; charges of abuse were not substantiated. *Gibbons v. Dept. Of Human Services, Vineland Developmental Center, 95 N.J.A.R.2d (CSV) 10.*

Repeated absences from work as scheduled without permission and without proper notice warranted removal. *Washington v. Department of Human Services, 95 N.J.A.R.2d (CSV) 1.*

Removal; employee engaged in willful and continuous disregard of Conflicts of Interest Law and Code of Ethics. In the Matter of White, 94 N.J.A.R.2d (CSV) 713.

Termination; physical abuse of client. *Willingham v. Ancora Psychiatric Hospital, 94 N.J.A.R.2d (CSV) 708.*

Termination; disclosure of confidential information from taxpayers' file. *Petrasek v. New Jersey Department of the Treasury, 94 N.J.A.R.2d (CSV) 679.*

Termination; of chronic and excessive absenteeism. *Mindillo v. New Jersey State Prison, 94 N.J.A.R.2d (CSV) 673.*

Suspension; taking sick leave time to drive fiancée to doctor. *Markel v. Burlington County Dept. of Buildings and Grounds, 94 N.J.A.R.2d (CSV) 662.*

Leaving pager unattended and not responding to emergency; termination. *Hamilton v. Monroe Municipal Utilities Authority, 94 N.J.A.R.2d (CSV) 657.*

Conduct during license suspension subject to thirty working day suspension. *Carroll v. Ocean County Department of Roads, 94 N.J.A.R.2d (CSV) 654.*

Nurse; opportunity to successfully complete training course; termination. *Welch v. Preakness Hospital, 94 N.J.A.R.2d (CSV) 651.*

Assault of co-worker; suspension. *Vereen v. Trenton State College, 94 N.J.A.R.2d (CSV) 645.*

Testing positive for controlled substances; terminated. *Tanner v. New Jersey Training School, 94 N.J.A.R.2d (CSV) 642.*

Termination; abuse of client. *Wilson v. North Princeton Developmental Center, 94 N.J.A.R.2d (CSV) 639.*

Employee terminated; drug addiction. *Lu Sane v. Union County Board of Social Services, 94 N.J.A.R.2d (CSV) 637.*

Termination; abuse of client. *Camilo v. North Princeton Developmental Center, 94 N.J.A.R.2d (CSV) 633.*

Removal; employee unable to perform his duties due to medical condition. *Bell v. Hudson County Department of Public Resources, 94 N.J.A.R.2d (CSV) 631.*

Suspension of employee was not justified. *Arroyo v. Department of Public Safety, Hudson County, 94 N.J.A.R.2d (CSV) 629.*

Suspension of prison nurse; guilty of falsification, insubordination and possession of mace on state property. *Headen v. East Jersey State Prison, 94 N.J.A.R.2d (CSV) 623.*

Employee removed; abuse of client. *Stocks v. Department of Human Services, 94 N.J.A.R.2d (CSV) 621.*

Suspension and removal; refusal to obey orders of superior, using vulgar and disrespectful language, and threatening fellow employee. *Green v. City of Trenton, 94 N.J.A.R.2d (CSV) 594.*

Suspension for sleeping on the job was justified. *Allgood v. New Jersey Training School, Jamesburg, 94 N.J.A.R.2d (CSV) 592.*

Termination of public employee with drinking problem was not justified. *Monroe v. Camden County Board of Social Services, 94 N.J.A.R.2d (CSV) 590.*

Rehabilitation according to terms of settlement agreement; reinstatement. *Credle v. Marlboro Psychiatric Hospital, 94 N.J.A.R.2d (CSV) 585, remanded 96 N.J.A.R.2d (CSV) 163.*

Insubordination and vulgar language; suspension. *Ellis v. Essex County Department of Citizen Services, 94 N.J.A.R.2d (CSV) 580.*

Failure to ensure that client was properly received at destination; dismissal. *Clark v. North Princeton Development Center, 94 N.J.A.R.2d (CSV) 576.*

Unbecoming conduct toward a superior and insubordination; penalties. *Cioffi v. City of Long Branch, 94 N.J.A.R.2d (CSV) 573.*

Dismissal of employee was not justified; drug rehabilitation program. *Ogburn v. East Orange Housing Authority, 94 N.J.A.R.2d (CSV) 567.*

Ten day suspension of employee was justified. *Ward v. Greystone Park Psychiatric Hospital, Department of Human Services, 94 N.J.A.R.2d (CSV) 565.*

Dismissal of employee; justified. *Simmons v. New Jersey State Prison, State Department of Corrections, 94 N.J.A.R.2d (CSV) 561, affirmed 96 N.J.A.R.2d (CSV) 165.*

Dismissal; employee was justified when employee failed to return to work after leave of absence. *Mercado v. Human Services Department, Commission for the Blind and Visually Impaired, 94 N.J.A.R.2d (CSV) 557.*

Suspension of youth worker not justified. *Bright v. Department of Human Services, Arthur Brisbane Child Treatment Center, 94 N.J.A.R.2d (CSV) 542.*

Suspension of nurse for insubordination was justified. *Fleming v. Edna Mahan Correctional Facility, 94 N.J.A.R.2d (CSV) 537.*

Suspension of prison employee for thirty (30) days for insubordination was justified. *Balkaran v. Department of Correction, Northern State Prison, 94 N.J.A.R.2d (CSV) 534.*

Fine imposed on police officer who was involved in car accident was excessive. *Durham v. City of Camden, Police Department, 94 N.J.A.R.2d (CSV) 531.*

Suspension was proper; perusing private files. *Rambo v. Rowan College of New Jersey, 94 N.J.A.R.2d (CSV) 517.*

Termination; job performance consistently substandard. *Bryant v. Passaic County Superior Court, 94 N.J.A.R.2d (CSV) 512.*

Termination; employee repeatedly and excessively absent. *Jones v. Buttonwood Hospital, 94 N.J.A.R.2d (CSV) 504.*

Suspension was proper; removing a gun from security without permission, failing to report the loss of gun, and violating administrative regulations relative to safety and security. *Jehn v. Monmouth County Correctional Institution, 94 N.J.A.R.2d (CSV) 502.*

Termination; drug use. *Bryant v. New Jersey Fire Department, 94 N.J.A.R.2d (CSV) 497.*

Termination for assaulting a patient was justified. *Bennett v. Forensic Psychiatric Hospital, 94 N.J.A.R.2d (CSV) 494.*

Sixty-day suspension and completion of sensitivity training program was proper. *Grimaldi v. Vineland Developmental Center, 94 N.J.A.R.2d (CSV) 491.*

Termination; abuse of a client. *Harris v. North Jersey Developmental Center, 94 N.J.A.R.2d (CSV) 483.*

Termination; employee not able to fulfill his job requirements. *Brown v. Freehold Township Department of Public Utilities, 94 N.J.A.R.2d (CSV) 481.*

Two-day suspension was proper when firefighter called in sick in order to work for another employer. *Shoemaker v. South Orange Village Department of Public Safety, 94 N.J.A.R.2d (CSV) 472.*

Suspension; escape of three inmates. *Mayes v. New Jersey Training School, 94 N.J.A.R.2d (CSV) 469.*

Termination of nurse; mitigating factors existed. *Lockett v. Trenton Psychiatric Hospital, 94 N.J.A.R.2d (CSV) 454.*

Termination of correction officer for conduct unbecoming a public employee was proper. *Yannuzzi v. East Jersey State Prison*, 94 N.J.A.R.2d (CSV) 448.

Termination of regional staff nurse was appropriate. *Spector Estate v. DMAHS*, 94 N.J.A.R.2d (CSV) 445.

Equal suspensions; responsibility for fighting or creating a disturbance. *Smith v. Vineland Developmental Center*, 94 N.J.A.R.2d (CSV) 441.

Suspension for conduct unbecoming a public employee was appropriate. *Rinnier v. Department of Transportation*, 94 N.J.A.R.2d (CSV) 440.

Termination; insubordination, conduct unbecoming a public employee, neglect of duty, and other sufficient cause. *Ricchezza v. Maple Shade Township*, 94 N.J.A.R.2d (CSV) 437.

Termination of truck driver; working test period. *Moheban v. Teaneck Township Department of Public Works*, 94 N.J.A.R.2d (CSV) 434.

Termination; procedure regarding extended leave. *Hiteshew v. Buttonwood Hospital*, 94 N.J.A.R.2d (CSV) 430.

Suspension for conduct unbecoming a public employee was appropriate. *Brown v. Department of Labor*, 94 N.J.A.R.2d (CSV) 428.

Termination for physical abuse of a patient was proper. *Strozier v. Forensic Psychiatric Hospital*, 94 N.J.A.R.2d (CSV) 423.

Suspension of clerk-typist for conduct unbecoming a public employee was appropriate sanction. *Selph v. Newark Housing Authority*, 94 N.J.A.R.2d (CSV) 420.

Police officer did not neglect his duty by failing to respond to a stabbing. *Lewis v. Jersey City Police Department*, 94 N.J.A.R.2d (CSV) 407.

Termination of cottage training technician was appropriate. *Childs v. Vineland Developmental Center*, 94 N.J.A.R.2d (CSV) 405.

Suspension of police officer; absent from work without authorization. *Ward v. Atlantic City Police Department*, 94 N.J.A.R.2d (CSV) 399.

Custodian was properly terminated; excessive absenteeism. In the Matter of the Tenure Hearing of *Derrick Exum*, 94 N.J.A.R.2d (EDU) 390.

Providing residents of juvenile corrections facility with screwdriver; youth worker's removal. *Treat v. Ocean Residential Group*, 94 N.J.A.R.2d (CSV) 384.

Removal; testing positive for drug use. *Damion v. Lacey Township Department of Public Works*, 94 N.J.A.R.2d (CSV) 379.

Suspension; verbal and mental abuse. *Cooper v. Warran County Welfare Board*, 94 N.J.A.R.2d (CSV) 373.

Absenteeism; termination. *Carmichael v. Mercer County Youth Detention Center*, 94 N.J.A.R.2d (CSV) 371.

Spanking of child of welfare client constituted conduct unbecoming a public employee; suspension. *Bryant v. Cumberland County Welfare Agency*, 94 N.J.A.R.2d (CSV) 369.

Suspension; disruptive behavior. *Brooks v. Brisbane Child Treatment Center*, 94 N.J.A.R.2d (CSV) 361.

Security guard's use of derogatory language towards police captain was not conduct unbecoming a public employee; suspension not justified. *Belfiore v. Union County Department of Public Safety*, 94 N.J.A.R.2d (CSV) 356.

Unexcused absence; removal. *Thomas v. Camden County Sheriff's Department*, 94 N.J.A.R.2d (CSV) 354.

Failure to file tardiness slip upon late arrival was justified precluding suspension. *Silverman v. Adult Diagnostic and Treatment Center*, 94 N.J.A.R.2d (CSV) 351.

Neglect of duty warranted removal. *Hall v. Department of Human Services*, 94 N.J.A.R.2d (CSV) 339.

Training technician created disturbance on state property; suspension. *Duncan v. New Lisbon Developmental Center*, 94 N.J.A.R.2d (CSV) 336.

Psychiatric hospital employee's suspension was reasonable; common decency. *Cochrane v. Greystone Park Psychiatric Hospital*, 94 N.J.A.R.2d (CSV) 334.

Psychiatric hospital employee properly removed; physical abuse. *Butler v. Marlboro Psychiatric Hospital*, 94 N.J.A.R.2d (CSV) 328.

Threatening retaliation for suspension constituted conduct unbecoming a public employee; removal. *Brown v. Department of Corrections*, 94 N.J.A.R.2d (CSV) 324.

Leaving clients unsupervised was neglect of duty; suspension. *Boyd v. Vineland Developmental Center*, 94 N.J.A.R.2d (CSV) 322.

Assistant comptroller's demotion to senior account clerk for incomplete or inaccurate accounting procedures was not justified. *Berg v. Bergen County Sheriff's Department*, 94 N.J.A.R.2d (CSV) 305.

Removal of case worker not justified; alleged failure to diligently supervise a client. *Minor v. New Lisbon Development Center*, 94 N.J.A.R.2d (CSV) 282.

Demotion from police sergeant to police officer was warranted. *Lloyd v. Atlantic City Police Department*, 94 N.J.A.R.2d (CSV) 277.

Juvenile inmate's escape was not solely result of youth worker's neglect; suspension. *Ingrum v. Southern Regional Group Center*, 94 N.J.A.R.2d (CSV) 275.

Thirty-day suspension of cottage training technician for neglect of duty was not justified. *Rudolph v. New Lisbon Developmental Center*, 94 N.J.A.R.2d (CSV) 252.

Neglect of assigned post; dismissal of senior corrections officer. *Rodriguez v. Adult Diagnostic and Treatment Center*, 94 N.J.A.R.2d (CSV) 248.

Drowning death of client; negligence warranting dismissal. *McGhee v. New Lisbon Developmental Center*, 94 N.J.A.R.2d (CSV) 224.

Developmental center training technician was not negligent. *Lloyd v. New Lisbon Developmental Center*, 94 N.J.A.R.2d (CSV) 202.

Equipment operator could safely perform job duties despite neurological injuries. *James v. Department of Transportation*, 94 N.J.A.R.2d (CSV) 197.

Suspension; refusal of mandatory overtime and neglect of duty. *Gloster v. Ramapo College*, 94 N.J.A.R.2d (CSV) 193.

Reinstatement of developmental center employee was warranted. *Emmons v. New Lisbon Developmental Center*, 94 N.J.A.R.2d (CSV) 186.

Drivers' license suspension; termination without accommodation. *Dean v. Treasure Department*, 94 N.J.A.R.2d (CSV) 177.

Accidental drowning involved no negligence. *Castillo v. New Lisbon Developmental Center*, 94 N.J.A.R.2d (CSV) 150.

Termination; negligence in accidental death. *Bozzarello v. North Princeton Developmental Center*, 94 N.J.A.R.2d (CSV) 147.

Prior work history justified reduction of suspension. *Ball v. Woodbridge Developmental Center*, 94 N.J.A.R.2d (CSV) 145.

Drug use; dismissal. *Ayers v. New Jersey Training School*, 94 N.J.A.R.2d (CSV) 141.

Dismissal; excessive absenteeism. *Webb v. Camden County Health Services*, 94 N.J.A.R.2d (CSV) 140.

Assault and conduct unbecoming a public employee warranted dismissal. *Jolcoeur v. Morris View Nursing Home*, 94 N.J.A.R.2d (CSV) 132.

Heroin addiction not a mitigating factor; conditional reinstatement following suspension. *Fisher v. Union County Division of Social Services*, 94 N.J.A.R.2d (CSV) 125.

Conditional reinstatement following suspension of firefighter was proper penalty. *Ward v. Elizabeth City Fire Department*, 94 N.J.A.R.2d (CSV) 122.

Dismissal of residential living specialist was justified. *Johnson v. North Princeton Developmental Center*, 94 N.J.A.R.2d (CSV) 119.

Termination of sanitation worker for neglect of duties, chronic or excessive absenteeism, and inability to perform duties was justified. *Jurkiewicz v. Sayreville Borough Road and Sanitation Department*, 94 N.J.A.R.2d (CSV) 114.

Termination of correction officer for conduct unbecoming a public employee was justified. *Calzaretta v. East Jersey State Prison*, 94 N.J.A.R.2d (CSV) 106.

Termination of chronically absent or late laborer was justified. *Bonham v. Brick Township Public Works Department*, 94 N.J.A.R.2d (CSV) 103.

Termination of employee was justified when employee assaulted co-employee. *Bogon v. Woodbine Developmental Center*, 94 N.J.A.R.2d (CSV) 101.

Termination of correction officer for insubordination, assaulting or resisting authority, disrespect or use of insulting or abusive language to a supervisor, and conduct unbecoming a public employee was justified. *Bayan v. Garden State Reception and Youth Correctional Facility*, 94 N.J.A.R.2d (CSV) 98.

Suspension of building maintenance worker for neglect of duties, insubordination, and conduct unbecoming a public employee was justified. *Richards v. Camden County Health Services Center*, 94 N.J.A.R.2d (CSV) 90.

Termination of hospital attendant was justified. *Halpin v. Bergen Pines County Hospital*, 94 N.J.A.R.2d (CSV) 83.

Indefinite suspension of pharmacist without pay pending disposition of criminal charges was appropriate. *Grillo v. Bergen Pines County Hospital*, 94 N.J.A.R.2d (CSV) 81.

Neglect of duty, insubordination and conduct unbecoming a public employee; removal. *Donnelly v. Hudson County Department of Public Safety*, 94 N.J.A.R.2d (CSV) 75.

Termination of correction officer for conduct unbecoming a public employee, neglect of duty, insubordination, and attendance violations was justified. *Donnelly v. Hudson County Department of Public Safety*, 94 N.J.A.R.2d (CSV) 75.

Termination of security guard was justified. *Babbs v. Newark Board of Education*, 94 N.J.A.R.2d (CSV) 71.

Illegal entry; insubordination; maximum suspension penalty. *Babbs v. Newark Board of Education*, 94 N.J.A.R.2d (CSV) 71.

Neglect of duty and improper performance established good cause for removal. *Jackson Township v. McKenna*, 94 N.J.A.R.2d (CAF) 69.

Thirty-day suspension of correction officer was reasonable. *Taylor v. Adult Diagnostic and Treatment Center*, 94 N.J.A.R.2d (CSV) 62.

Termination of sheriff's officer for neglect of duty was justified. *McClellan v. Passaic County Sheriff's Department*, 94 N.J.A.R.2d (CSV) 59.

Termination of institutional attendant for conduct unbecoming a public employee was justified. *Marcelus v. Geraldine L. Thompson Medical Home*, 94 N.J.A.R.2d (CSV) 57.

Termination of heavy laborer was justified. *Hommel v. Woodbridge Township Public Works Department*, 94 N.J.A.R.2d (CSV) 52.

Correction officer was properly removed from position for conduct unbecoming a public employee. *Harrison v. Northern State Prison*, 94 N.J.A.R.2d (CSV) 51.

Termination of building maintenance worker was justified. *Hammond v. Hunterdon County Department of Building and Maintenance*, 94 N.J.A.R.2d (CSV) 47, affirmed 96 N.J.A.R.2d (CSV) 163.

Thirty-day suspension without pay of gardener charged with conduct unbecoming a public employee was justified. *Duckworth v. Lawrence Township Department of Public Works*, 94 N.J.A.R.2d (CSV) 45.

Termination of licensed practical nurse for conduct unbecoming a public employee was justified. *Brown v. Trenton Psychiatric Hospital*, 94 N.J.A.R.2d (CSV) 41.

Termination of garbage truck driver was justified. *Brewington v. Ridgewood Village*, 94 N.J.A.R.2d (CSV) 39.

Reinstatement following four-month suspension upon completion of an alcohol rehabilitation program was appropriate sanction. *McGill v. Essex County Public Safety Department*, 94 N.J.A.R.2d (CSV) 31.

Conviction of simple assault; insufficient to support senior correction officer's termination. *Ross v. Riverfront State Prison*, 94 N.J.A.R.2d (CSV) 27.

Suspension; insubordination, conduct unbecoming a public employee, and neglect of duty. *Lipski v. Meadowview Hospital*, 94 N.J.A.R.2d (CSV) 17.

Termination not justified; insubordination, conduct unbecoming a public employee, conduct unbecoming to a public official, and neglect of duty. *Olivo v. Town of Newton*, 94 N.J.A.R.2d (CSV) 7, affirmed 95 N.J.A.R.2d (CSV) 223.

Tax collector's refusal to comply with new business hours; cause for suspension without pay. *Newfield Borough v. Moynihan*, 94 N.J.A.R.2d (CAF) 2.

Termination; use of unjustified and excessive force on a prisoner. *Division of State Police v. Jiras*, 94 N.J.A.R.2d (POL) 1, remanded 96 N.J.A.R.2d (POL) 1.

Employee of psychiatric hospital was properly suspended for neglect of duty. *Scott v. Trenton Psychiatric Hospital*, 93 N.J.A.R.2d (CSV) 777.

Removal of employee for inability to perform his duties was justified. *Nagy v. Bergen County Utilities Authority*, 93 N.J.A.R.2d (CSV) 773.

Removal of maintenance worker was warranted for conduct unbecoming a public employee. *Dixon v. Newark Housing Authority*, 93 N.J.A.R.2d (CSV) 771.

Removal of Housing Authority security chief was warranted. *Dietrich v. Newark Housing Authority*, 93 N.J.A.R.2d (CSV) 767.

Termination of sheriff's officer was warranted. *Davenport v. Passaic County Sheriff's Office*, 93 N.J.A.R.2d (CSV) 763.

Fifteen-day, rather than twenty-day, suspension of hospital ward clerk was justified. *Ravello v. Meadowview Hospital*, 93 N.J.A.R.2d (CSV) 761.

Removal of veterans' home employee was justified. *Pryce v. Veterans' Memorial Home*, 93 N.J.A.R.2d (CSV) 759.

Tenured chief school custodian was guilty of charges of neglect, insubordination, and inappropriate behavior. *Paterson School District v. Cox*, 93 N.J.A.R.2d (EDU) 748.

Evidence failed to show that police lieutenant obtained favors by reason of his position. *Grasso v. Sea Isle City*, 93 N.J.A.R.2d (CSV) 747.

Prison employee's possession of controlled substance justified his termination. *Williams v. Wagner Youth Correctional Center*, 93 N.J.A.R.2d (CSV) 745.

Force used by human services technician against patient was not unreasonable. *Love v. Marlboro Psychiatric Hospital*, 93 N.J.A.R.2d (CSV) 738.



Termination of employee was warranted. *James v. Department of Human Services, North Princeton Development Center, 93 N.J.A.R.2d (CSV) 734.*

Termination of food service worker was warranted. *Goins v. New Jersey Veterans' Memorial Home, 93 N.J.A.R.2d (CSV) 732.*

County employee was properly suspended for unauthorized absence. *Gfroehrer v. Meadowview Hospital, 93 N.J.A.R.2d (CSV) 727.*

Nurse was properly terminated for incompetency, inefficiency, failure to perform duties, and neglect of duty. *Caldwell v. B.S. Pollak Hospital, 93 N.J.A.R.2d (CSV) 722.*

Removal of nurse warranted. *Caldwell v. U.S. Pollak Hospital, 93 N.J.A.R.2d (CSV) 722.*

Use, possession, or sale of controlled substance warranted the sanction of removal. *Troutman v. East Jersey State Prison, 93 N.J.A.R.2d (CSV) 710.*

Termination for absenteeism. *Williams v. Bergen Pines County Hospital, 93 N.J.A.R.2d (CSV) 700.*

Religious slur constituted conduct unbecoming public employee; 15-day suspension. *Tress v. Burlington County Department of Health, 93 N.J.A.R.2d (CSV) 698.*

Maintenance worker properly removed for conduct unbecoming a public employee. *Shetter v. Burlington County Department of Buildings and Grounds, 93 N.J.A.R.2d (CSV) 696.*

Conservation officer was properly suspended for conduct unbecoming a state employee. *Oates v. Division of Fish, Game, and Wildlife, 93 N.J.A.R.2d (CSV) 686.*

Abuse of patients warranted employee's removal. *Moore v. New Jersey Veterans Memorial Home, 93 N.J.A.R.2d (CSV) 680.*

Employee properly removed for conduct unbecoming a public employee and insubordination. *McCorry v. Hudson County, 93 N.J.A.R.2d (CSV) 677.*

Six-month suspension appropriate for abuse of nursing home patient. *Lyew v. Morris View Nursing Home, 93 N.J.A.R.2d (CSV) 673, affirmed 94 N.J.A.R.2d (CSV) 718.*

Police officer guilty of chronic or excessive absenteeism. *Gugliotta v. Newark Police Department, 93 N.J.A.R.2d (CSV) 667.*

Six-month suspension appropriate for insubordination. *Grant v. Vineland Developmental Center, 93 N.J.A.R.2d (CSV) 663.*

Accident occurred, not an intentional infliction of harm to a resident; removal not justified. *Dozier v. Woodbine Developmental Center, 93 N.J.A.R.2d (CSV) 660.*

Removal of truck driver; absenteeism. *Cottrell v. North Brunswick Township Department of Public Works, 93 N.J.A.R.2d (CSV) 659.*

Three-month suspension was appropriate penalty for hospital employee's inattention to duties. *Bland v. Buttonwood Hospital, 93 N.J.A.R.2d (CSV) 611.*

Thirty-day suspension of correction officer was warranted. *Abercrombie v. New Jersey Training School, 93 N.J.A.R.2d (CSV) 608.*

Cook properly suspended for failing to secure and account for knives. *Gonshor v. Edna Mahan Correctional Facility, 93 N.J.A.R.2d (CSV) 603.*

Twenty-day suspension of correction officer; unsatisfactory attendance. *Epps v. Burlington County Jail, 93 N.J.A.R.2d (CSV) 601.*

Removal of social service aid was warranted. *Wright v. Passaic County Board of Social Services, 93 N.J.A.R.2d (CSV) 596.*

Removal of court clerk was warranted. *Marshall v. City of Millville, 93 N.J.A.R.2d (CSV) 590.*

Removal of psychiatric hospital employee; beating patient. *Edmonds v. Ancora Psychiatric Hospital, 93 N.J.A.R.2d (CSV) 582.*

Six-month suspension; failure to follow orders. *Bolden v. Hudson County Office on Aging, 93 N.J.A.R.2d (CSV) 574.*

Conduct unbecoming an officer and a gentleman warranted a 30-day suspension. *Biernacki v. Harrison Police Department, 93 N.J.A.R.2d (CSV) 567.*

Removal of school custodian justified. In the Matter of the Tenure Hearing of Gwinnett, 93 N.J.A.R.2d (EDU) 563.

Refusal to remain in presence of superior officer for purpose of investigating inferior officer's intoxication; termination. *Snyder v. Atlantic County Sheriff's Office, 93 N.J.A.R.2d (CSV) 551.*

Removal warranted for leaving client without supervision or permission. *Scott v. Trenton Psychiatric Hospital, 93 N.J.A.R.2d (CSV) 549.*

Employee properly removed; threatening harm to supervisor. *Liddle v. Morristown Department of Public Works, 93 N.J.A.R.2d (CSV) 536.*

Physical and verbal abuse justified removal. *Forman v. Woodbine Developmental Center, 93 N.J.A.R.2d (CSV) 525.*

Six-month suspension; hitting client with shoe. *Bates v. Vineland Developmental Center, 93 N.J.A.R.2d (CSV) 507.*

Removal of police officer warranted; warrants against his girlfriend. *Williams v. Camden Police Department, 93 N.J.A.R.2d (CSV) 497.*

Ten-day suspension was appropriate penalty for conduct unbecoming officer. *Shoudt v. Mountainview Youth Correctional Facility, 93 N.J.A.R.2d (CSV) 491.*

Suspension was appropriate sanction for failure to timely submit medical documentation. *Long v. Wagner Correctional Facility, 93 N.J.A.R.2d (CSV) 477.*

Corrections captain divulged confidential information without authority. *Johnson v. Wagner Correctional Facility, 93 N.J.A.R.2d (CSV) 474.*

File clerk was improperly suspended for insubordination for expressing concerns about transfer. *DeRois v. Burlington County Prosecutor's Office, 93 N.J.A.R.2d (CSV) 472.*

Termination not excessive for habitual tardiness and absenteeism. *Davenport v. Bergen County Pines Hospital, 93 N.J.A.R.2d (CSV) 469.*

Removal of firefighter warranted. *Corbin v. City of Asbury Park, 93 N.J.A.R.2d (CSV) 466.*

Corrections officer at youth facility removed. *Bazemore v. Wagner Youth Correctional Facility, 93 N.J.A.R.2d (CSV) 461.*

Six-day suspension warranted for time card violation. *Pinkerton v. Burlington County Department of Buildings and Grounds, 93 N.J.A.R.2d (CSV) 455.*

Carelessness in bathing client warranted official reprimand rather than suspension. *Taylor v. Vineland Developmental Center, 93 N.J.A.R.2d (CSV) 450.*

Neglect of duty and violation of policy regarding key accountability warranted a six-day suspension. *Rudrow v. Burlington County Juvenile Detention Center, 93 N.J.A.R.2d (CSV) 447.*

Correction lieutenant committed conduct unbecoming a public employee; 20-day suspension. *Heaney v. Edna Mahan Correctional Facility, 93 N.J.A.R.2d (CSV) 444.*

Removal warranted for act of neglect of duty resulting in serious injury and for intentional misstatement in connection with investigation. *Jones v. Monmouth County Personnel Department, 93 N.J.A.R.2d (CSV) 436.*

Fifteen-day suspension was warranted for failing to report to work after the end of prior suspension. *Finn v. Burlington County Jail, 93 N.J.A.R.2d (CSV) 430.*

Unauthorized absence warranted removal. *Carr v. East Jersey State Prison, 93 N.J.A.R.2d (CSV) 426.*



Verbal abuse of client did not warrant suspension; training of staff of the institution ordered. *Onaiwa v. Green Brook Regional Center*, 93 N.J.A.R.2d (CSV) 423.

Detention center; 20-second confrontation; neglect of duty. *N.J.S.A. 11A:2-21. Singletary v. Passaic County Juvenile Detention Center*, 93 N.J.A.R.2d (CSV) 418.

Officer's conduct was not neglect of duty. *Singletary v. Passaic County Juvenile Detention Center*, 93 N.J.A.R.2d (CSV) 418.

Suspension of motor broom laborer for conduct unbecoming a public employee was justified. *Grant v. Department of Engineering, City of Newark*, 93 N.J.A.R.2d (CSV) 415.

Conduct unbecoming public employee warranted a 20-day suspension. *Grant v. Newark Department of Engineering*, 93 N.J.A.R.2d (CSV) 415.

Removal of fire alarm operator was justified. *Docherty v. Fire Dept., City of Paterson*, 93 N.J.A.R.2d (CSV) 403.

Failure to perform duties, insubordination, conduct unbecoming public employee, and neglect of duty warranted removal. *Docherty v. Paterson Fire Department*, 93 N.J.A.R.2d (CSV) 403.

Medical unfitness warranted removal of correction officer trainee. *Abreu v. Passaic County Sheriff's Department*, 93 N.J.A.R.2d (CSV) 377.

School custodial worker's conduct constituted sexual harassment warranting removal. *Williams v. Newark Board of Education*, 93 N.J.A.R.2d (CSV) 371.

School custodial worker was properly removed. *Spencer v. Newark Board of Education*, 93 N.J.A.R.2d (CSV) 368.

Removal of municipal employee warranted. *Larkin v. Atlantic City*, 93 N.J.A.R.2d (CSV) 362.

Removal of correction officers warranted. *Higgins v. Department of Corrections*, 93 N.J.A.R.2d (CSV) 358.

Evidence did not show physical abuse of client; removal not warranted. *Gadson v. Ancora Developmental Center*, 93 N.J.A.R.2d (CSV) 354.

Absence from work and delay in producing doctor's note did not justify disciplinary action. *Davis v. Hudson County*, 93 N.J.A.R.2d (CSV) 352.

Removal of female correction officer was warranted. *Barksdale v. Mahan Correctional Facility*, 93 N.J.A.R.2d (CSV) 347.

Removal of nurse was warranted for neglect of duty. *Thompson v. Hunterdon Developmental Center*, 93 N.J.A.R.2d (CSV) 342.

Fighting and creating disturbance on state property, and insubordination, warranted removal. *Holmes v. North Princeton Development Center*, 93 N.J.A.R.2d (CSV) 335.

Absenteeism warranted removal. *Christian v. Newark Board of Education*, 93 N.J.A.R.2d (CSV) 326.

City public housing manager's failure to enforce regulation warranted removal. *Young v. Camden Housing Authority*, 93 N.J.A.R.2d (CSV) 322.

Abuse of patient warranted removal. *Williams v. Marlboro Psychiatric Hospital*, 93 N.J.A.R.2d (CSV) 320.

Failure to provide medical documentation for absences warranted removal. *Junna v. Atlantic County Department of Public Works*, 93 N.J.A.R.2d (CSV) 310.

Lateness, sleeping on duty, and neglect of duty warranted removal. *Washington v. Camden Police Department*, 93 N.J.A.R.2d (CSV) 306.

Failure to obey supervisor warranted written reprimand. *Senape v. Middlesex County Adult Corrections*, 93 N.J.A.R.2d (CSV) 305.

Failure to cooperate with an investigation warranted suspension. *Simmons v. Essex County Jail*, 93 N.J.A.R.2d (CSV) 300.

Failure to complete training course warranted removal of county correction officer. *Schmeltz v. Bergen County Sheriff's Department*, 93 N.J.A.R.2d (CSV) 297.

Absenteeism warranted removal of hospital worker. *Scarborough v. Bergen Pines County Hospital*, 93 N.J.A.R.2d (CSV) 295.

Removal of correction officer warranted. *Reed v. Department of Adult Corrections*, 93 N.J.A.R.2d (CSV) 293.

Removal of incapacitated correction officer unable to discharge his duties. *Pittman v. Mid-State Correctional Facility*, 93 N.J.A.R.2d (CSV) 291.

Physical contact with client, even if improper, did not warrant termination of youth worker. *Blair v. Arthur Brisbane Child Treatment Center*, 93 N.J.A.R.2d (CSV) 285.

Dismissal of corrections officer unable to complete training course was unreasonable and arbitrary. *Abate v. Passaic County Sheriff's Department*, 93 N.J.A.R.2d (CSV) 283.

Corrections officer not shown to have violated video camera policy; suspension was unwarranted. *Reynolds v. Albert C. Wagner Youth Correctional Facility*, 93 N.J.A.R.2d (CSV) 278.

Conduct unbecoming a public employee, insubordination, and neglect of duty warranted twenty-day suspension. *Grimsley v. Newark Board of Education*, 93 N.J.A.R.2d (CSV) 276.

Fifteen-day suspension was warranted for bus attendant's failure to discover child left on assigned bus. *Utsey v. Newark Board of Education*, 93 N.J.A.R.2d (CSV) 265.

Leave without pay and reinstatement subject to random drug testing appropriate for admitted drug use followed by completion of rehabilitation program. *Sims v. Garden State Reception and Youth Correctional Facility*, 93 N.J.A.R.2d (CSV) 262.

Neglect of duty warranted thirty-day suspension. *Billington v. Department of Corrections*, 93 N.J.A.R.2d (CSV) 259.

Fifteen-day suspension appropriate for police officer's interference with paramedic. *Villane v. Aberdeen Township Police Department*, 93 N.J.A.R.2d (CSV) 255.

Absenteeism warranted removal. *Smith v. John L. Montgomery Medical Home*, 93 N.J.A.R.2d (CSV) 253.

Termination for argument was not warranted. *Johnson v. Vineland Developmental Center*, 93 N.J.A.R.2d (CSV) 250.

Twenty-day suspension of correction officer warranted for insubordination. *Jackson v. New Jersey State Prison*, 93 N.J.A.R.2d (CSV) 247.

Suspension warranted for obscenities and refusing order. *Felton v. Department of Environmental Protection and Energy*, 93 N.J.A.R.2d (CSV) 244.

Removal warranted for purchase and possession of cocaine. *Cottan v. Paterson Public Works Department*, 93 N.J.A.R.2d (CSV) 239.

Twenty-day suspension warranted; unauthorized absences. *Richardson v. North Princeton Developmental Center*, 93 N.J.A.R.2d (CSV) 217.

Removal was warranted for insubordination and for incapability of performing duties. *McTernan v. Belmar Borough Municipal Court*, 93 N.J.A.R.2d (CSV) 203.

Removal of human services assistant was warranted. *Jackson v. E.R. Johnstone Training and Research Center*, 93 N.J.A.R.2d (CSV) 195.

Use of state vehicle could not be characterized as unauthorized. *Fritze v. State Department of Health*, 93 N.J.A.R.2d (CSV) 191.

Removal of institutional attendant was warranted. *Baker v. Cumberland County*, 93 N.J.A.R.2d (CSV) 189.

Three-day suspension of private plan hearing officer was justified. *Morley v. New Jersey Department of Labor*, 93 N.J.A.R.2d (CSV) 174.

Removal of hospital employees was justified. *Ellis v. B.S. Pollak Hospital*, 93 N.J.A.R.2d (CSV) 170.

Twenty-day suspension of Division of Motor Vehicles supervisor was warranted. *Carluccio v. Division of Motor Vehicles*, 93 N.J.A.R.2d (CSV) 167.

Physical abuse of client warranted suspension. *Ruzicka v. Hunterdon Developmental Center*, 93 N.J.A.R.2d (CSV) 160.

Removal warranted for driving public vehicle without permission when driver's license was suspended. *Bailey v. Montclair State College*, 93 N.J.A.R.2d (CSV) 158.

Removal of correction officer was warranted. *Tyre v. Passaic County Jail*, 93 N.J.A.R.2d (CSV) 155.

Four-month suspension; insubordination. *Ramos v. Preakness Hospital*, 93 N.J.A.R.2d (CSV) 152.

Patient abuse warranted removal. *Felthoff v. New Lisbon Developmental Center*, 93 N.J.A.R.2d (CSV) 149.

Absence warranted suspension. *McHugh v. Maurice River Board of Education*, 93 N.J.A.R.2d (CSV) 145.

Removal warranted for absenteeism. *Davis v. Jersey City School District*, 93 N.J.A.R.2d (CSV) 135.

Negotiating pay check twice warranted removal. *Costello v. Ocean County Board of Social Security*, 93 N.J.A.R.2d (CSV) 129.

Suspension was warranted for theft of public property. *Christian v. Newark Housing Authority*, 93 N.J.A.R.2d (CSV) 124.

Repeated tardiness warranted removal. *Brooks v. Woodbine Developmental Center*, 93 N.J.A.R.2d (CSV) 123.

Demotion following a six-month suspension was appropriate penalty. *Brogel v. Mercer County Department of Public Works*, 93 N.J.A.R.2d (CSV) 117.

Sleeping on duty warranted thirty-day suspension. *Allison v. New Jersey State Prison*, 93 N.J.A.R.2d (CSV) 114.

Indefinite suspension appropriate for purchase of controlled substance. *Mecouch v. Rowan College of New Jersey*, 93 N.J.A.R.2d (CSV) 106.

Written reprimand and counseling was appropriate for failure to timely appear at hearing. *Scrutchins v. Division of Youth and Family Services*, 93 N.J.A.R.2d (CSV) 89.

Patient abuse warranted four-month suspension. *Milton v. Trenton Psychiatric Hospital*, 93 N.J.A.R.2d (CSV) 87.

Termination warranted. *Sapp v. Department of Corrections*, 93 N.J.A.R.2d (CSV) 79.

Suspension warranted for drug offense. *Rakus v. Department of Public Works*, 93 N.J.A.R.2d (CSV) 75.

Suspension warranted for fighting. *Perez v. City of Newark*, 93 N.J.A.R.2d (CSV) 73.

Ten-day suspension warranted. *Herman v. City of Trenton*, 93 N.J.A.R.2d (CSV) 70.

Removal of employee warranted for insubordination. *Green v. Paramus New Jersey Veterans' Memorial Home*, 93 N.J.A.R.2d (CSV) 66.

Psychiatric hospital failed to prove abuse of patient. *Carter v. Ancora Psychiatric Hospital*, 93 N.J.A.R.2d (CSV) 58.

Patient abuse warranted removal. *Boone v. North Princeton Developmental Center*, 93 N.J.A.R.2d (CSV) 52.

State trooper dismissed for drug violations and violations of regulations relating to use of troop transportation, consumption of alcoholic

beverages and solicitation of funds. *Division of State Police v. Hall*, 93 N.J.A.R.2d (POL) 33.

Alleged violation of domestic restraining order did not constitute conduct unbecoming a public employee. *Boston v. Southern State Correctional Facility*, 93 N.J.A.R.2d (CSV) 26.

State trooper suspended for six months. *Division of State Police v. Buhan*, 93 N.J.A.R.2d (POL) 23.

Discipline warranted for conduct at the work site during suspension. *Scott v. City of Newark, Department of General Services*, 93 N.J.A.R.2d (CSV) 21.

Removal was warranted for failure to perform duties and insubordination. *Mixon v. Cumberland Manor, Cumberland County*, 93 N.J.A.R.2d (CSV) 19.

Demotion of clerk was warranted. *Davion v. Middlesex County Board of Social Services*, 93 N.J.A.R.2d (CSV) 13.

Demotion was improper for violation of sick leave policy where officer submitted proof of his illness when asked for proof. *Beiker v. Camden County Sheriff's Office*, 93 N.J.A.R.2d (CSV) 5.

Suspension was appropriate sanction for failure to notify employer of absence from work. *Miller v. State Department of Health*, 93 N.J.A.R.2d (CSV) 1.

Removal; sleeping on duty. *Tindall v. New Lisbon Developmental Center*, 92 N.J.A.R.2d (CSV) 830.

Removal; excessive use of sick time. *Slaughter v. Southern State Correctional Facility*, 92 N.J.A.R.2d (CSV) 814.

Performance assessment review; not racially motivated. *Sallie v. New Jersey Department of Transportation*, 92 N.J.A.R.2d (CSV) 811.

Removal; abuse of a patient. *Ruiz v. Greystone Park Psychiatric Hospital*, 92 N.J.A.R.2d (CSV) 808.

Twenty-day subsequent removal; insubordination. *Newark Board of Education v. Khalifa*, 92 N.J.A.R.2d (CSV) 804.

Removal; missing eight days without permission. *Johnson v. East Jersey State Prison*, 92 N.J.A.R.2d (CSV) 800.

Random drug testing; constitutional rights. *Delli Santi v. Fire Department, City of New York*, 92 N.J.A.R.2d (CSV) 785.

Conduct did not constitute physical abuse of a client; removal not justified. *Allen v. Woodbine Developmental Center*, 92 N.J.A.R.2d (CSV) 776.

Eight-day suspension; violations of sick leave policy. *Gugliotta v. Newark Police Department*, 92 N.J.A.R.2d (CSV) 772.

Six-day suspension of county correction officer was warranted. *Smith v. Burlington County Jail*, 92 N.J.A.R.2d (CSV) 766.

Removal; improper or unauthorized contact with inmate. *Fariello v. New Jersey State Prison*, 92 N.J.A.R.2d (CSV) 755.

Removal; excessive absenteeism and lateness. *Terrell v. Newark Housing Authority*, 92 N.J.A.R.2d (CSV) 750.

Removal of correction officer was warranted. *Edwards v. East Jersey State Prison, Department of Corrections*, 92 N.J.A.R.2d (CSV) 734.

Fine of 15 days' pay; failure to deliver medications. *Dye v. Union County Division of Youth Services*, 92 N.J.A.R.2d (CSV) 729.

Six-month suspension; poor attendance. *Dukes v. Buttonwood Hospital, Burlington County*, 92 N.J.A.R.2d (CSV) 726.

Removal; testing positive for marijuana and cocaine. *Drake v. Essex County Jail*, 92 N.J.A.R.2d (CSV) 724.

Removal; threatening, intimidating, and verbally abusing supervisor. *Chester v. Department of Human Services*, 92 N.J.A.R.2d (CSV) 720.

Removal; falsification of records and excessive absenteeism. *Ascone v. North Bergen Housing Authority*, 92 N.J.A.R.2d (CSV) 716.

Removal; absence without leave. *Abdul v. City of Newark Board of Education*, 92 N.J.A.R.2d (CSV) 714.

Refusal to answer questions during interrogation was not insubordination. *Zitzman v. Mountainview Youth Correctional Facility*, 92 N.J.A.R.2d (CSV) 711.

Removal; criminal sexual assault. *Slater v. Bergen County Sheriff's Office*, 92 N.J.A.R.2d (CSV) 699.

Corrections officer who voluntarily sought treatment would not be removed. *Register v. Lloyd McCorkle Training School*, 92 N.J.A.R.2d (CSV) 697.

Removal warranted; shattering window of city vehicle. *Murtha v. Bayonne Engineering Department*, 92 N.J.A.R.2d (CSV) 694.

Suspension rather than removal; neglect of duties. *Lowe v. E.R. Johnstone Training and Research Center*, 92 N.J.A.R.2d (CSV) 688.

Ten-day suspension; absence from work. *Love v. Marlboro Psychiatric Hospital*, 92 N.J.A.R.2d (CSV) 686.

City was not justified in removing accrued vacation. *Kredatus v. City of Clifton*, 92 N.J.A.R.2d (CSV) 682.

Twenty-one day suspension; sleeping on duty. *Dukich v. East Jersey State Prison*, 92 N.J.A.R.2d (CSV) 671.

Thirty-day suspension; negligent inattentiveness to duties. *Curtis v. Riverfront State Prison*, 92 N.J.A.R.2d (CSV) 669.

Removal of correction officer recruit; testing positive for cocaine. *Bethea v. Department of Corrections*, 92 N.J.A.R.2d (CSV) 655.

Thirty-day suspension; striking inmate. *Abercrombie v. Department of Corrections*, 92 N.J.A.R.2d (CSV) 652.

Dismissal of police officer trainee; insubordination and a positive drug test. *Holmes v. Passaic County Police Academy and William Paterson College*, 92 N.J.A.R.2d (CSV) 647.

Removal warranted; repeated inmate abuse. *Signorile v. East Jersey State Prison*, 92 N.J.A.R.2d (CSV) 623.

Misconduct of youth worker; removal justified. *Sapp v. Department of Corrections*, 92 N.J.A.R.2d (CSV) 611.

Police officer's intoxication while on duty; removal justified. *Rutkowski v. Police Department, Borough of Elmwood Park*, 92 N.J.A.R.2d (CSV) 605.

Insubordination; neglect of duty; 60-day suspension justified. *Henry v. Preakness Hospital, Passaic County*, 92 N.J.A.R.2d (CSV) 600.

Removal warranted for insubordination. *Davis v. Edna Mahan Correctional Facility*, 92 N.J.A.R.2d (CSV) 590.

Removal for second failure to make required call-in unwarranted. *Boayue v. New Jersey State Prison*, 92 N.J.A.R.2d (CSV) 586.

Improper dismissal on basis of job abandonment. *Victor v. North Princeton Developmental Center*, 92 N.J.A.R.2d (CSV) 584.

Suspension of officer warranted for improper outbursts. *Nance v. City of Newark Police Department*, 92 N.J.A.R.2d (CSV) 577.

Suspension of developmental center employee was not justified. *Corin v. New Lisbon Developmental Center*, 92 N.J.A.R.2d (CSV) 575.

Removal warranted for insubordination. *Benjamin v. Hudson County Probation Department*, 92 N.J.A.R.2d (CSV) 572.

Six-month suspension for reporting for duty while impaired by alcohol; removal because of revocation of driving privilege. *Tyrrell v. State Department of Transportation*, 92 N.J.A.R.2d (CSV) 565.

Removal warranted; falsification of time sheets and unauthorized absence. *Pue v. New Jersey State Department of Human Services*, 92 N.J.A.R.2d (CSV) 561.

Removal of part-time supervisor of emergency medical technicians for police department was warranted. *Kroll v. Police Department, City of Passaic*, 92 N.J.A.R.2d (CSV) 555.

Departmental employee chasing and throwing shoes at an easily agitated client warranted a suspension for 15 days. *Davis-Jones v. North Princeton Developmental Center*, 92 N.J.A.R.2d (CSV) 552.

Removal of correction officer was warranted. *Bennett v. Department of Corrections, East Jersey State Prison*, 92 N.J.A.R.2d (CSV) 549.

Veterans' home failed to establish that employee was physically incapable of performing her duties as a human services assistant, and removal was not justified. *Negron v. New Jersey Veterans' Memorial Home*, 92 N.J.A.R.2d (CSV) 544.

Removal of maintenance worker was warranted for a fifth offense of absence without authorization. *Wilson v. Department of Transportation*, 92 N.J.A.R.2d (CSV) 541.

Ten-day suspension, rather than 30-day suspension, was appropriate punishment for jail employee's neglect of duty. *Harris v. Burlington County Jail*, 92 N.J.A.R.2d (CSV) 522.

Police officer engaged in use of excessive force and violated rules regarding conduct in public and private and suspension of officer was appropriate. *Gonzalez v. Police Department, City of Newark*, 92 N.J.A.R.2d (CSV) 518.

Suspension and removal of family service worker was warranted. *Behl v. Essex County Welfare Board*, 92 N.J.A.R.2d (CSV) 507.

Written reprimand, rather than a fine of 15 days' pay, was appropriate punishment for a police officer's neglect of duty. *Lamb v. City of Camden*, 92 N.J.A.R.2d (CSV) 505.

Six-week suspension of prison storekeeper, rather than termination, was appropriate for intentionally misusing or abusing his position. *Wilson v. East Jersey State Prison*, 92 N.J.A.R.2d (CSV) 500.

Thirty-day suspension of correction officer was warranted for paying inmate with alcoholic beverages. *Johnson v. East Jersey State Prison*, 92 N.J.A.R.2d (CSV) 495.

Psychiatric hospital failed to prove that employee physically abused a client. *Hasty v. Ancora Psychiatric Hospital*, 92 N.J.A.R.2d (CSV) 493.

Five-day suspension of police officer, rather than nine-day suspension, was warranted. *Elbertson v. Dept. of Public Safety, City of Trenton*, 92 N.J.A.R.2d (CSV) 485.

Removal of township employee was warranted. *Carnoval v. Florence Township Water and Sewer Department*, 92 N.J.A.R.2d (CSV) 483.

Removal of computer operator was warranted for allowing acquisition of access codes. *Timpone v. Glassboro State College*, 92 N.J.A.R.2d (CSV) 477.

Suspension of developmental center employee was warranted. *Artemus v. New Lisbon Developmental Center*, 92 N.J.A.R.2d (CSV) 474.

Senior medical security officer of Department of Human Services was properly suspended for ten days for being absent from work. *Slaughter v. Department of Human Services, Forensic Psychiatric Hospital*, 92 N.J.A.R.2d (CSV) 472.

Thirty-day suspension, rather than four-month suspension of Motor Vehicles Safety Specialist, was warranted. *Thomas v. Division of Motor Vehicles*, 92 N.J.A.R.2d (CSV) 469.

Supervisor of Division of Motor Vehicles was properly suspended for ten days. *Hall v. Division of Motor Vehicles*, 92 N.J.A.R.2d (CSV) 465.

Developmental center employee was properly suspended for 20 days without pay. *Price v. New Lisbon Developmental Center*, 92 N.J.A.R.2d (CSV) 463.

Police sergeant's demotion was warranted for his failure to perform his assigned duties, engaging in conduct unbecoming a public employee, and neglect of duty. *Marasco v. Berkeley Township Police Department*, 92 N.J.A.R.2d (CSV) 458.

Mechanic's driving privilege suspension constituted conduct unbecoming an employee in public service and warranted removal. *Holman v. Newark Board of Education*, 92 N.J.A.R.2d (CSV) 454.

Suspension and demotion of a police sergeant was warranted. *Fagan v. Point Pleasant Beach Police Department*, 92 N.J.A.R.2d (CSV) 445.

Correction officer was guilty of conduct unbecoming a public employee and removal was warranted. *Cherry v. Monmouth County Personnel Department*, 92 N.J.A.R.2d (CSV) 438.

Removal of fire fighter was warranted for violation of departmental order regarding sick leave and for insubordination. *Butler v. Fire Department, City of Jersey City*, 92 N.J.A.R.2d (CSV) 434.

Removal of developmental center employee was warranted. *Williams v. Vineland Developmental Center*, 92 N.J.A.R.2d (CSV) 427.

Removal of correction officer was warranted. *Valentine v. Northern State Prison*, 92 N.J.A.R.2d (CSV) 424.

Removal of maintenance worker was warranted after his driver's license was suspended. *Smith v. Department of Transportation*, 92 N.J.A.R.2d (CSV) 422.

Termination of police officer was warranted for working outside employment. *Kline v. Department of Law and Public Safety*, 92 N.J.A.R.2d (CSV) 414.

Training school failed to prove that suspension of correction officer was unwarranted. *Wilson v. Lloyd McCorkle Training School*, 92 N.J.A.R.2d (CSV) 408.

Excessive absenteeism warranted removal. *Williams v. Department of Public Works, Winslow Twp.*, 92 N.J.A.R.2d (CSV) 405.

Correction officer's failure constituted neglect of duty warranting ten-day suspension. *Rodriguez v. Edna Mahon Correctional Facility*, 92 N.J.A.R.2d (CSV) 391.

Removal of building maintenance worker was warranted. *Miller v. Cape May County*, 92 N.J.A.R.2d (CSV) 387.

Urinalysis warranted removal of police officer. *Jersey City Police Dept. v. Torres*, 92 N.J.A.R.2d (CSV) 383.

Evidence failed to establish that removal of developmental center employee was justified. *Jackson v. New Lisbon Developmental Center*, 92 N.J.A.R.2d (CSV) 381.

Ten-day suspension of shop steward was justified for insubordination and neglect of duty. *Carroll v. Camden County Health Services Center*, 92 N.J.A.R.2d (CSV) 369.

Removal of correction officer justified by his failure to meet the probationary drug rehabilitation terms. *Rivera v. Essex County Jail*, 92 N.J.A.R.2d (CSV) 365.

Suspension; improper food handling. *Flowers v. Buttonwood Hospital*, 92 N.J.A.R.2d (CSV) 351.

Suspension; unlawful "tapping" of student. *Essex Day Training Center v. Dugger*, 92 N.J.A.R.2d (CSV) 349.

Suspension; verbal abuse of client. *Caine v. New Jersey Department of Human Services*, 92 N.J.A.R.2d (CSV) 347.

Unexcused absences and failure to call in warranted removal. *Taylor v. Forensic Psychiatric Hospital*, 93 N.J.A.R.2d (CSV) 342.

Suspension; misstatement in medical history when applying for employment. *Nobles v. Police Department, City of Camden*, 92 N.J.A.R.2d (CSV) 336.

Removal; selling drugs to inmates. *Clark v. Mid-State Correctional Facility*, 92 N.J.A.R.2d (CSV) 326.

Removal; intercourse with a patient. *Johnson v. Camden County*, 92 N.J.A.R.2d (CSV) 321.

Removal; scheme to defraud Housing Authority. *Willis v. Newark Housing Authority*, 92 N.J.A.R.2d (CSV) 312.

Suspensions and removal; insubordination, neglect of duty and conduct unbecoming public employee. *Ranjbaran v. Ramapo College of New Jersey*, 92 N.J.A.R.2d (CSV) 304.

Removal; insubordination. *Polhamus v. Southern State Correctional Facility*, 92 N.J.A.R.2d (CSV) 298.

Suspension; unauthorized use of physical and chemical restraints. *Kelly v. Burlington County Buttonwood Hospital*, 92 N.J.A.R.2d (CSV) 294.

Removal; use of cocaine. *Clark v. Albert C. Wagner Youth Correctional Facility*, 92 N.J.A.R.2d (CSV) 284.

Suspension; insubordination. *Barksdale v. Edna Mahon Correctional Facility*, 92 N.J.A.R.2d (CSV) 280.

Suspension; passing a marked state police vehicle at excessive rate of speed and causing chase to ensue and failing to identify himself when stopped. *Fuller v. Newark Police Department*, 92 N.J.A.R.2d (CSV) 277.

Suspension; gambling with inmates and paying off debts with cigarettes. *Bowden v. Bayside State Prison*, 92 N.J.A.R.2d (CSV) 273, reversed 268 N.J.Super 301, 633 A.2d 577, certification denied 135 N.J. 469, 640 A.2d 850.

Removal; absenteeism. *Hester v. Evergreen Manor, Camden County*, 92 N.J.A.R.2d (CSV) 259.

Suspension; neglect of duty, conduct unbecoming a public employee and insubordination. *Gallo v. Township of Berkeley*, 92 N.J.A.R.2d (CSV) 256.

Suspension; permitting client's continued self-abuse. *Forde v. Hunterdon Developmental Center*, 92 N.J.A.R.2d (CSV) 251.

Removal; selling cocaine. *Cameron v. Preakness Hospital, Passaic County*, 92 N.J.A.R.2d (CSV) 247.

Insubordination; suspension without pay. *Ramos v. Preakness Hospital, Passaic County*, 92 N.J.A.R.2d (CSV) 244.

Officer medically unfit to perform his duties; resignation in good standing. *Muller v. Public Safety, Atlantic County*, 92 N.J.A.R.2d (CSV) 242.

Resignation in good standing; employee medically unfit to fully perform his duties. *Hall v. Ocean County Road Department*, 92 N.J.A.R.2d (CSV) 240.

Suspension; improper touching of clients. *Warrelmann v. North Princeton Developmental Center*, 92 N.J.A.R.2d (CSV) 225.

Suspension; neglect of duty. *Van Buskirk v. New Jersey State Prison*, 92 N.J.A.R.2d (CSV) 220.

Suspension; failure to respond to a burglary alarm. *Ruggiero v. Jackson Township Department of Law and Public Safety*, 92 N.J.A.R.2d (CSV) 214.

Removal; incompetency and inefficiency. *Kistner v. Department of Transportation*, 92 N.J.A.R.2d (CSV) 207.

Removal; insubordination; incidental duties. *Junna v. Department of Parks and Recreation, Atlantic County*, 92 N.J.A.R.2d (CSV) 205.

Suspension; hitting client in face with wet washcloth. *Hunterdon Developmental Center v. Isak*, 92 N.J.A.R.2d (CSV) 203.

Removal for malingering. *Hudak v. Department of Treasury, Div. of General Services*, 92 N.J.A.R.2d (CSV) 201.

Removal; physical inability to perform duties. *Hanna v. Township of South Orange Village*, 92 N.J.A.R.2d (CSV) 198.

Removal not justified; nephrotic syndrome condition. *Crews v. Ancora Psychiatric Hospital*, 92 N.J.A.R.2d (CSV) 188.

Patient abuse; removal. *Buratt v. Marlboro Psychiatric Hospital*, State Department of Human Services, 92 N.J.A.R.2d (CSV) 184.

Fine; conduct subversive to good order and discipline and failure to submit timely, properly written report. *Bollettieri v. Camden Police Department*, 92 N.J.A.R.2d (CSV) 181.

Suspension; call-in procedures for absences. *Wewer v. Burlington County*, 92 N.J.A.R.2d (CSV) 174.

Suspension; rough treatment of patient. *McFadden v. John L. Montgomery Medical Center*, 92 N.J.A.R.2d (CSV) 171.

Discharge; assaulting inmate and filing false report. *Gant v. Salem County Jail*, 92 N.J.A.R.2d (CSV) 168.

Developmental center worker slapped patient; dismissal. *Peters v. North Princeton Developmental Center*, 92 N.J.A.R.2d (CSV) 149.

Employee was guilty of conduct unbecoming a state employee; suspension. *Lawson v. Department of Human Services, Ancora Psychiatric Hosp.*, 92 N.J.A.R.2d (CSV) 145.

Human services assistant was guilty of physically and verbally abusing a patient; removal. *Goldsboro v. Vineland Developmental Center*, 92 N.J.A.R.2d (CSV) 143.

Bridge repairer engaged in conduct unbecoming an employee in public service; removal. *Fox v. Monmouth County Bridge Dept.*, 92 N.J.A.R.2d (CSV) 137.

Truck driver was not physically unable to perform job duties; demotion was not warranted. *DeLorenzo v. Camden County*, 92 N.J.A.R.2d (CSV) 134.

Corrections officer was not guilty of neglect of duty. *Casey v. Mountainview Youth Correctional Facility*, 92 N.J.A.R.2d (CSV) 129.

Employee late for work twice; suspended from employment for six months. *Carter v. Riverfront State Prison*, 92 N.J.A.R.2d (CSV) 126.

Chronic and excessive absenteeism and tardiness; removal. *Boone v. Camden County Health Services Center*, 92 N.J.A.R.2d (CSV) 125.

Removal; tardiness on two occasions. N.J.S.A. 18A:2-6, 11:2A-6. *Borja v. Newark Board of Educ.*, 92 N.J.A.R.2d (CSV) 114.

Physical restraint of a patient did not constitute abuse of a patient. N.J.S.A. 11A:1-1 et seq., 11A:1-2, 11A:2-6, 11A:2-20. *Summers v. Marlboro Psychiatric Hosp.*, 92 N.J.A.R.2d (CSV) 113.

Officer late two days in a row properly removed from employment. *Shareef v. Northern State Prison*, 92 N.J.A.R.2d (CSV) 108.

Worker would be suspended for six months rather than removed from employment. *Russ v. Arthur Bresbain Child Treatment Center*, 92 N.J.A.R.2d (CSV) 105.

Employee was guilty of harassment and intimidation, conduct unbecoming a public employee, justifying removal. *Muhammad v. State Dept. of Corrections*, 92 N.J.A.R.2d (CSV) 103.

Conduct unbecoming a public employee; suspension. *Borchester v. Public Works of Lacey Township*, 92 N.J.A.R.2d (CSV) 89.

Proper use of defense maneuver on patient; removal not justified. *Blair v. Ancora Psychiatric Hosp.*, 92 N.J.A.R.2d (CSV) 87.

Use of word "nigger"; removal. *Graziano v. Monmouth County Sheriff's Dept.*, 92 N.J.A.R.2d (CSV) 73.

Theft of two dollars of public funds; removal. *Carter v. Cumberland County Welfare*, 92 N.J.A.R.2d (CSV) 71.

Willfully and with intent performing duties in an inferior manner; suspension for 28 days. *Huesser v. Camden County Mun. Utility Authority*, 92 N.J.A.R.2d (CSV) 48.

Attempt to put arms around another employee; removal from employment. *Fine v. Department of Public Property of Middlesex County*, 92 N.J.A.R.2d (CSV) 45.

Striking client on head; suspension. *Cobb v. Woodbridge Development Center*, 92 N.J.A.R.2d (CSV) 43.

There was no inappropriate physical contact or mistreatment of a resident; suspension not justified. *Rease v. Division of Youth and Family Services*, 92 N.J.A.R.2d (CSV) 35.

Testing positive for drug use; conduct unbecoming a public employee; removal. *Hamilton v. Department of Corrections*, 92 N.J.A.R.2d (CSV) 31.

Testing positive for cocaine use; removal. *Brevard v. Training School for Boys*, 92 N.J.A.R.2d (CSV) 28.

Insubordination, conduct unbecoming a public employee, neglect of duty, and violation of township rules and regulations; removal. *Zara v. Township of Hamilton, Water Pollution Control*, 92 N.J.A.R.2d (CSV) 25.

Patient abuse and intentional misuse of authority justified suspension. *Williams v. Vineland Developmental Center*, 92 N.J.A.R.2d (CSV) 23.

Corrections officer properly suspended for 30 days. *Barksdale v. Edna M. Mahon Correctional Facility*, 92 N.J.A.R.2d (CSV) 3.

Officer tricked into smoking marijuana; not conduct unbecoming public employee. N.J.S.A. 2C:2-1. *Cox v. Bayside State Prison*, 92 N.J.A.R.2d (CSV) 1.

Reporting for work while intoxicated; suspension. *Rucinski v. Department of Fire & Emergency Services, City of Jersey City*, 91 N.J.A.R.2d (CSV) 97.

Suspension; insubordination based on refusal to take drug test. *Bryant v. Fire & Emergency Services Department, Jersey City*, 91 N.J.A.R.2d (CSV) 95.

Failing random drug test; removal. *Mitchell v. County of Camden, Sheriff's Department*, 91 N.J.A.R.2d (CSV) 89.

Conduct unbecoming public official; removal. N.J.S.A. 2C:35-10, 2C:51-1. *Jones v. Ancora Psychiatric Hospital*, 91 N.J.A.R.2d (CSV) 83.

Corrections officer was medically unfit to perform his job. *Gerace v. Adult Detention, Atlantic County*, 91 N.J.A.R.2d (CSV) 81.

Negligent conduct unbecoming a public employee; suspension. *Grier v. Department of Transportation*, 91 N.J.A.R.2d (CSV) 63.

Absence from work without notice; suspension without pay. *Dean v. Marlboro Psychiatric Hospital*, 91 N.J.A.R.2d (CSV) 57.

Officer was guilty of conduct unbecoming an employee and public service. N.J.S.A. 2a:156A-3. *Engi v. State Department of Corrections*, 91 N.J.A.R.2d (CSV) 53.

Ten-day suspension was too harsh given employee's long work history and lack of prior disciplinary record. *Thomas v. Vineland Developmental Center*, 91 N.J.A.R.2d (CSV) 47.

Removal; cocaine. *White v. Mercer County, Dept. of Public Care and Safety*, 91 N.J.A.R.2d (CSV) 25.

Neglect of duty and intentional misstatement of material facts; discharge. *Kinnard v. Mountainview Youth Correctional Facility*, 91 N.J.A.R.2d (CSV) 17.

Termination; unauthorized five-week leave of absence. *Harp v. Ancora Psychiatric Hosp.*, 91 N.J.A.R.2d (CSV) 11.

Employee was properly terminated for absenteeism and falsification of official records. *Goodman v. N. Jersey Dept. of Human Services*, 91 N.J.A.R.2d (CSV) 9.

Thirty-day suspension with no demotion was appropriate penalty. *Allegar v. Lacey Dept. of Public Works*, 91 N.J.A.R.2d (CSV) 1.



Appellant removed from position as drawbridge operator on disciplinary charges for possessing, consuming and being under the influence of an alcoholic beverage while on duty. *Varga v. Union Co. Dep't of Public Works*, 11 N.J.A.R. 546 (1989).

Removal of police officer from position for neglect of duty, serious breach of discipline and conduct unbecoming an employee in public service (citing former N.J.A.C. 4:1-16.9). *Simone v. Borough of Elmwood Park*, 7 N.J.A.R. 72 (1983).

Civil Service Commission has the authority to order removal based on term of the forfeiture statute. Forfeiture following the conviction of a crime of a third degree is automatic (citing former N.J.A.C. 4:1-16.9). *Dinkins v. Cape May Cty.*, 6 N.J.A.R. 202 (1983).

Discretion with regard to removal: the State is not precluded from using the normal regulatory removal machinery even though petitioner's forfeiture of office, as a consequence of conviction, was immediate and automatic (citing former N.J.A.C. 4:1-16.9). *Schonwald v. Dep't of Transportation*, 5 N.J.A.R. 473 (1982).

Suspension based on failure to dress in a manner appropriate to his position: insubordination (citing former N.J.A.C. 4:1-16.7). *Koehler v. Dep't of Community Affairs*, 5 N.J.A.R. 318 (1981).

#### 4A:2-2.4 Limitations on suspensions and fines

(a) No suspension or fine shall exceed six months except for suspensions pending criminal complaint or indictment. See N.J.A.C. 4A:2-2.7.

(b) In local service, the appointing authority may provide that a suspension be with or without pay. In State service, suspensions shall be without pay unless directly authorized to be with pay by the department head.

(c) An appointing authority may only impose a fine as follows:

1. As a form of restitution;
2. In lieu of a suspension, when the appointing authority establishes that a suspension of the employee would be detrimental to the public health, safety or welfare; or
3. Where an employee has agreed to a fine as a disciplinary option.

(d) An employee may pay a fine of more than five days salary in a lump sum or through installments. Unless otherwise agreed to by the employee, an installment may not be more than five percent of the gross salary per pay for a fine under \$500.00; 10 percent of gross salary per pay period for a fine between \$500.00 and \$1,000; or 15 percent of gross salary per pay period for a fine over \$1,000.

#### Case Notes

Dismissal of police officer was supported by officer's intentional avoidance of communication with police chief prior to taking unauthorized vacation; officer's conduct was so egregious as to warrant suspension of greater than six months, and civil service rules require dismissal of employee whose offense dictates such suspension. *Cosme v. Borough of East Newark Tp. Committee*, 304 N.J.Super. 191, 698 A.2d 1287 (A.D. 1997).

Traffic signal repairer removed for falsifying application for employment with regard to criminal convictions. *Florenzo v. Bergen County Department of Public Works*, 96 N.J.A.R.2d (CSV) 22.

Police officer who lost police radio through carelessness was appropriately fined. *Przybyszewski v. Gloucester Township Police Department*, 95 N.J.A.R.2d (CSV) 623.

#### 4A:2-2.5 Opportunity for hearing before the appointing authority

(a) An employee must be served with a Preliminary Notice of Disciplinary Action setting forth the charges and statement of facts supporting the charges (specifications), and afforded the opportunity for a hearing prior to imposition of major discipline, except:

1. An employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services. However, a Preliminary Notice of Disciplinary Action with opportunity for a hearing must be served in person or by certified mail within five days following the immediate suspension.

2. An employee may be suspended immediately when the employee is formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job. See N.J.A.C. 4A:2-2.7.

(b) Where suspension is immediate under (a)1 and (a)2 above, and is without pay, the employee must first be apprised either orally or in writing, of why an immediate suspension is sought, the charges and general evidence in support of the charges and provided with sufficient opportunity to review the charges and the evidence in order to respond to the charges before a representative of the appointing authority. The response may be oral or in writing, at the discretion of the appointing authority.

(c) The employee may request a departmental hearing within five days of receipt of the Preliminary Notice. If no request is made within this time or such additional time as agreed to by the appointing authority or as provided in a negotiated agreement, the departmental hearing may be considered to have been waived and the appointing authority may issue a Final Notice of Disciplinary Action.

(d) A departmental hearing, if requested, shall be held within 30 days of the Preliminary Notice of Disciplinary Action unless waived by the employee or a later date as agreed to by the parties.

(e) Appeals concerning violations of this section may be presented to the Commissioner through a petition for interim relief. See N.J.A.C. 4A:2-1.2.

Amended by R.1989 d.569, effective November 6, 1989.  
See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

Added new (e).

Amended by R.1992 d.414, effective October 19, 1992.  
See: 24 N.J.R. 2491(a), 24 N.J.R. 3716(a).

Revised (a).

#### Law Review and Journal Commentaries

Discrimination—Collateral Estoppel—Police Officers. Judith Nallin, 138 N.J.L.J. No. 1, 49 (1994).

#### Case Notes

Adequate consideration given provisions of Law Against Discrimination. *Ensslin v. Township of North Bergen*, 275 N.J.Super. 352, 646 A.2d 452 (A.D.1994), certification denied 142 N.J. 446, 663 A.2d 1354.

Procedural irregularities at departmental level; cured by hearing at agency level. *Ensslin v. Township of North Bergen*, 275 N.J.Super. 352, 646 A.2d 452 (A.D.1994), certification denied 142 N.J. 446, 663 A.2d 1354.

Waiver of hearing. *Ensslin v. Township of North Bergen*, 275 N.J.Super. 352, 646 A.2d 452 (A.D.1994), certification denied 142 N.J. 446, 663 A.2d 1354.

Departmental hearing required within thirty days of preliminary notice of disciplinary action. *Ensslin v. Township of North Bergen*, 275 N.J.Super. 352, 646 A.2d 452 (A.D.1994), certification denied 142 N.J. 446, 663 A.2d 1354.

Due process rights of corrections officers who were dismissed for failure to comply with mandatory drug test order were violated. *Caldwell v. New Jersey Dept. of Corrections*, 250 N.J.Super. 592, 595 A.2d 1118 (A.D.1991), certification denied 127 N.J. 555, 606 A.2d 367.

Lack of entitlement to post termination hearing. *Grexa v. State*, 168 N.J.Super. 202, 402 A.2d 938 (App.Div.1978).

Due process: right to post termination hearing (statutory). *Nicoletta v. No. Jersey District Water Supply Commission*, 77 N.J. 145, 390 A.2d 90 (1978). Concurring and dissenting opinions.

Right to hearing. *Cunningham v. Dept. of Civil Service*, 69 N.J. 13, 350 A.2d 58 (1975).

Hearing de novo on appeal to Merit System Board corrected alleged inadequate notice. *Coley v. Rowan College*, 94 N.J.A.R.2d (CSV) 4.

Absence of timely hearing required dismissal of disciplinary charges. *Marjarum v. Hamilton Township Division of Police*, 93 N.J.A.R.2d (CSV) 143.

Failure to comply with appropriate regulations in seeking to discipline employee. *Hamilton v. Camden Housing Authority*, 93 N.J.A.R.2d (CSV) 85.

Failure to provide employee with notice of dismissal; acts following meeting were not void pursuant to N.J.S.A. 10:4-15. *McManus v. Housing Authority of the City of Englewood*, 92 N.J.A.R.2d (CSV) 747.

Preliminary notice of disciplinary action met minimum discovery requirements. N.J.S.A. 40A:14-147, 11A:2-13. *Gabbianelli v. Monroe Township Police Department*, 91 N.J.A.R.2d (CSV) 79.

#### 4A:2-2.6 Hearings before the appointing authority

(a) The hearing shall be held before the appointing authority or its designated representative.

(b) The employee may be represented by an attorney or authorized union representative.

(c) The parties shall have the opportunity to review the evidence supporting the charges and present and examine witnesses. The employee shall not be required to testify, but an employee who does testify will be subject to cross-examination.

(d) Within 20 days of the hearing, or such additional time as agreed to by the parties, the appointing authority shall make a decision on the charges and furnish the employee either by personal service or certified mail with a Final Notice of Disciplinary Action.

#### Case Notes

Due process. *Carr v. Sharp, C.A.*, 454 F.2d 271 (1971).

Requirement of exhaustion of administrative remedies. *City of New Brunswick v. Speights*, 157 N.J.Super. 9, 384 A.2d 225 (Co.1978).

Res judicata: delay in hearing: limits on de novo hearing. *In re Darcy*, 114 N.J.Super. 454, 277 A.2d 226 (1971).

Receipt of second copy of final notice of disciplinary action did not extend time for filing appeal. *Russ v. Human Services Department*, 95 N.J.A.R.2d (CSV) 647.

Public employee voluntarily and deliberately planned his nonappearance at hearing and was not entitled to further hearing. *Cue v. Camden County*, 92 N.J.A.R.2d (CSV) 131.

#### 4A:2-2.7 Actions involving criminal matters

(a) When an appointing authority suspends an employee based on a pending criminal complaint or indictment, the employee must be served with a Preliminary Notice of Disciplinary Action. The notice should include a statement that N.J.S.A. 2C:51-2 may apply to the employee, and that the employee may choose to consult with an attorney concerning the provisions of that statute.

1. The employee may request a departmental hearing within five days of receipt of the Notice. If no request is made within this time, or such additional time as agreed to by the appointing authority or as provided in a negotiated agreement, the appointing authority may then issue a Final Notice of Disciplinary Action under (a)3 below. A hearing shall be limited to the issue of whether the public interest would best be served by suspending the employee until disposition of the criminal complaint or indictment. The standard for determining that issue shall be whether the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services.

2. The appointing authority may impose an indefinite suspension to extend beyond six months where an employee is subject to criminal charges as set forth in N.J.A.C. 4A:2-2.5(a)2, but not beyond the disposition of the criminal complaint or indictment.

3. Where the appointing authority determines that an indefinite suspension should be imposed, a Final Notice of Disciplinary Action shall be issued stating that the employee has been indefinitely suspended pending disposition of the criminal complaint or indictment.

(b) The appointing authority shall issue a second Preliminary Notice of Disciplinary Action specifying any remaining charges against the employee upon final disposition of the criminal complaint or indictment. The appointing authority shall then proceed under N.J.A.C. 4A:2-2.5 and 2.6.

(c) Where an employee has pled guilty or been convicted of a crime or offense which is cause for forfeiture of employment under N.J.S.A. 2C:51-2, the departmental hearing shall be limited to the issue of the applicability of N.J.S.A. 2C:51-2. If N.J.S.A. 2C:51-2 is found not applica-

ble, related disciplinary charges, if any, may be addressed at the hearing.

Amended by R.1989 d.569, effective November 6, 1989.

See: 21 N.J.R. 1766(a), 21 N.J.R. 3448(b).

In (a)1: added text, "The standard . . . public services."

Amended by R.1992 d.414, effective October 19, 1992.

See: 24 N.J.R. 2491(a), 24 N.J.R. 3716(a).

Revised (a).

#### Case Notes

Forfeiture of public office was not unconstitutional. *State v. Timol-di*, 277 N.J.Super. 297, 649 A.2d 872 (A.D.1994), certification denied 142 N.J. 449, 663 A.2d 1356.

In (f): Revised text to specify employee's responsibilities in presenting issues in appeals.

Added 1. and 2. regarding burden of proof.

## SUBCHAPTER 4. TERMINATION AT END OF WORKING TEST PERIOD

### 4A:2-4.1 Notice of termination

(a) An employee terminated from service or returned to his or her former permanent title at the conclusion of a working test period due to unsatisfactory performance shall be given written notice in person or by certified mail by the appointing authority.

(b) The notice shall inform the employee of the right to request a hearing before the Board within 20 days of receipt of the notice.

(c) The notice shall be served not more than five working days prior to or five working days following the last day of the working test period. A notice served after this period shall create a presumption that the employee has attained permanent status.

Amended by R.1992 d.414, effective October 19, 1992.

See: 24 N.J.R. 2491(a), 24 N.J.R. 3716(a).

Revised (c).

Administrative Correction to (c).

See: 25 N.J.R. 686(a).

#### Case Notes

County laborer's tardiness and absences justified termination at the end of the working test period. *Woodburn v. Ocean County Department of Roads*, 96 N.J.A.R.2d (CSV) 387.

Unsatisfactory performance justified release of county corrections officer following working test period. *Walker v. Camden County Sheriff's Department*, 96 N.J.A.R.2d (CSV) 295.

Unsatisfactory performance reviews justify county inspector's termination at end of working test period. *Plummer v. Monmouth County Department of Buildings and Grounds*, 96 N.J.A.R.2d (CSV) 129.

State human services department technician released following inadequate performance following working test period. *Patel v. State Department of Human Services*, 96 N.J.A.R.2d (CSV) 126.

County's removal of communications operator at end of working test period justified where operator's performance unsatisfactory and operator failed to show county acted in bad faith. *Ball v. Burlington County*, 96 N.J.A.R.2d (CSV) 33.

County social services board's good faith in evaluating income maintenance technician's performance justifies release after working test period. *Chandiramani v. Bergen County Board of Social Services*, 96 N.J.A.R.2d (CSV) 12.

Termination at end of working test period was justified when building service worker's monthly probationary progress reports were unsatisfactory. *Hamilton v. Essex County Hospital Center*, 95 N.J.A.R.2d (CSV) 580.

Release of income maintenance technician trainee after working test period was not in bad faith. *Montesi v. Burlington County*, 95 N.J.A.R.2d (CSV) 404.

Appellant failed to show that employer (Newark Free Public Library) acted in bad faith in denying her a fair evaluation of her work performance and releasing her at the end of her working test period based on claim that her services were unsatisfactory (citing former N.J.A.C. 4:1-13.7). *Davis v. Newark Public Library*, 9 N.J.A.R. 84 (1987).

### 4A:2-4.2 Time for appeal

(a) An appeal shall be made in writing to the Board no later than 20 days from the employee's receipt of written notification from the appointing authority of the termination from service or return to a former permanent title.

(b) If the appointing authority fails to provide the notice as specified in N.J.A.C. 4A:2-4.1, an appeal must be filed within a reasonable time.

#### Case Notes

Failure to appeal failure of second working test period precluded appeal from decision in first working test period. *Sansalone v. Vine-land Developmental Center*, 92 N.J.A.R.2d (CSV) 22.

### 4A:2-4.3 Board hearing

(a) An appeal to the Board shall be processed in accordance with N.J.A.C. 4A:2-2.9 et seq.

(b) The employee has the burden of proof to establish that the action was in bad faith.

(c) If bad faith is found by the Board, the employee shall be entitled to a new full or shortened working test period and other appropriate remedies. See N.J.A.C. 4A:2-1.5.

#### Case Notes

Untrustworthiness and instability justified return of bridge operator to former position of maintenance worker. *Howarth v. Department of Transportation*, 95 N.J.A.R.2d (CSV) 636.

Release of probationary public works repairer was justified for failure to obtain required commercial driver's license. *Kreudl v. Department of Public Works*, 95 N.J.A.R.2d (CSV) 584.

Termination at end of working test period was justified when building service worker's monthly probationary progress reports were unsatisfactory. *Hamilton v. Essex County Hospital Center*, 95 N.J.A.R.2d (CSV) 580.

## SUBCHAPTER 5. EMPLOYEE PROTECTION AGAINST REPRISALS OR POLITICAL COERCION

### 4A:2-5.1 General provisions

(a) An appointing authority shall not take or threaten to take any reprisal action against an employee in the career, senior executive or unclassified service in retaliation for an employee's lawful disclosure of information on the violation of any law or rule, governmental mismanagement or abuse of authority.

(b) An appointing authority shall not take or threaten to take any action against an employee in the career service or an employee in the senior executive service with career status based on the employee's permissible political activities or affiliations. This subchapter shall also apply to State service employees in the unclassified service who do not serve in policy-making or confidential positions.

#### Case Notes

Layoff; proof of political motivation. *Pikolycky v. Department of Military and Veterans' Affairs*, 94 N.J.A.R.2d (CSV) 685.

Layoff of supervisor; not based on retaliation or political retribution. 94 N.J.A.R.2d (CSV) 569.

"Whistleblower" medical director justifiably dismissed. *Mendoza v. Wagner Youth Correctional Facility*, 94 N.J.A.R.2d (CSV) 135.

Agency employee voluntarily resigned from his position. *Sandell v. Department of Law and Public Safety*, 93 N.J.A.R.2d (CSV) 705.

#### 4A:2-5.2 Appeals

(a) An employee may appeal a reprisal or political coercion action to the Board within 20 days of the action or the date on which the employee should reasonably have known of its occurrence.

(b) The appeal must be in writing and specify the basis for appeal.

(c) The Commissioner shall review the appeal and request any additional information, or conduct any necessary investigation.

(d) The Board shall decide the appeal on a review of the written record or such other proceeding as it deems appropriate.

(e) Where improper reprisal or political coercion is established, the Board shall provide appropriate protections and remedies to the employee.

#### Case Notes

Acts of reprisal for public disclosure of information on abusive use of State cars. *Cryan v. Human Services Department*, 92 N.J.A.R.2d (CSV) 275.

(c) A request to rescind the resignation prior to its effective date may be consented to by the appointing authority.

(d) Where it is alleged that a resignation was the result of duress or coercion, an appeal may be made to the Board under N.J.A.C. 4A:2-1.1.

#### Case Notes

Resignation may be rescinded prior to effective date upon appointing authority's approval (citing former N.J.A.C. 4:1-16.12). *Manusco v. No. Arlington Boro.*, 203 N.J.Super. 427, 497 A.2d 238 (App.Div.1985).

Resignation in good standing was more appropriate than removal when injury was cause of training failure. *Gottlieb v. Monmouth County Sheriff*, 95 N.J.A.R.2d (CSV) 573.

Highway maintenance worker with bilateral carpal tunnel syndrome resigned in good standing by reason of an inability to perform job duties. *Kromenacker v. Department of Transportation*, 95 N.J.A.R.2d (CSV) 275.

Public employee who was convicted of offense involving theft from employer forfeited her position. *Gurenlian v. Ancora Psychiatric Hospital*, 94 N.J.A.R.2d (CSV) 599.

Failure to return to duty for five consecutive business days following leave of absence; resignation in good standing. *Apoldite v. Dept. of Treasury*, 93 N.J.A.R.2d (CSV) 459.

Unapproved absence was justified; resignation in good standing. *DeBlasio v. Division of Medical Assistance and Health Services*, 93 N.J.A.R.2d (CSV) 398.

Discharge would be classified as having resigned in good standing. *DeBlasio v. Division of Medical Assistance and Health Services*, 93 N.J.A.R.2d (CSV) 398.

Appeal of resignation not in good standing was moot. *Scott v. Department of Human Resources*, 93 N.J.A.R.2d (CSV) 339.

Removal modified to resignation in good standing. *Harwell v. Vineland Developmental Center*, 92 N.J.A.R.2d (CSV) 679.

Removal modified to resignation in good standing. *Ensslin v. Township of North Bergen*, 92 N.J.A.R.2d (CSV) 674.

Resignation considered as one in good standing. *Swinney v. Sheriff's Department, Camden County*, 92 N.J.A.R.2d (CSV) 614.

Settlement agreement; technician allowed to resign in good standing. *Di Lard v. Ancora Psychiatric Hospital*, 92 N.J.A.R.2d (CSV) 159.

Employee was not entitled to rescind his resignation. *Schaan v. Gloucester County Bd. of Social Services*, 92 N.J.A.R.2d (CSV) 152.

Sanitary inspector resigned under distress and refusal to allow him to rescind his resignation was unreasonable. *Manzo v. Jersey City Div. of Health*, 92 N.J.A.R.2d (CSV) 117.

Attempt to change resignation to a medical leave of absence; resignation would be changed from not-in-good standing to good standing. *Cheeseman v. Bayside State Prison*, 92 N.J.A.R.2d (CSV) 41.

Merit Service Board had no jurisdiction to hear an appeal from employee who voluntarily resigned her position. *Tatum v. John L. Montgomery Medical Home*, 91 N.J.A.R.2d (CSV) 45.

#### 4A:2-6.2 Resignation not in good standing

(a) If an employee resigns without complying with the required notice in N.J.A.C. 4A:2-6.1, he or she shall be held as having resigned not in good standing.

## SUBCHAPTER 6. RESIGNATIONS

### 4A:2-6.1 Resignation in good standing

(a) Any permanent employee in the career service may resign in good standing by giving the appointing authority at least 14 days' written or verbal notice, unless the appointing authority consents to a shorter notice.

(b) The resignation shall be considered accepted by the appointing authority upon receipt of the notice of resignation.



(b) Any employee who is absent from duty for five or more consecutive business days without the approval of his or her superior shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. Approval of the absence shall not be unreasonably denied.

(c) 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.

(d) Where an employee is resigned not in good standing under (a), (b), or (c), the employee shall be provided with notice and an opportunity for a departmental hearing under N.J.A.C. 4A:2-2.5, and Final Notice and a right to appeal to the Board under N.J.A.C. 4A:2-2.8. An employee shall be in unpaid status pending the departmental decision. Should an employee seek to return to employment pending the departmental decision, a review under N.J.A.C. 4A:2-2.5(b) shall be conducted prior to continuation of the unpaid status.

(e) Where the resignation is reversed, the employee shall be entitled to remedies under N.J.A.C. 4A:2-2.10.

(f) The appointing authority or the Board may modify the resignation not in good standing to an appropriate penalty or to a resignation in good standing.

Public Notice on Resignation not in good standing.  
See: 22 N.J.R. 3407(b).  
Amended by R.1992 d.414, effective October 19, 1992.  
See: 24 N.J.R. 2491(a), 24 N.J.R. 3716(a).  
Revised (b)-(c).

#### Case Notes

Township code enforcement officer improperly deemed to have resigned not in good standing based upon actions taken on advice of counsel. *Clougher v. Hazlet Township*, 96 N.J.A.R.2d (CSV) 102.

Resignation of human services assistant from developmental center was not in good standing. *Davis v. North Princeton Developmental Center*, 95 N.J.A.R.2d (CSV) 674.

Suspension rather than termination was appropriate penalty when charges of excessive absenteeism were not all proven. *White v. City of Newark Police*, 95 N.J.A.R.2d (CSV) 599.

Removal for excessive absences was not warranted when due to medical illness stemming from training technician's alcoholism. *Telfair v. Woodbine Developmental Center*, 95 N.J.A.R.2d (CSV) 501.

Resignation not in good standing upon failing to return to work after doctor's release justified laborer's removal. *McGee v. Bergen County Utilities*, 95 N.J.A.R.2d (CSV) 486.

Termination based on deemed resignation not in good standing was inappropriate under circumstances. *Giglio v. Department of Labor*, 95 N.J.A.R.2d (CSV) 367.

Excessive absenteeism and failure to report to work warranted institutional attendant's removal. *Mills v. Montgomery Medical Home*, 95 N.J.A.R.2d (CSV) 353.

Resignation not in good standing by corrections officer following failure to report for work for five consecutive days was to harsh and changed to resignation in good standing. *Rodriguez v. Department of Corrections*, 95 N.J.A.R.2d (CSV) 254.

Absence from work and failure to advise employer warranted termination. *Matter of Wilkins*, 95 N.J.A.R.2d (CSV) 203.

Suspension of human services technician; absent from work without notice or permission. *Bucci v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 111.

Failure to use established call-in procedure to report absences on five consecutive days amounted to a resignation not in good standing. *Lisowski v. Department of Buildings*, 95 N.J.A.R.2d (CSV) 98.

Removal justified; employee failed to use call-in procedure on five consecutive days. *Lisowski v. Buildings and Operations Department, Camden County*, 95 N.J.A.R.2d (CSV) 98.

Absence from duty of five or more consecutive days without approval of supervisor was not a basis for termination from public employment under circumstances. *Williams v. City of Trenton*, 95 N.J.A.R.2d (CSV) 87.

Removal not justified; employee improperly denied use of accumulated leave time to cover absence. *Williams v. City of Trenton*, 95 N.J.A.R.2d (CSV) 87.

Senior medical security officer removed; excessive absences without permission or proper notice. *Washington v. Department of Human Services*, 95 N.J.A.R.2d (CSV) 1.

Conduct while on disability leave; not abandonment of employment. *Boisvert v. Sea Isle City*, 94 N.J.A.R.2d (CSV) 571.

Termination was proper when employee failed to report to work for more than five days without approval from his supervisor. *Randall v. City of Newark Housing Authority*, 94 N.J.A.R.2d (CSV) 477.

Employee abandoned his position and resigned not in good standing. *Goel v. Newark Department of Engineering*, 94 N.J.A.R.2d (CSV) 546.

Resignation in good standing of correction officer was proper. *Bogdan v. Garden State Reception and Youth Correctional Facility*, 94 N.J.A.R.2d (CSV) 426.

Termination of maintenance worker based on resignation not in good standing was justified. *LaBenz v. Cape May County Department of Facilities and Services*, 94 N.J.A.R.2d (CSV) 88.

Clerical employee was properly deemed to have resigned not in good standing based on her absence without authorization. *Wilkins v. Bergen County Board of Social Services*, 93 N.J.A.R.2d (CSV) 780.

Suspension rather than removal was justified for long-term employee's absence. *McNeil v. Department of Transportation*, 93 N.J.A.R.2d (CSV) 742.

Employee was properly resigned not in good standing for absence following denial of medical leave. *Williams v. Northern States Prison*, 93 N.J.A.R.2d (CSV) 701.

Forced resignation not in good standing was not warranted for failure to return to duty for five consecutive days following an approved leave of absence. *Singley v. Woodbridge Developmental Center*, 93 N.J.A.R.2d (CSV) 606.

County employee's conduct constituted abandonment of his position. *Lee v. Monmouth County Department of Public Works*, 93 N.J.A.R.2d (CSV) 452.

Resignation not in good standing; chronic and unauthorized absences. *Boston v. Woodbridge Developmental Center, State Dept. of Human Services*, 93 N.J.A.R.2d (CSV) 413.

Resigning nurse not in good standing was justified. *Boston v. Woodbridge Developmental Center*, 93 N.J.A.R.2d (CSV) 413.

Absence for more than five days without giving notice resulted in abandonment of employment. *Randall v. Newark Housing Authority*, 93 N.J.A.R.2d (CSV) 185.

Absence from position for five or more consecutive days constituted an abandonment of position; resignation not in good standing. *Key v. New Lisbon Developmental Center*, 93 N.J.A.R.2d (CSV) 138.

Resignation not in good standing was justified. *Green v. Gloucester County Board of Social Services*, 93 N.J.A.R.2d (CSV) 36.

Resignation not in good standing was warranted. *Lick v. Trenton Public Works Department*, 92 N.J.A.R.2d (CSV) 765.

Resignation would be considered rescinded and employee would be reinstated. *Cooke v. Monmouth County Board of Social Service*, 92 N.J.A.R.2d (CSV) 666.

Removal of park ranger with work related disability modified to resignation in good standing. *Reardon v. Monmouth County*, 92 N.J.A.R.2d (CSV) 583.

Abandonment of position would be treated as resignation not in good standing. *Miller v. Crest Haven Nursing Home, Cape May County*, 92 N.J.A.R.2d (CSV) 560.

Security guard resigned not in good standing because of unauthorized absence. *Turner v. Newark Housing Authority*, 92 N.J.A.R.2d (CSV) 403.

Failure to establish that employee refused to obey reasonable order. *Drakeford v. North Jersey Development Center*, 92 N.J.A.R.2d (CSV) 333.

Correction officer did not abandon her position; work-related injuries entitled her to sick leave. *Thomas v. Northern State Prison*, 92 N.J.A.R.2d (CSV) 329.

Employee properly resigned not in good standing. *Powell v. North Princeton Developmental Center*, 92 N.J.A.R.2d (CSV) 301.

Resignation in good standing; failure to report to work in timely manner following end of medical leave. *Estate of Hoffman v. State Dept. of Corrections*, 92 N.J.A.R.2d (CSV) 286.

Suspension; failure to follow proper procedures to extend a leave of absence. *Tierney v. State Department of the Treasury*, 92 N.J.A.R.2d (CSV) 229.

Officer resigned not in good standing; proper. *Mason v. Cumberland County*, 92 N.J.A.R.2d (CSV) 210.

Resignation not in good standing; unauthorized absences. *Carvale v. Department of Public Works, City of Trenton*, 92 N.J.A.R.2d (CSV) 187.

Resigning employee not in good standing; justified. *Martin v. Forensic Psychiatric Hospital*, 92 N.J.A.R.2d (CSV) 179.

Public employee resigned not in good standing. *Eigenmann v. Vineland Developmental Center*, 92 N.J.A.R.2d (CSV) 136.

Removal of corrections officer would be modified to resignation not in good standing. N.J.S.A. 11A:1-1 et seq. *Moore v. Central Transp., New Jersey Dept. of Corrections*, 92 N.J.A.R.2d (CSV) 98.

Refusal to submit to blood and urine test constituted resignation not in good standing. U.S.C.A. Const. Amend. 4, N.J.S.A. Const. Arts. 1, 7. *Johnson v. City of Camden Police Dept.*, 91 N.J.A.R.2d (CSV) 13.

Appellant suspended and subsequently removed from title of Senior Systems Analyst reinstated to duties appropriate to his permanent title; appointing authority failed to support charges of falsifying residency address, falsely signing affidavit with intent to defraud county and failing to complete assignments timely and correctly (citing former N.J.A.C. 4:1-16.14). *Valluzzi v. Bergen County*, 10 N.J.A.R. 89 (1988), adopted—*Merit System Bd., App.Div. A-3269-87, 3/3/88*.