

Charges against psychiatric hospital worker would be dismissed where alleged victim left the state and could not be located. *Godwin v. Marlboro Psychiatric Hosp.*, 92 N.J.A.R.2d (CSV) 96.

4A:2-2.9 Board hearings

(a) Requests for a Board hearing will be reviewed and determined by the Commissioner or Commissioner's designee.

(b) Major discipline hearings will be heard by the Board or referred to the Office of Administrative Law for hearing before an administrative law judge. See N.J.A.C. 1:1-1.1 et seq. for OAL hearing procedures.

(c) The Board may adopt, reject or modify the recommended report and decision of an administrative law judge. Copies of all Board decisions shall be served personally or by regular mail upon the parties.

(d) The Board may reverse or modify the action of the appointing authority, except that removal shall not be substituted for a lesser penalty.

Amended by R.1995 d.417, effective August 7, 1995.
See: 27 N.J.R. 1838(a), 27 N.J.R. 2885(a).

In (a), substituted the Commissioner or the Commissioner's designee for the Board as the party that does the review.

Case Notes

Civil Service Commission's duty to review findings of administrative law judge prior to acceptance or rejection of judge's recommendations (citing former rule N.J.A.C. 4:1-5.4). In the Matter of Morrison, 216 N.J.Super. 143, 523 A.2d 238 (App.Div.1987).

Removal hearing—employee service record must be in evidence (citing former N.J.A.C. 4:1-16.9). In the Matter of Parlow, 192 N.J.Super. 247, 469 A.2d 940 (App.Div.1983).

Entitlement to hearing as matter of fundamental fairness. *Cunningham v. Dept. of Civil Service*, 69 N.J. 13, 350 A.2d 58 (1975).

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.

County sheriff's officer was required by settlement agreement to submit to psychiatric examinations. *Petescia v. County of Essex*, 92 N.J.A.R.2d (CSV) 388.

4A:2-2.10 Back pay, benefits and seniority

(a) Where a disciplinary penalty has been reversed, the Board shall award back pay, benefits, seniority or restitution of a fine. Such items may be awarded when a disciplinary penalty is modified.

(b) Where a municipal police officer has been suspended based on a pending criminal complaint or indictment, following disposition of the charges the officer shall receive back pay, benefits and seniority pursuant to N.J.S.A. 40A:14-149.1 et seq.

(c) Where an employee, other than a municipal police officer, has been suspended based on a pending criminal complaint or indictment, following disposition of the charges the employee shall receive back pay, benefits and seniority if the employee is found not guilty at trial, the complaint or indictment is dismissed, or the prosecution is terminated.

1. Such items shall not be awarded when the complaint or indictment is disposed of through Conditional Discharge, N.J.S.A. 2C:36A-1, or Pre-Trial Intervention (PTI), N.J.S.A. 2C:43-12 et seq.

2. Where disciplinary action has been taken following disposition of the complaint or indictment, such items shall not be awarded in case of removal. In case of suspension, where the employee has already been suspended for more than six months pending disposition of the complaint or indictment, the disciplinary suspension shall be applied against the period of indefinite suspension. The employee shall receive back pay for the period of suspension beyond six months, but the appointing authority may for good cause deny back pay for the period beyond the disciplinary suspension up to a maximum of six months.

(d) Back pay shall include unpaid salary, including regular wages, overlap shift time, increments and across-the-board adjustments. Benefits shall include vacation and sick leave credits and additional amounts expended by the employee to maintain his or her health insurance coverage during the period of improper suspension or removal.

1. Back pay shall not include items such as overtime pay and holiday premium pay.

2. The award of back pay shall be reduced by the amount of taxes, social security payments, dues, pension payments, and any other sums normally withheld.

3. The award of back pay shall be reduced by the amount of money which was actually earned or could have been earned during the separation. If an employee also held other employment at the time of the adverse action, the earnings from such other employment shall not be deducted from the back pay. However, if the employee increased his or her work hours at the other employment during the back pay period, earnings from such additional hours shall be subtracted from the back pay award.

4. The award of back pay is subject to reduction by any period of delay of the appeal proceedings caused on behalf of the employee.

5. Funds that must be repaid by the employee shall not be considered when calculating back pay.

(e) Unless otherwise ordered, an award of back pay, benefits and seniority shall be calculated from the effective date of the appointing authority's improper action to the date of the employee's actual reinstatement to the payroll.

(f) When the Board awards back pay and benefits, determination of the actual amounts shall be settled by the parties whenever possible.

(g) If settlement on an amount cannot be reached, either party may request, in writing, Board review of the outstanding issue. In a Board review:

1. The appointing authority shall submit information on the salary the employee was earning at the time of the adverse action, plus increments and across-the-board adjustments that the employee would have received during the separation period; and

2. The employee shall submit an affidavit setting forth all income received during the separation.

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

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

Redesignated part of existing text in (a) to (d); added new (b)-(c); redesignated existing (b)-(d) to (e)-(g).

Amended by R.1997 d.435, effective October 20, 1997.

See: 29 N.J.R. 3102(a), 29 N.J.R. 4455(b).

Inserted new (d)4; and recodified existing (d)4 as (d)5.

Case Notes

Regulation applies in those circumstances where employee has been completely exonerated of the criminal charges, yet there is basis for disciplinary suspension despite employee's exoneration. *Walcott v. City of Plainfield*, 282 N.J.Super. 121, 659 A.2d 532 (A.D.1995).

Merit System Board's adoption of rules regarding back pay for police officers during periods of nondisciplinary suspension requires public notice of anticipated action. *DelRossi v. Department of Human Services (Police)*, 256 N.J.Super. 286, 606 A.2d 1128 (A.D.1992).

Police officer was not entitled to back pay and benefits during period of nondisciplinary suspension resulting from criminal charges. *DelRossi v. Department of Human Services (Police)*, 256 N.J.Super. 286, 606 A.2d 1128 (A.D.1992).

Merit System Board must exercise power to award back pay for periods of nondisciplinary suspension through rule making. *DelRossi v. Department of Human Services (Police)*, 256 N.J.Super. 286, 606 A.2d 1128 (A.D.1992).

Merit System Board's role in determining whether to award back pay for periods of disciplinary suspension is adjudicatory. *DelRossi v. Department of Human Services (Police)*, 256 N.J.Super. 286, 606 A.2d 1128 (A.D.1992).

Corrections officers who were dismissed for violation of mandatory drug test order were not entitled to award of back pay as remedy for due process violations at pretermination hearings. *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.

Where discharge of employee was in error, back pay could be awarded (citing former N.J.A.C. 4:1-5.5). In the *Matter of Williams*, 198 N.J.Super. 75, 486 A.2d 858 (App.Div.1984).

Determination of back pay—prior disciplinary record not a consideration (citing former N.J.A.C. 4:1-5.17). *Steinal v. City of Jersey City*, 193 N.J.Super. 629, 475 A.2d 640 (App.Div.1984) affirmed 99 N.J. 1, 489 A.2d 1145 (1985).

Firefighter entitled to back pay for period of suspension while awaiting outcome of criminal indictment. *Naro v. Trenton Fire Department*, 96 N.J.A.R.2d. (CSV) 234.

Reinstatement of guard at correctional facility was required when he did not intentionally trip or kick inmate. *Finley v. Wagner Youth Correctional Facility*, 95 N.J.A.R.2d (CSV) 676.

Agency awarding employee back pay was entitled to offset unemployment benefits as long as state was reimbursed. *Bellamy v. Essex County Hospital*, 95 N.J.A.R.2d (CSV) 652.

Public employee was entitled to back pay for period of indefinite suspension that was improper, incorrect and invalid. *Gonzalez v. Essex County*, 95 N.J.A.R.2d (CSV) 200.

Medical expenses to be paid after improper reduction in force action. *Takakjian v. Fairview Borough Board of Education*, 93 N.J.A.R.2d (EDU) 184.

Employee was entitled to back pay following acquittal. *Scouler v. Housing Services and Code Enforcement, City of Camden*, 93 N.J.A.R.2d (CSV) 40.

Employee not entitled to back pay for period of suspension even if she successfully completed intervention program. *Amison v. New Jersey Department of Environmental Protection*, 92 N.J.A.R.2d (CSV) 568.

Employee was entitled to back pay for period of suspension pending disposition of criminal charges. *Kelly v. City of Camden*, 92 N.J.A.R.2d (CSV) 537.

Initial suspension from employment violated due process; later valid removal; no entitlement to back pay. *Brantley v. New Jersey State Prison*, 92 N.J.A.R.2d (CSV) 37.

Employee entitled to reinstatement and back pay. N.J.S.A. 11A:1-1 et seq. *Holmes v. Essex County*, 91 N.J.A.R.2d (CSV) 65.

Appellant, removed from employment and later reinstated with back pay, denied counsel fees; appellant entitled to award of 30 vacation days (citing former N.J.A.C. 4:1-5.5). *Harrington v. Dep't of Human Services*, 11 N.J.A.R. 537 (1989).

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.

4A:2-2.11 Interest

(a) When the Commissioner or Board makes an award of back pay, it may also award interest in the following situations:

1. When an appointing authority has unreasonably delayed compliance with an order of the Commissioner or Board; or

2. Where the Board finds sufficient cause based on the particular case.

(b) Where applicable, interest shall be at the annual rate as set forth in New Jersey court rules, R.4:42-11.

(c) Before interest is applied, an award of back pay shall be reduced in accordance with N.J.A.C. 4A:2-2.10(d)2 and 3.

Administrative Correction.
See: 26 N.J.R. 198(a).

4A:2-2.12 Counsel fees

(a) The Merit System Board shall award partial or full reasonable counsel fees where an employee has prevailed on all or substantially all of the primary issues.

(b) When the Board awards counsel fees, the actual amount shall be settled by the parties whenever possible.

(c) In determining the amount of counsel fees, the following factors should be considered:

1. The time and labor required; and
2. The customary hourly rate.

(d) The attorney shall submit an affidavit and any other documentation to the appointing authority.

(e) If settlement on an amount cannot be reached, either party may request, in writing, Board review.

Case Notes

Municipal employee whose removal was mitigated to six-month suspension by Merit System Board was not entitled to award of counsel fees as prevailing party under regulation. *Walcott v. City of Plainfield*, 282 N.J.Super. 121, 659 A.2d 532 (A.D.1995).

Charge of possession of controlled, dangerous substance was not supported by credible evidence and required public employee's reinstatement after removal. *Ramos v. Department of Corrections*, 95 N.J.A.R.2d (CSV) 413.

Removal of plant operator not justified; charges against him were indefinite and inconsistent with job requirements. *Onori v. City of Burlington Department of Public Works*, 95 N.J.A.R.2d (CSV) 53.

Police officer was entitled to reimbursement of the expenses of his defense when allegations against the officer were dismissed. *Black v. Lakehurst Borough Police Department*, 94 N.J.A.R.2d (CSV) 35.

Reasonable and partial attorney fee award. *Gill v. State Dept. of Health*, 92 N.J.A.R.2d (CSV) 142.

Reprimand and ten days' suspension would be reversed and attorney fees would be awarded. *Neal v. Police Dept., City of New Brunswick*, 92 N.J.A.R.2d (CSV) 52.

Officer was entitled to unmitigated back pay but was not entitled to attorney fees or interest. N.J.S.A. 11A:11-5. *Franklin v. City of Atlantic City*, 91 N.J.A.R.2d (CSV) 71.

Appellant, removed from employment and later reinstated with back pay, denied counsel fees; appellant entitled to award of 30 vacation days (citing former N.J.A.C. 4:1-5.6). *Harrington v. Dep't. of Human Services*, 11 N.J.A.R. 537 (1989).

SUBCHAPTER 3. MINOR DISCIPLINE AND GRIEVANCES

4A:2-3.1 General provisions

(a) Minor discipline is a formal written reprimand or a suspension or fine of five working days or less.

(b) A grievance is an employee complaint regarding any term or condition which is beyond the employee's control and is remedial by management.

(c) The causes for minor disciplinary actions shall be the same as for major disciplinary actions. See N.J.A.C. 4A:2-2.3.

(d) This subchapter shall not apply to local service, where an appointing authority may establish procedures for processing minor discipline and grievances.

(e) In State service, this subchapter shall only apply to:

1. Minor discipline appeals of permanent employees in the career service or persons serving a working test

period. Appointing authorities may establish procedures for other employees.

2. Grievance appeals of any employees in the career or unclassified services.

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

Release of public works employee at end of working test period is justified if agency's opinion that employee has performed in unsatisfactory manner was formed in good faith. *Raymond v. Trenton Department of Public Works*, 97 N.J.A.R.2d (CSV) 52.

Examining physician's prospective opinion as to corrections officer's future unfitness was insufficient to preclude officer's entrance into police training program. *Farrar v. Passaic County Sheriff's Department*, 96 N.J.A.R.2d (CSV) 780.

Excessive absenteeism during probationary period justified termination of employee. *Harris v. Northern State Prison*, 96 N.J.A.R.2d (CSV) 596.

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. Vineland 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.

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.

(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).

Merit System Board approved removal of employee for unsatisfactory attendance, but modified her termination status from resignation not in good standing to resignation in good standing, where employee's absence followed denial of her request for indefinite leave of absence due to illness. *Bell v. Mid-State Correctional Facility*, 96 N.J.A.R.2d (CSV) 839.

Removal of clerk typist based upon five-day absence without approval of her supervisor was not warranted, and she would be treated as if she had resigned in good standing. *Neuschafer v. Vineland Developmental Center*, 96 N.J.A.R.2d (CSV) 766.

Resignation proposed by employee's union representative as alternative to discipline was not coerced. *Kwasniewski v. Probation Division*, 96 N.J.A.R.2d (CSV) 597.

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.

(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

Nurse's refusal to work due to unsubstantiated knee injury justified implied resignation not in good standing. *Gregg v. Woodbine Developmental Center*, 96 N.J.A.R.2d (CSV) 594.

Clerk who failed to provide timely medical documentation for extension of medical leave resigned not in good standing. *Littlejohn v. Division of Medical Assistance and Health Services*, 96 N.J.A.R.2d (CSV) 471.

Corrections officer who failed to return to work after medical leave expired was found to have resigned not in good standing. *Hall v. Bayside State Prison*, 96 N.J.A.R.2d (CSV) 466.

Township code enforcement officer improperly deemed to have resigned not in good standing based upon actions taken on advice of counsel. *Crougher 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 too harsh and changed to resignation in good standing. *Rodriquez 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.