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

Appellate court's reversal of the Merit System Board's (MSB's) decision to remove a public employee from her job was in error as the appellate court impermissibly imposed its own judgment as to the proper penalty when the MSB's penalty was not illegal, unreasonable, nor shocking to any sense of fairness; the MSB's decision to remove the employee for waving a cigarette lighter retrieved from her purse in the face of a five-year-old child in a room containing oxygen tanks recognized legitimate public policy reasons for not retaining the employee since she lost the trust of her employer. In re Herrmann, 192 N.J. 19, 926 A.2d 350, 2007 N.J. LEXIS 721 (2007).

Appellate court erred by treating the principle of progressive discipline as a mandate of law and rejecting a Merit System Board's opinion terminating a police officer for sleeping on the job. In re Carter, 191 N.J. 474, 924 A.2d 525, 2007 N.J. LEXIS 702 (2007).

As a county employee, an accountant, had been proven incompetent, the Merit System Board erred in reversing his termination and in imposing a six-month suspension; an accountant who could not prepare a bank reconciliation was of no value to a county treasurer's office, and a suspension would not make him competent, since he always maintained that he performed his work properly. Klusaritz v. Cape May County, 387 N.J. Super. 305, 903 A.2d 1095, 2006 N.J. Super. LEXIS 231 (App.Div. 2006).

In circumstances where an employee cannot competently perform the work required of his position, termination rather than progressive discipline is the appropriate action. Klusaritz v. Cape May County, 387 N.J. Super. 305, 903 A.2d 1095, 2006 N.J. Super. LEXIS 231 (App.Div. 2006).

A public employee cannot be dismissed for failure to submit to a procedure violative of his state and federal constitutional rights. Reames v. Department of Public Works, City of Paterson, 310 N.J.Super. 71, 707 A.2d 1377 (A.D. 1998).

Off-duty firefighter's utterance of racial epithet at on-duty police officer during traffic stop constituted conduct unbecoming both firefighter and public employee. Karins v. City of Atlantic City, 706 A.2d 706, 152 N.J. 532 (N.J. 1998).

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).

Initial Decision (2008 N.J. AGEN LEXIS 873) adopted, which concluded that 12-year senior juvenile detention officer used excessive force against a 12-year-old juvenile detainee and was guilty of conduct unbecoming a public employee justifying removal from his position. It was readily apparent from viewing a surveillance video that the officer became angry and intended to enact some type of retribution against the juvenile for hitting him on the nose; the officer knew the floor of the "day room" was concrete yet he dangled the juvenile over it risking serious harm to him if he fell and hit his head, and he knew the juvenile suffered from ADHD and was "excitable" and yet persisted with his conduct that contributed to further agitation and fear. In re Heigler, OAL Dkt. No. CSV 4448-06, 2008 N.J. AGEN LEXIS 1057, Final Decision (December 17, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 613) adopted, which concluded on conflicting testimony that a township police officer was properly removed on charges that he unnecessarily engaged in a physical altercation in a bar, which he instigated, and subsequently engaged in conduct aimed at preventing his identification in the incident, such as shielding his license plate from view, leaving the premises before the authorities arrived, and ignoring a message from a superior officer regarding the incident. Moreover, it could not be ignored that the police officer was a relatively short-term employee, having been employed for approximately four years at the time of the incident. In re Hawkins, OAL Dkt. No. CSV 4469-05, 2008 N.J. AGEN LEXIS 1222, Final Decision (December 3, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 842) adopted, which concluded on conflicting testimony that conduct of an employee in forcefully grabbing patient around her neck and walking her down the hallway while striking her on her back was so egregious and unacceptable that the employee should be removed from her position as a human services assistant at a developmental center. In re Dempster, OAL Dkt. No. CSV 2356-08 (CSV 2944-07 On Remand), 2008 N.J. AGEN LEXIS 1211, Final Decision (November 6, 2008).

Correction sergeant at youth correctional facility was properly removed from office on charges that on three occasions, sergeant attended his township's council or board of education meetings while he reported on his timesheet and in the log books that he was at work for the entire shift, and he received compensation for the entire shift. Although the sergeant attempted to justify this egregious and dishonest behavior by suggesting that other employees were "covering for" him, the log books showed that the sergeant was on duty and, in the event of an emergency or unusual incident, superior officers would have had inaccurate information as to who was on duty; moreover, there was no evidence that the sergeant received any supervisory approval for these reciprocal arrangements on the dates in question. In re La Pierre, OAL Dkt. No. CSV 462-08, 2008 N.J. AGEN LEXIS 1224, Final Decision (October 22, 2008).

Correction sergeant at youth correctional facility was suspended from office for six months on charges that he was elected to his township's board of education, but he failed to notify his employer of his outside activity, as required by the appointing authority's code of ethics. Despite sergeant's contention that an April 2003 note from him to a personnel officer advised that he had been so elected, the sergeant did not testify as to the authenticity of this document, and there was no evidence presented to demonstrate that the document was actually created in 2003 and submitted to the appointing authority; without such testimony or evidence, this document was essentially meaningless, as it just as likely could have been created by the sergeant immediately in advance of the hearing. Moreover, even if genuine, such brief correspondence, on a one-time basis, did not fulfill the sergeant's obligations under the appointing authority's code of ethics or its policy regarding political activity. In re La Pierre, OAL Dkt. No. CSV 462-08, 2008 N.J. AGEN LEXIS 1224, Final Decision (October 22, 2008).

Correction sergeant at youth correctional facility was suspended from office for six months on charges that sergeant during his shift observed an abandoned vehicle in the staff parking area, and he failed to report this observation to the ranking correction lieutenant, the shift commander, or the correction sergeant who relieved him at the end of his shift. Although the sergeant's offense touched upon the security of the facility, and it should have been promptly reported and addressed, in light of his prior minor disciplinary record, a six-month suspension was sufficient. In re La Pierre, OAL Dkt. No. CSV 462-08, 2008 N.J. AGEN LEXIS 1224, Final Decision (October 22, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 797) adopted, which concluded that a 10-day suspension was warranted when a police officer spoke to his captain in a contentious, hostile, and disrespectful manner at an informal meeting; there was nothing in the ground rules for the meeting that would have allowed insubordinate or disrespectful conduct and the manner in which the officer spoke tended to undermine the captain's authority from the perspective of the other officers and generally brought discredit to the department. In re Danoys, OAL Dkt. No. CSV 11121-07, 2008 N.J. AGEN LEXIS 1086, Final Decision (October 22, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 820) adopted, which concluded that, even if a senior correction officer had time available under the Family and Medical Leave Act, the officer bore the responsibility of informing his supervisor and personnel officer of the reasons for his absence within two days of taking the time; removal was appropriate because there was nothing in the record to indicate that the officer met this obligation and his disciplinary record consisted solely of charges of chronic or excessive absence, demonstrating his failure to recognize the serious risks and effects his behavior caused within the facility. In re Mitchell, OAL Dkt. No. CSV 11727-07 and CSV 5416-08 (Consolidated), 2008 N.J. AGEN LEXIS 1087, Final Decision (October 22, 2008).

Forty-five-day time limitation contained in N.J.S.A. 40A:9-117.6a only applied to charges related to violations of departmental rules and regulations; where two sheriff's officers were also charged with conduct unbecoming a public employee, neglect of duty, misuse of public property, and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a), the statutory 45-day time limitation was inapplicable. In re Leach, OAL Dkt. No. CSV 6373-07 and CSV 6745-07 (Consolidated), 2008 N.J. AGEN LEXIS 1230, Civil Service Comm'n Decision (October 8, 2008).

While the Civil Service Commission cannot tolerate the continued employment of an employee who is in constant contact with a vulnerable population and who reports to duty while under the influence of alcohol, nevertheless the Commission is hesitant to deprive an employee of his property interest in his employment solely on the basis of a test that reflected a blood alcohol content (BAC) reading of .011%, which an expert testified equated to one-half of an alcoholic beverage, at 11:25 a.m., the time of the BAC test. The case was remanded to the OAL in order that the expert could present his expert opinion regarding what the employee's BAC would have been when he reported to duty at 6:25

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.

(e) An appointing authority may impose a suspension on the record when the appointing authority and the employee, or, where the employee is covered by a collective negotiations agreement, the employee's majority representative, agree in writing that, for purposes of progressive discipline, the employee will receive a suspension on the record and that it will have the same force and effect for purposes of future disciplinary actions as a suspension actually served by the employee.

Petition for Rulemaking.
See: 30 N.J.R. 3103(a), 30 N.J.R. 3552(a).
Petition for Rulemaking: Notice of Receipt; General Rules and Department Organization Appeals, Discipline and Separations Suspensions on the Record.
See: 38 N.J.R. 1085(a).
Amended by R.2006 d.386, effective November 6, 2006.
See: 38 N.J.R. 2773(a), 38 N.J.R. 4690(a).
In (b), inserted the last sentence; and added (e).

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).

Correction officer was properly fined in lieu of suspension because his attendance was so critical to the operation of the correction center that a disciplinary suspension could not have been imposed without creating a risk to public health, safety, or welfare; absenteeism had already caused reduction of staff, involuntary overtime, and morale problems and the officer's suspension would have caused further disruption of the operations of the center, which would have been detrimental to public safety (adopting 2008 N.J. AGEN LEXIS 840). In re Di Memmo, OAL Dkt. No. CSV 920-08, 2008 N.J. AGEN LEXIS 1068, Final Decision (November 6, 2008).

Cottage training technician's failure to drive a state vehicle safely supported a charge of neglect of duty; since the technician's neglect caused property damage (in the amount of $1,700), the appropriate form of penalty should have been a fine, providing partial restitution for her actions. However, while the technician's actions caused significant property damage, they were not so egregious as to warrant a fine equivalent to either a 15-day suspension or $1,700; instead, the proper penalty was a fine equivalent to three days' pay. In re McCrary, OAL Dkt. No. CSV 4540-07, 2008 N.J. AGEN LEXIS 1223, Final Decision (October 8, 2008).

When an employee paid a fine in lieu of suspension, the employee was not separated from employment; a fine in lieu of suspension under N.J.A.C. 4A:2-2.4 was recorded in the employee's personnel record as "*x* number of days' pay fined in lieu of *x* number of days suspended." Consequently, the number of days' pay fined was the number to be considered for progressive disciplinary purposes since that was the actual disciplinary penalty imposed (adopting in part and rejecting in part 2005 N.J. AGEN LEXIS 406). In re Sims, OAL Dkt. No. CSV 4103-04, 2005 N.J. AGEN LEXIS 1258, Final Decision (September 7, 2005), aff'd per curiam, Docket No. A-4396-05T3, 2007 N.J. Super. Unpub. LEXIS 1514 (App.Div. November 27, 2007).

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. See N.J.A.C. 4A:2-2.13 for hearings regarding removal appeals by certain law enforcement officers and firefighters.

(e) Appeals concerning violations of this section may be presented to the Civil Service Commission 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).
Special amendment, R.2009 d.221, effective June 10, 2009 (to expire July 1, 2010).
See: 41 N.J.R. 2720(a).
In (d), inserted the last sentence; and in (e), substituted "Civil Service Commission" for "Commissioner".
Readopted by R.2010 d.176, effective July 22, 2010.
See: 42 N.J.R. 693(a), 42 N.J.R. 1855(a).
Provisions of R.2009 d.221 readopted without change.

Law Review and Journal Commentaries

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

Case Notes

Former city police officer's claim that the city and two officials violated the officer's procedural due process rights in disciplining the officer survived summary judgment in part given fact issues as to whether the final disciplinary decision was made by the person authorized to do so for purposes of N.J.A.C. 4A:2-2.5 and 4A:2-2.6; it was unclear whether the decision was made by the "appointing authority" under N.J.A.C. 4A:1-1.3. Reilly v. City of Atl. City, 427 F.Supp.2d 507, 2006 U.S. Dist. LEXIS 17208 (D.N.J. 2006).

The requirement of holding departmental hearing within 30 days of service of preliminary notice of disciplinary action against career service public employee was not jurisdictional, and thus, an appointing authority may proceed with disciplinary charges even if it fails to conduct a departmental hearing within the statutorily mandated period. Goodman v. Department of Corrections, 367 N.J.Super. 591, 844 A.2d 543.

Ordinarily, permanent civil service employees can be discharged or demoted only for cause, and they have pre-termination appeal and hearing rights; however, provisional employees can be terminated at any time at the discretion of the employer. Melani v. County of Passaic, 345 A.2d 579.

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).

Failure to hold a disciplinary hearing within 30 days, though a procedural irregularity, does not preclude an appointing authority from proceeding with the disciplinary process, since N.J.S.A. 11A:2-13 does not expressly indicate that the disciplinary charges are to be dismissed in the event that the appointing authority does not comply with the 30-day requirement. In re Leach, OAL Dkt. No. CSV 6373-07 and CSV 6745-07 (Consolidated), 2008 N.J. AGEN LEXIS 1230, Civil Service Comm'n Decision (October 8, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 228) adopted, which concluded that the appointing authority had the right to impose an indefinite suspension without pay under N.J.A.C. 4A:2-2.5(a)2 on a correction officer until June 26, the date when the officer pleaded guilty to downgraded charges, rather than only until March 7, the date when the County Prosecutor chose to downgrade the indictable offense, as the downgrade was specifically conditioned on a guilty plea. In re Paris, OAL Dkt. No. CSV 12208-06, 2008 N.J. AGEN LEXIS 708, Final Decision (June 11, 2008).

Initial Decision (2008 N.J. AGEN LEXIS 51) adopted, which found that where the specifications in the appointing authority's complaint against a fire alarm operator included his absences, but not his failure to provide additional information regarding the pertinent doctor's notes, the latter could not be the basis of any discipline in light of the fact that it was not referenced in the specifications; an employee must be served with a Preliminary Notice setting forth the charges and a statement of facts supporting them and must be given an opportunity for hearing prior to imposition of major discipline. In re Bugg, OAL Dkt. No. CSV 3975-05, 2008 N.J. AGEN LEXIS 542, Final Decision (February 27, 2008).

Initial Decision (2006 N.J. AGEN LEXIS 963) adopted, which found that the appointing authority was authorized to suspend a senior correction officer indefinitely without pay pending the outcome of his criminal charges because it was alleged that the officer sold a cellular phone to an inmate for $300; if permitted to remain on the job, the officer's presence would have been a hazard, requiring an immediate suspension to maintain order and effective public service. In re Mangual, OAL Dkt. No. CSV 4032-06, 2006 N.J. AGEN LEXIS 1110, Final Decision (December 6, 2006).

Youth worker's immediate and indefinite suspension was appropriate pursuant to N.J.A.C. 4A:2-2.5 and 4A:2-2.7 after he was charged with a third-degree crime; however, because the worker's subsequent removal was unrelated to the criminal charges, he was still entitled to a determination as to whether he was owed back wages for the time between his immediate suspension and the resolution of the criminal charges against him (adopting result in 2006 N.J. AGEN LEXIS 828 on other grounds). In re Smith, OAL Dkt. No. CSV 2147-05, 2006 N.J. AGEN LEXIS 1100, Final Decision (November 15, 2006).

Forty-five day rule of N.J.S.A. 40A:14-147 did not apply where the appointing authority sought a police officer's removal on the basis of his inability to perform his duties; the appointing authority did not charge the officer with a violation of the internal rules and regulations established for the conduct of a law enforcement unit. In re Del Valle, OAL Dkt. No. CSV 2878-04, 2006 N.J. AGEN LEXIS 533, Final