



limited purpose to allow the Commission to decide whether she had the right under Civil Service law and rules to appeal her discipline to the Commission. Staff further stated that should the Commission determine that she did have such a right, the matter would then be transmitted to the Office of Administrative Law for a hearing on the merits of her removal from employment.

In her submissions, Collins argues that per *N.J.A.C.* 4A:2-2.1, as a permanent career service employee, she may appeal major disciplinary action to the Commission. She also argues that her title is not listed under the CWA contract and, therefore, she is not a member of the union. She finally contends that she is not being treated fairly in this process.

### CONCLUSION

The Civil Service Act, under *N.J.S.A.* 11A:2-6a(1) indicates, in pertinent part, that the Commission shall “[a]fter a hearing, render the final administrative decision on appeals concerning permanent career service employees” who are disciplinarily removed from their position. This provision is codified under *N.J.A.C.* 4A:2-2.1(a).

*N.J.S.A.* 11A:2-14 outlines a permanent career service employee’s disciplinary appeal rights to the Commission. Specifically, that section states, in pertinent part:

Except as otherwise provided herein, within 20 days of the hearing provided in *N.J.S.* 11A:2-13, the appointing authority shall make a final disposition of the charges against the employee and shall furnish the employee with written notice. If the appointing authority determines that the employee is to be removed, demoted or receive a suspension or a fine greater than five days, the employee shall have a right to appeal to the Civil Service Commission . . . .

When the State of New Jersey and the majority representative have agreed pursuant to the New Jersey Employer-Employee Relations Act, section 7 of *P.L.*1968, c.303 (*C.34:13A-5.3*), to a disciplinary review procedure that provides for binding arbitration of disputes involving disciplinary action in subsection a.(1), (2) and (3) of *N.J.S.* 11A:2-6, which would be otherwise appealable to the Civil Service Commission under *N.J.S.* 11A:2-14, being taken against a permanent employee in the career service or a person serving a working test period, *such procedure shall be the exclusive procedure for any appeal of such disciplinary action* (emphasis added).

The provision of *N.J.S.A.* 11A:2-14 referring to the alternative disciplinary review procedure is codified under *N.J.A.C.* 4A:2-2.1(c).

The current CWA contract with the State of New Jersey<sup>4</sup> contains the following provisions. Under Article 1A, paragraph 1.a., it indicates that the CWA is the “exclusive representative for collective negotiations” for all its employees in, among others, Administrative and Clerical Services units. Further, Article 1A, paragraph 2.a. states that included in the above unit are “full-time permanent career service” employees whose titles are listed in Appendix 4 of the contract. Moreover, Article 5, which deals with discipline, under paragraph F states “[t]his article is the exclusive procedure for the processing of disciplinary actions for employees covered by this Agreement.” Finally, and importantly, under paragraph I.1., the contract states, in pertinent part:

Within thirty (30) days of receipt of the Final Notice of Discipline, the Union may file an appeal of . . . terminations to arbitration . . . by submitting a written request for arbitration or binding mediation to the Governor’s Office of Employee Relations.

It is noted that substantially similar provisions have been contained in all previous contracts between the CWA and the State of New Jersey dating back to 2007.

Collins’ contention that her status as a permanent career service employee entitles her to appeal her removal to the Commission is misplaced. As clearly laid out above, the statutory provisions governing the appeal rights of permanent career service employees allows for an alternative appeal process via the collective negotiations process. In this matter, the record is clear that the CWA and the State of New Jersey have utilized the provisions of *N.J.S.A. 11A:2-14* to “contract” out of the major disciplinary appeal process to the Commission and afford CWA employees an appeal process via arbitration outside of the Commission’s purview. Moreover, the Commission has no jurisdiction or authority to question the legislature’s passage of these provisions. Further, the Commission has no authority or jurisdiction to interfere with duly executed contractual provisions between the CWA and the State of New Jersey effectuated via the implementation of such statutory provisions.

Collins also argues that her title is not covered by the CWA contract. If that were true, she would, indeed, have the right to appeal her removal to the Commission. However, that is not the case. Collins’ permanent title at the time of her removal was Technical Assistant, title code 51329. A review of Appendix 4 of the current CWA contract lists the title “Technical Assistant 3” under title code 51329. However, effective March 3, 2018,<sup>5</sup> the Commission removed the numerical designation from that title as permitted under *N.J.A.C. 4A:3-3.2* and *4A:3-3.3*. No other changes were made. As such, the Commission need not reconcile this

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<sup>4</sup> This contract runs from July 1, 2019 through June 20, 2023.

<sup>5</sup> State appointing authorities were notified of this change on February 12, 2018, and CWA was notified of this change on February 22, 2018.

typographical error in the contract as Collins' title of Technical Assistant, title code 51329, is in fact a covered title under that contract.

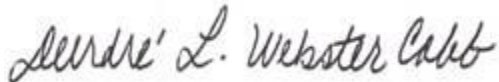
Regarding Collins' argument that she is not being treated fairly in this process, the Commission notes that there is a viable avenue for Collins to challenge the merits of her removal from employment. While that avenue is not to the Commission, the alternative process outlined in the contract between the CWA and the State of New Jersey has been in effect for many years, and the Commission can only assume that the process is fair to all parties involved. In this regard, if Collins is still interested in pursuing her removal, if she has not already done so, she should communicate such interest to her union to ascertain whether it will pursue an appeal of that action as outlined in the applicable contractual provisions.<sup>6</sup>

### ORDER

Therefore, it is ordered that the appeal be denied for lack of jurisdiction.

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

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION ON  
THE 16<sup>TH</sup> DAY OF FEBRUARY, 2022




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<sup>6</sup> The Commission is not making any representations as to the timeliness of any such potential request, the viability of any such request, or any other representations regarding her appeal via that process.