



## STATE OF NEW JERSEY

In the Matter of Chaz Dunton

CSC Docket. No. 2025-652

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

Administrative Appeal

ISSUED: December 18, 2024

Chaz Dunton, a former Clerk Typist, Department of the Treasury, appeals his removal and resignation not in good standing, effective December 26, 2023.

As background, Dunton received a Preliminary Notice of Disciplinary Action (PNDA) dated January 18, 2024, charging him with insubordination, inability to perform duties and resignation not in good standing.<sup>1</sup> On April 30, 2024, Dunton had a departmental-level hearing where he was represented by a Communications Workers of America (CWA) representative. In a Final Notice of Disciplinary Action (FNDA) dated August 8, 2024, the appointing authority upheld the charges and the removal and resignation not in good standing.<sup>2</sup> Subsequently, in a submission, postmarked September 9, 2024,<sup>3</sup> Dunton appealed to the Civil Service Commission (Commission). On September 24, 2024, Division of Appeals and Regulatory Affairs

<sup>1</sup> As the specifications underlying the charges are not germane to this decision, they will not be presented.

<sup>2</sup> Both the PNDA and the FNDA were specific to employees who are members of the CWA union. In this regard, both designate “CWA” at the top and in the “Appeal Procedure” section of the FNDA, it indicates that the appropriate CWA Local “may appeal this action . . . to the Governor’s Office of Employee Relations (OER) within **thirty (30) calendar days** of *your* receipt” (emphasis in original) of the FNDA.

<sup>3</sup> Of note, as per footnote 2, while a CWA FNDA permits an appeal to the OER within 30 calendar days of receipt, an appeal to the Commission of a major disciplinary action must be filed **within 20 calendar days of receipt**, and that time limit is jurisdictional and cannot be relaxed. See *N.J.S.A. 11A:2-15* and *N.J.A.C. 4A:2-2.8(a)*. Based on the dates presented above, it appears that the appeal may not have complied with the provisions of *N.J.S.A. 11A:2-15* and *N.J.A.C. 4A:2-2.8(a)*. However, as the Civil Service Commission is not accepting this appeal on jurisdictional grounds, the question as to whether the appeal was timely filed need not be determined in this matter.

(DARA) staff sent Dunton a letter indicating that the Commission did not have jurisdiction over his appeal as he was removed from a CWA covered title. Dunton further disputed this letter and was subsequently informed via email from the Director of DARA that the matter would be reopened and sent to the Commission for the limited purpose of allowing the Commission to decide whether he had the right under Civil Service law and rules to appeal his discipline to the Commission.

In his submissions, Dunton argues that his union's non-action is "tantamount to a *de facto* excommunication." He further contends that per *N.J.A.C.* 1:1-5.1, he may proceed *pro se*, and as such his appeal should be accepted.

## 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, 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.<sup>5</sup> 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.

Dunton’s contention that the union’s non-response to his requests somehow confers him the right to appeal his separation 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. As such, the Commission has no jurisdiction or authority to review a determination by the CWA to not pursue a member’s appeal and such a determination by the union confers no rights to a member to instead appeal to the Commission.

Dunton’s additional argument that since he can represent himself pursuant *N.J.A.C.* 1:1-5.1 the Commission should accept his appeal is of no moment. Initially, the rule Dunton cites only pertains to matters that are before the Office of Administrative Law. It is presumed the provision Dunton is trying to utilize is *N.J.A.C.* 4A:2-1.1(e) which provides that an individual filing an appeal to the Commission “may be represented by an attorney, [or] authorized union representative . . . .” The use of “may” in the above rule permits appellants to file

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<sup>4</sup> This contract runs from July 1, 2023 through June 30, 2027.

<sup>5</sup> Dunton’s permanent title of Clerk Typist is listed in Appendix 4.

appeals to the Commission absent any representation, or “*pro se*.” Regardless of which regulation is utilized, the issue presented in this matter is not about representation once an appeal is filed. Rather, the issue is whether an individual who, in this case, was in a CWA covered title can appeal a disciplinary action to the Commission. For all the reasons already presented above, the answer can only be no.

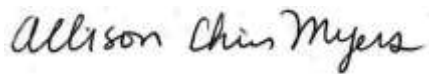
The Commission makes one final comment. While the avenue for Dunton to appeal is not to the Commission, the alternative process outlined in the contract between the CWA and the State of New Jersey has been in effect for many years, and the Commission can only assume that the process is fair to all parties involved. In this regard, if Dunton is still interested in pursuing his removal, he should again communicate such interest to his 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 18<sup>TH</sup> DAY OF DECEMBER, 2024




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Chairperson  
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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 his appeal via that process. Moreover, even if such a request is made by Dunton to his union, and the union declines to pursue the appeal, as stated previously, the Commission has no jurisdiction to review that determination.

c: Chaz Dunton  
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