STATE OF NEW JERSEY

In the Matter of Nadia Vega, Essex County, Department of Citizen Services CSC DKT. NO. 2024-729 OAL DKT. NO. CSV 10733-23	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**

ISSUED: JULY 3, 2023

The appeal of Nadia Vega, Family Service Worker 1, Bilingual in Spanish/English, removal, effective September 23, 2023, on charges, was heard by Administrative Law Judge Nanci G. Stokes (ALJ), who rendered her initial decision on June 4, 2024. No exceptions were filed. No exceptions were filed.

Having considered the record and the ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of July 3, 2024, accepted and adopted the ALJ's Findings of Fact and Conclusions and her recommendation to uphold the removal.

Upon its *de novo* review of the ALJ's initial decision as well as the entire record, the Commission agrees with the ALJ's determinations regarding the charges, which were substantially based on her assessment of the credibility of the testimony of the witnesses. In this regard, the Commission acknowledges that the ALJ, who has the benefit of hearing and seeing the witnesses, is generally in a better position to determine the credibility and veracity of the witnesses. *See Matter of J.W.D.,* 149 *N.J.* 108 (1997). "[T]rial courts' credibility findings . . . are often influenced by matters such as observations of the character and demeanor of the witnesses and common human experience that are not transmitted by the record." *See also, In re Taylor,* 158 *N.J.* 644 (1999) (quoting *State v. Locurto,* 157 *N.J.* 463, 474 (1999)). Additionally, such credibility findings need not be explicitly enunciated if the record as a whole makes the findings clear. *Id.* at 659 (citing *Locurto, supra).* The Commission appropriately gives due deference to such determinations. However, in its *de novo* review of the record, the Commission has the authority to reverse or modify an ALJ's decision if it is not supported by sufficient credible evidence or was otherwise arbitrary. *See N.J.S.A.* 52:14B-10(c); *Cavalieri u. Public Employees Retirement System,* 368 *N.J. Super.* 527 (App. Div. 2004). In this matter, there is

nothing in the record to demonstrate that the ALJ's credibility determinations, or his findings and conclusions based on those determinations, were arbitrary, capricious or unreasonable. Accordingly, the Commission finds nothing in the record to question those determinations or the findings and conclusions made therefrom.

Similar to its assessment of the charges, the Commission's review of the penalty is *de novo*. In addition to its consideration of the seriousness of the underlying incident in determining the proper penalty, the Commission also utilizes, when appropriate, the concept of progressive discipline. *West New York v. Bock*, 38 *N.J.* 500 (1962). In determining the propriety of the penalty, several factors must be considered, including the nature of the appellant's offense, the concept of progressive discipline, and the employee's prior record. *George v. North Princeton Developmental Center*, 96 *N.J.A.R. 2d* (CSV) 463. However, it is well established that where the underlying conduct is of an egregious nature, the imposition of a penalty up to and including removal is appropriate, regardless of an individual's disciplinary history. *See Henry v. Rahway State Prison*, 81 *N.J.* 571 (1980). It is settled that the theory of progressive discipline is not a "fixed and immutable rule to be followed without question." Rather, it is recognized that some disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record. *See Carter v. Bordentown,* 191 *N.J.* 474 (2007).

The Commission agrees with the ALJ that removal is the proper penalty in this matter. The infractions committed by the appellant are not so egregious to impose removal without applying the tenets of progressive discipline. In this regard, the appellant's prior record includes two prior major disciplines, namely, 12 and 90-day suspensions for previous attendance-related infractions. As such, removal from employment for the current attendance-related infractions is neither disproportionate to the offense nor shocking to the conscious.

ORDER

The Civil Service Commission finds that the action of the appointing authority in removing the appellant not in good standing was justified. The Commission therefore affirms that action and dismisses the appeal of Nadia Vega.

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 3RD DAY OF JULY, 2024

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Nicholas F. Angiulo
Director
Division of Appeals and Regulatory Affairs
Civil Service Commission
P. O. Box 312
Trenton, New Jersey 08625-0312

Attachment

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSV 10733-23
AGENCY DKT. NO. 2024-729

IN THE MATTER OF NADIA VEGA, ESSEX COUNTY DEPARTMENT OF CITIZEN SERVICES,

---

David Jude Weiner, Union Representative on behalf of appellant (CWA Local 1081)

Heather Testa, Esq., Assistant County Counsel, on behalf of respondent (Office of the County Counsel, Jerome M. St. John)

Record Closed: May 22, 2024 Decided: June 4, 2024

BEFORE **NANCI G. STOKES**, ALJ:

STATEMENT OF THE CASE

Following two major disciplinary actions stemming from poor job attendance in 2017, appellant served two suspensions. From January 2022 through July 2023, appellant had more than one hundred absences without pay (AWOP), often without an excuse, and more than forty late work arrivals, missing nearly forty percent of her work

time. Should Vega be removed from her employment? Yes. An employer need not accommodate excessive chronic absenteeism, especially when it represents a behavioral pattern. N.J.A.C. 4A:2-2.3(a)(4).

PROCEDURAL HISTORY

On March 14, 2023, Respondent issued a Preliminary Notice of Disciplinary Action (PNDA) to Nadia Vega. In its notice, Respondent charged Vega with major discipline. Specifically, it charged Vega with violating N.J.A.C. 4A:2-2.3(a)(4), chronic or excessive absenteeism or lateness, N.J.A.C. 4A:2-2.3(a)(7), neglect of duty, and N.J.A.C. 4A:2-2.3(a)(12), and other sufficient cause, including but not limited to violations of respondent's policy and procedures and the Essex County Employee handbook.

The PNDA specifies that Essex issued numerous memoranda regarding the exhaustion of Vega's available sick and vacation days and that her failure to inform the office of absences violated Essex's policies. Those failures created an unnecessary burden on her employer. The employee received oral counseling and warnings and served previous discipline for this conduct, but the behavior remains unchanged. The employee's chronic excessive absenteeism and lateness, neglect of duty, failure to follow County attendance policies and procedures, and conduct that the County views as "offensive, undesirable, and contrary to the County's best interests." Thus, the employer maintains that "termination is necessary to maintain the efficient operation of the Essex County Department of Citizen Services, Division of Family Assistance and Benefits (Essex). The PNDA highlights that the employer will rely upon the employee's attendance record through the hearing date.

On July 13, 2023, Essex issued a supplemental PNDA to Vega. Essex charged Vega with additional major discipline, including insubordination in violation of N.J.A.C. 4A:2-2.3(a)(2); conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6), and other sufficient cause in violation of N.J.A.C. 4A:2-2.3(a)(12).

The supplemental PNDA specifies that Vega represented that she was present in the office at 9:30 a.m. by requesting an exception to the timed punch-in function of the LGS time and attendance system. However, documentation of her employee access card punches reflects that she accessed the Garage Entry Gate 2 at 320 University Avenue at 10:48 a.m., the building at 320-C1 Door at 10:54 a.m., and her second-floor office at 10:57 a.m. At 4:27 p.m. that same day, the appellant knowingly and falsely reported her start time at 9:30 a.m. The PNDA further reiterated the employee's poor attendance and corrected her prior discipline to reflect that she served a ninety-day suspension rather than a 180-day suspension noted in the earlier PNDA.

Vega requested a departmental hearing, which took place on May 16, June 1, June 27, July 18, and August 3, 2023. On September 21, 2023, Essex issued a Final Notice of Disciplinary Action sustaining all charges in the PNDAs and removing Vega from employment effective September 22, 2023.

On October 4, 2023, the Civil Service Commission (Commission), acknowledged Vega's appeal postmarked September 25, 2023.

On October 11, 2023, the Commission transmitted the case to the Office of Administrative Law (OAL) under the Administrative Procedure Act, N.J.S.A. 52:14B-1 to -15, and the act establishing the OAL, N.J.S.A. 52:14F-1 to -23, for a hearing under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to -21.6.

I conducted hearings at the OAL on March 25 and 26, 2024.

The parties requested transcripts and agreed to submit post-hearing submissions thirty days after receipt. I asked for better copies of exhibit R-9 and a summary of Vega's timecards. On May 22, 2024, I received the parties' submissions and closed the record.

FINDINGS OF FACT

In this case, Essex presented two witnesses to support its actions against Vega, Audra Pagano and Chris Novack. Vega testified on her behalf. Based on my assessment of the sufficiency of the documents presented and the credibility of the witness's testimony, I **FIND** the following as **FACT**:

Background

Nadia Vega worked for Essex for seventeen years. In 2022 and 2023, Vega worked in the New Jersey Family Care Medicaid unit (Family Care) as a family services worker (FSW) handling Medicaid applications. Her regular work week was Monday through Friday, and Essex expected Vega to work seven and one-half hours daily. Vega had a good relationship with her supervisor, Mr. Novack, and other employees in her unit. Novack considered Vega an "all right" employee who generally met standards on performance evaluations. (R-14 and R-15.) When Vega did not meet expectations, it was due to her excessive absences. (R-15.)

The Family Care program is time sensitive. Specifically, FSWs, like Vega, must review applications for completeness and request information verifying eligibility criteria. A supervisor assigns cases daily to the FSWs in the unit that the supervisor expects the FSW to review that day. Indeed, Family Care requires prompt application assessment to meet regulatory processing timeframes. Supervisors review cases for mistakes or misinformation and return them to the FSW for correction. Usually, Vega's unit had four to six FSWs.

In February 2022, Vega first learned that her husband sexually abused two of her four daughters. The Division of Child Protection and Permanency (DCP&P) contacted her following a report by school staff. At that time, DCP&P believed her husband abused only her eleven-year-old daughter. However, once her eleven-year-old confirmed the abuse, her older daughter reported that she was also a victim, spanning

several years. Her husband was arrested and is under criminal prosecution, with an anticipated trial date in May 2024.

At times, Vega cared for her sister, who was struggling with brain cancer and died in June 2023.

Attendance and Tardiness

On May 25, 2022, Novack, Vega's unit supervisor, provided Vega with a memorandum discussing her exhaustion of available sick and vacation days for 2022. That memo also advised Vega to provide supporting documentation for any absence.

Audra Pagano worked for Essex for thirty years. She is the administrative supervisor overseeing the Family Care department. Her responsibilities in 2022 and 2023 included monitoring employee time and attendance. In Vega's case, she issued a memorandum to Vega on June 8, 2022, when Vega missed six days after her accrued time expired on May 20, 2022, noting that her absences were unacceptable and could result in disciplinary action. Pagano attached Essex's Time and Attendance Policy to the memo and reminded Vega of leave and intermittent leave availability.

Pagano issued a similar memorandum on June 28, 2022, after Vega was out for more than five consecutive days without notifying Essex of the reason or providing the required medical certification, citing the regulation allowing an employer to consider such extended absences as job abandonment.

To accommodate Vega's increased parenting demands, Pagano allowed Vega to change her original start time from 8:30 a.m. to 9:00 a.m. Although Pagano asserts that an employee must provide at least thirty minutes' notice before calling out for the day, Vega's supervisor permitted less time. Instead, Novack expected fifteen minutes' notice and reminded Vega to report any absence at least fifteen minutes before her start time. Nonetheless, according to her email and text notifications, many of Vega's notifications

were less than fifteen minutes before her start time in 2022 and 2023. See, e.g., R-26, R-33, R-35, and R-36. Vega did not discuss her difficult family situation with Novack because he was a man. Although Pagano allowed Vega to come in later, Vega felt Pagano had little empathy for her circumstances. Pagano did not press Vega for details of her private life.

Novack's June 21, 2022, memorandum to Vega reported that Vega did not provide fifteen minutes' notice for absences on March 8, March 31, May 13, May 26, June 1, June 3, June 10, June 14, June 20, and June 22, 2022. Novack acknowledges that the memorandum date was incorrect, mentioning one date after June 21, 2022. Novack believes that he started drafting the memo on June 21, 2022, and then added the later date when Vega again failed to notify him.

Vega acknowledges that she was often late to work because of appointments and increased parental responsibilities following her husband's arrest, especially getting her children to and from different schools. Indeed, Vega does not dispute the absences or tardiness noted on her timecards in 2022 and 2023 supplied in this case.

According to her timecards, Vega worked sixty-six days from January 1, 2022, until June 30, 2022, was late on four occasions, and was absent without pay (AWOP) for twenty and one-half days. Essex scheduled Vega to work one hundred and fifteen days, and she worked less than half. Still, Vega used vacation, sick, and personal days during this period, totaling thirty-eight days. (R-7.) Essex also allowed Vega a day for vaccinations.

After a leave expiring on October 4, 2022, Vega worked thirty-nine days, was tardy sixteen times, and was AWOP on twenty-one and one-quarter days through December 30, 2022. Thus, Vega worked about two-thirds of her scheduled days. (R-8.)

From January 3, 2023, until June 29, 2023, Vega was present at her job on forty-four days, late to work on twenty-two days, and AWOP on fifty-five days. (R-9 and R-10.) In other words, Vega was present for less than half of her scheduled workdays during that time, not counting accrued days, all of which Vega used by March 29, 2023.

Vega worked six days from July 3 through July 31, 2023, was late once, and AWOP on fourteen and one-quarter days. Indeed, Vega last worked on July 11, 2023. (R-11.) She stopped coming to work; instead, she was waiting for a decision on her termination case under department review, with hearings beginning in May 2023 and ending on August 3, 2023. She stopped contacting Essex regarding absences around that time. Essex removed Vega from employment on September 23, 2023.

During her testimony, Vega incredibly did not recall if she had attended departmental disciplinary hearings, many via Zoom. Yet, she often cited hearing attendance in emails as a reason for not coming into work, including days she maintains were necessary to prepare for those hearings. (R-29 and R-30.) Vega asserts that because private family matters were the main reason for the absences discussed in her termination case, she felt she should be home. However, Pagano explained that Essex offers employees a private room to attend virtual disciplinary hearings during work. Thus, an employee does not need to be home to attend online departmental hearings as Vega opted.

When Vega advised Novack that she would be late to work, he would assign work to her based on when he expected her to arrive. However, on multiple occasions, Vega was a no-show for the whole day, absent additional notification. Vega's "call out" failures led to another memorandum from Novack on October 7, 2022. Specifically, Vega advised she would be in the office for part of the day on January 11, February 8, March 18, April 13, May 25, June 16, and October 7, 2022, but was not. Novack recommended that Vega consider taking leave or intermittent leave.

Novack issued another memorandum regarding Vega's absenteeism on October 31, 2022. Since October 4, 2022, Vega was scheduled to work nineteen days but was absent for seven, representing an absenteeism rate of 36.8%. Novack reiterated his prior memorandum's directive, including taking a leave of absence to prevent disciplinary action. Although Novack recommended a referral for disciplinary action in his memorandum, Essex waited until March 2023 to issue the PNDA.

On June 21, 2023, Pagano again notified Vega that she was more than five days absent from work without pay, which an employer can consider job abandonment. Pagano advised Vega that she needed to return to work on or before June 30, 2023, or Essex would consider her actions a resignation not in good standing. On June 23, 2023, Vega notified Essex that she was unable to work due to the passing of her sister. Vega returned to work on Monday, June 26, 2023, and Wednesday, June 28, 2023. She was still absent without excuse on Tuesday, June 27, 2023.

Vega and her daughters underwent counseling through Wynonna's House. Most therapy appointments were at 6:00 p.m., although some were during the day. As part of the criminal investigation, her two daughters underwent medical evaluations. The family also met with prosecutors and DCP&P staff multiple times since the case began. The police searched her home.

Still, Ms. Vega supplies minimal documentation to support the dates of these appointments or meetings. Indeed, the February 3, 2023, letter from Wynona's House identifies no starting date or specific treatment or therapy dates but states that the family's case remains open with the organization. Notably, the family advocate from Wynona's House requests leniency during this trying time.

The June 23, 2023, letter from DCP&P reiterates its involvement with the family since February 2022 and that DCP&P recommended a higher level of supervision to her children, given the family's current needs. (P-6.)

A February 2, 2023, letter from the victim-witness advocate from the Essex County Prosecutor's Office identified the following 2022 case events: February 22, February 28, March 8, March 15, April 26, 2022, and "several" days in May and June, which she could identify if needed. The advocate requested that Essex excuse Vega from work. Notably, Vega's timesheets note that February 22 and March 8, 2022, were "documented" sick days. Novack's memo to Vega on June 21, 2022, noted that she did not provide timely notice regarding her absence on March 8, 2022, but they still considered the absence documented. Indeed, Vega supplies notes excusing her daughters from school for medical evaluations on March 8, 2022, and March 15, 2022. (P-8 and P-9.) Vega also took vacation on March 15, 2022, and used a half sick day for February 28, 2022. Stil, Vega worked a full day on April 26, 2022. In other words, Essex largely excused the days when Vega requested through the advocate.

Essex also accepted a similar letter from the advocate from the prosecutor's office in 2022 concerning appointments and evaluations during that year to excuse her 2022 absences. Regardless, the 2023 letter did not provide any 2023 dates to support Vega's absences in 2023. While Pagano stated the 2023 letter was duplicative of the 2022 letter Vega provided, which Vega disputes, the letter still only addresses dates in 2022, not 2023.

Vega was on approved leave from July 5 through October 4, 2022. Vega maintains that she sought additional leave from Essex in 2023 but recalled little detail of that request. Indeed, Vega was unsure of the date of her request or the basis for the request. Regardless, Essex has no record of a subsequent leave request after October 4, 2022.

During the hearing, Vega was uncertain of the individual with whom she spoke about such a leave, offering several possible names. Still, Vega supplies no documentation concerning a subsequent leave request, such as confirming emails with the individual she discussed the request, or the accompanying medical or other verifications needed to support such a request.

On numerous occasions, Essex recommended Vega take leave. Essex's human resources department also contacted Vega about taking a leave starting on May 15, 2023, and told Vega to present a completed intermittent leave form from her physician. (R-28.) Instead, Vega returned to work in May and did not supply materials to support a leave of absence. Undeniably, Vega sought, and Essex granted Vega leave previously, demonstrating her knowledge of the process. Thus, I do not **FIND** Vega's testimony that she applied for a subsequent leave, given her lack of recall or supporting documentation, persuasive.

Indeed, credibility contemplates an overall assessment of the story of a witness considering its rationality, internal consistency, and the way it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718 (3 Cir. 1963). A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with everyday experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App Div. 1958).

Although Vega supplies documentation identifying dates of criminal pretrial proceedings through the victim portal, she was at work on all dates noted before her leave, beginning on July 5, 2022. (P-1.) In other words, the dates on the victim portal do not provide Vega with an excuse or reason for any job absence.

Vega also supplies medical notes to excuse absences from work. Vega provided notification on certain days, but not all, and sporadic documentation. On November 7, 2022, Vega emailed Pagano that her children were ill, but she supplied no medical note.

On January 30, 2023, Vega emailed Pagano that she was at the hospital, which Pagano acknowledged. On January 31, 2023, Pagano emailed Vega because Essex had not heard from her, and she was not in the office. Pagano also informed Vega that Vega's supervisor told Pagano that he last heard from Vega on January 25, 2023. Vega supplied a note indicating her daughter saw a physician on January 24, 2023, and then

notified her supervisor that she would also not be in on January 25, 2023, because her daughter was still sick. Still, Pagano inquired who Vega notified about her absences on January 26 and 27, 2023. Pagano reminded Vega that she must inform her immediate supervisor and the administration when she is out of the office.

On February 1, 2023, Pagano emailed Vega that the documents Vega supplied did not explain or clarify the person excused, her or her child, and that it was insufficient to provide documentation photos. Still, none of the materials addressed her January 26 and 27, 2023, absences. Vega did not answer Pagano's question. (R-22.)

In the same email, Pagano reiterated the memoranda from Novack regarding Vega's failures to properly inform the office when she would be out of the office. Further, Pagano highlighted that Essex emailed all staff the expected procedures concerning attendance and absences from work.

Vega supplies her daughter's pediatric urgent care note from April 3, 2023, excusing her from school that day. (P-10.)

On April 18, 2023, Vega underwent an endoscopy, and her physician, NJ Gastro, provided an excuse note for the surgery date of April 10, 2023. Vega emailed that note to her supervisor on April 11, 2023, stating that she would be out until the [departmental] hearing on April 13, 2023. The April 13, 2023, hearing did not proceed, but Vega did not go to work.

Notably, on April 19, 2023, Vega emailed her supervisor and the administration that she had a follow-up appointment and could not make it to work. (P-5.) To support her absence, Vega supplied a visit note from American Family Care, dated March 18, 2023, noting that the patient "presented for follow-up today" and that she took Tylenol around 5:00 p.m. Thus, the note does not support her absence on April 19, 2023. (P-5.)

In response, Pagano emailed Vega advising that April 19, 2023, represented her tenth day out of the office without documentation in its online system for her absences as instructed. Pagano advised Vega that, "you must contact employee services today to put in for a leave of absence if you continue to be out of the office." Vega responded that she could not upload items from her home but had documentation to support all absences. Vega also wrote that she would be at work the following day and had not requested leave because she was waiting to know if Essex was terminating her. However, Vega was not in the office on April 20, 2023.

Instead, Vega supplied another note from NJ Gastro excusing Vega from work from April 20 through April 24, 2023. (P-4.) On April 27, 2023, her physician drafted correspondence noting that Vega first consulted on March 18, 2023, regarding stomach problems and abdominal pain. (R-27.) The doctor reported that Vega has been absent from work since April 4, 2023, due to her gastric issues and had a follow-up appointment on May 2, 2023. Her physician requested that she be given all necessary accommodations.

Yet, emails between Vega and her supervisor or the administration often conflicted because they cited other reasons for her absences. For example, on April 5, 2023, Vega advised her supervisor that she had a meeting with the prosecutor. On April 6, 2023, she reported having a court appearance that day. Vega was a no-show on April 11, 2023, and did not inform her office. On April 13, 2023, Vega emailed her supervisor after business hours, advising that she would be out following the workday. Her hearing scheduled for that day, Thursday, was canceled and would now occur on Monday. Her supervisor responded, noting she had failed to advise him or the administration of her absence on April 13, 2023, and reminded her to do so.

On April 24, 2023, Vega informed her supervisor that she would be out because her daughter was running a high temperature. In response, her supervisor noted that Vega failed to call out for April 21, 2023, again reminding her to do so. In other words, the physician's note of April 27, 2023, did not support that Vega was home from April 4,

2023, through April 27, 2023, because she was too ill to work. Thus, Essex did not accept the medical note as a valid reason for her excessive absences in April. (R-28.) Vega used all her available accrued vacation, sick, and personal days for 2023 before April 2023, so all April absences were unpaid. Still, Essex expected Vega to provide valid reasons for her absences.

Undeniably, Vega and her family were dealing with considerable difficulties outside of work. Vega testified that she has documentation to support every absence. However, that documentation is woefully lacking in this case. Indeed, I **FIND** Vega's assertion that she did not know this documentation was necessary in this proceeding is disingenuous and unpersuasive.

Vega also maintains that she never received Essex's time and attendance policy. Yet, the June 8, 2022, memorandum from Pagano to Vega about her poor attendance attached a copy of the policy. Although Pagano acknowledges that only supervisors have a complete Policy and Procedures manual, the attendance policy is separate. (R-57.) Significantly, Vega received a twelve-day suspension in 2017 and a ninety-day suspension served in 2018 and 2019 through settlements of prior disciplinary actions seeking longer suspensions because of her poor attendance and failure to follow Essex's attendance policy. (R-55, R-56, R-56(a), and R-57.) Indeed, Vega violated her probationary period, noted in the twelve-day settlement, resulting in the second major discipline notice for attendance issues in December 2017.

Vega served her ninety-day suspension in two parts because she was on maternity leave at the end of 2018, which resulted in an adjusted FNDA, reflecting that she would serve the remaining twenty-one days in 2019. Further, the settlement of her proposed 180-day suspension to a ninety-day suspension specifically advises that any absence from work for medical reasons requires a note. The stipulations of her settlements also state that she agrees to follow the policy, which she claims she never received. Thus, I **FIND** Vega's testimony that she never received the policy or was unaware of attendance requirements is not credible. Further, I **FIND** Vega's actions

concerning her attendance at issue in this case violated the stipulations of her settlements.

In contrast, I **FIND** that Essex's witnesses were far more credible and straightforward in their testimony, and they presented documentation supporting their testimony. Notably, Essex provided numerous chances to Vega to correct her poor attendance and lack of diligence in following its attendance policy. Essex did not seek discipline immediately. Essex also allowed Vega to start her day later and repeatedly encouraged her to take a leave of absence to address her ongoing family and medical concerns. Yet, she did not. In other words, I **FIND** that Essex acted with reasonable compassion in response to Vega's difficult circumstances.

When Vega did not provide Essex with adequate notice of her absence, another FSW would have to pick up her cases and their own. Therefore, her employer could not divide the daily work appropriately. Often, her supervisor had to pick up the slack or fix any mistakes that Vega could not correct because she was not at work. Vega's notification failures created delays in the Medicaid case processing. Had Vega taken a leave of absence instead of repeated unexcused absences, Essex could have borrowed other staff, arranged for support, or assigned the appropriate number of cases to the employees present on a given day to avoid unduly encumbering the unit. In other words, Essex could plan and reduce the unnecessary burden caused by Vega's conduct. Thus, I **FIND** that Vega's excessive absences and failure to notify her employer promptly of absences negatively impacted Essex's operations.

Although Vega asserts that she wants to continue her employment and would be able to work dutifully, she also testified about the unfortunate ongoing family crises and the upcoming trial of her husband, which will undoubtedly be trying and time consuming for her family. Both daughters still understandably suffer from mental distress and attempted suicide many times since 2022. Vega was late to the hearing in this case because her daughter was in crisis with an eating disorder and Vega had to travel to and from Somerset that morning.

May 30, 2023

On May 30, 2023, Vega reported a punch-in exception.

Essex employees must punch in and out at work. Sometimes, the card or card reader does not register a swipe, so an employee must report an exception. Vega's May 30, 2023, exception notes that her card did not scan and that she arrived at work at 9:30 a.m. Typically, a supervisor can approve a punch-in exception. However, when an employee has several punch-in exceptions within a short period, like Vega, an administrator must approve the punch-in exception.

Essex employees use an access card to enter or exit its buildings and their offices within the building. Vega's access card indicates her entry from the garage into the building at 320 University Avenue at 10:48 a.m., not 9:30 a.m. Her access card shows she entered the enclosed bridge between 320 University Avenue and 321 University Avenue on the second floor several minutes later. Next, her card indicates that she entered the building at 321 University Avenue.

Vega's office is on the third floor of 321 University Avenue, so she must take an elevator after crossing the bridge. Her card reports that she passed through the doors next to the elevator and then through the door to her office at 10:57 a.m.

Vega acknowledges she was late that day but does not recall when she arrived. Vega states that an unidentified supervisor told her to use the 9:30 a.m. punch-in time on her exception.

Pagano first learned about Vega's May 30, 2023, punch-in exception from her assistant administrator, Agita Church. Church advised Pagano that Vega's punch-in exception did not match her access card use. In response, Pagano asked Vega's supervisor, who reported that he had not seen her.

Next, Pagano asked the building manager, Mr. Reji George, to pull the building videos from May 30, 2023. Essex supplies videos to support its position that Vega arrived at her offices at the time indicated on the access card, not at 9:30 a.m. as she reported. Pagano reviewed the videos from May 30, 2023, with George in his office a couple of days later, which confirmed the entry points and times noted on Vega's access card. Pagano asked George to forward copies of the videos, which she later sent to Essex's attorney. However, the videos do not contain a time and date stamp. Given the lack of identifying information on the videos, Vega maintains that I should exclude them from evidence and give them no consideration. Still, I **FIND** Pagano's testimony verified the videos and her testimony about her investigative steps into Vega's contradictory punch-in exception was persuasive, clear, and logical.

In response, Vega offers several scenarios to explain the access card entry notations: a break, moving her car, or an access card error. Yet, she was unsure which reason explained the card entries. Still, Vega does not suggest that the access card log is inaccurate; it must have another explanation. On June 2, 2023, Vega emailed her supervisor to advise that she would not be coming into work and suspiciously asked for Mr. George's contact information for an "urgent" unexplained issue. During her testimony, Vega's explanations seemed forced, and her attitude about the entry events on May 30, 2023, was flippant and, at times, skeptical despite her inability to explain the inconsistency. In sum, I **FIND** that Vega did not arrive at the time noted on her punch-in exception, even with minimal consideration of Essex's supporting videos. In this regard, the access card entries that do not match Vega's reported exception and her inability to explain why sufficiently support this finding.

DISCUSSION AND CONCLUSIONS OF LAW

Discipline

A civil service employee who commits a wrongful act related to their duties or gives other cause may be subject to major discipline, including removal, disciplinary demotion, suspension or fine no greater than six months. N.J.S.A. 11A:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2. Indeed, "[t]here is no constitutional or statutory right to a government job." State-Operated Sch. Dist. of Newark v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998).

Under N.J.A.C. 4A:2-1.4(a), in appeals concerning major disciplinary action, the appointing authority bears the burden of proof. That burden of proof is by a preponderance of the evidence, Atkinson v. Parsekian, 37 N.J. 143, 149 (1962), and the hearing as to both guilt and the penalty is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980); West New York v. Bock, 38 N.J. 500 (1962). The evidence must lead a reasonably cautious mind to a given conclusion. Bornstein v. Metro Bottling Co., 26 N.J. 263 (1958). Preponderance is the greater weight of credible evidence in the case, not necessarily dependent on the number of witnesses but having the greater convincing power. State v. Lewis, 67 N.J. 47 (1975).

An appeal to the Commission requires the OAL to conduct a de novo hearing to determine the employee's guilt or innocence and the appropriate penalty if the charges are sustained. In re Morrison, 216 N.J. Super. 143 (App. Div. 1987).

"Conduct unbecoming a public employee" is an elastic phrase encompassing conduct that adversely affects the morale or efficiency of a governmental unit or that tends to destroy public respect for governmental employees and confidence in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998). "Where an employee regularly absents himself . . ., such actions tend to affect the morale of [the other] employees and cause administrative problems which an institution

should not be required to bear." Brown v. Trenton State Prison, 13 N.J.A.R. 466, 471 (1988).

Moreover, misconduct does not require that the employee violate the criminal code, a written rule, or the employer's policy. In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). The complained-of conduct and its attending circumstances need only "'be such as to offend publicly accepted standards of decency.'" Karins, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)).

Under N.J.A.C. 4A:2-2.3(a)(4), an employee may be disciplined for chronic or excessive absenteeism. Good v. Northern State Prison, 97 N.J.A.R.2d (CSV) 529, 531. While no precise number constitutes "chronic," it is generally understood that chronic conduct continues over a long time or recurs frequently. Ibid. Courts consistently hold that employers need not accommodate chronic attendance issues and that attendance is essential to most jobs. "We do not expect heroics, but 'being there,' i.e., appearing for work on a regular and timely basis, is not asking too much." Gaines, 309 N.J. Super. at 333.

In Gaines, the Board [now the Civil Service Commission] reduced the penalty for a school guard from discharge to a six-month suspension where the employee was guilty of chronic absenteeism, insubordination, and conduct unbecoming. The Court held that the reduction was plainly erroneous and necessitated judicial correction because the Board failed to adequately weigh the prior disciplinary record and Gaines's indifference to employment responsibilities. Id. at 333-34..

Even illness or disability does not alone excuse chronic absenteeism. As the Appellate Division highlighted in Svarnas v. AT&T Communications, 326 N.J. Super. 59, 79 (App. Div. 1999), an employee who does not come to work cannot perform any of her job functions, essential or otherwise. Moreover, an employer cannot "reasonably accommodate the unpredictable aspect of an employee's sporadic and unscheduled absences." Id. at 77. In Svarnas, an employee suffering from multiple illnesses and bodily injuries from a car accident was absent for "more than 600 days in a twenty-two-

year period." Further, her attendance did not improve when she was allowed to work part-time as requested. Id. at 80. The court concluded that the employee "failed to demonstrate that, with a reasonable accommodation, she would have been able to perform her job functions satisfactorily." Ibid.

Similarly, in Muller v. Exxon Research & Engineering Co., 345 N.J. Super. 595, 605–06 (App. Div. 2001), the Appellate Division concluded that an employer need not accommodate excess absenteeism even when caused by a disability otherwise protected by the Law Against Discrimination. Further, reasonable accommodation need not include indefinite part-time work schedules. Id. at 606.

Given my findings of fact, I **CONCLUDE** that a preponderance of the credible evidence exists that Vega was chronically and excessively absent from work in violation of N.J.A.C. 4A:2-2.3(a)(4). Essex had a right to expect Vega to be present at work, willing and able to perform her duties, yet she was not. Indeed, I found that frequent absences disrupted her public workplace and created hardship for the remaining employees, who absorbed the responsibilities of someone who did not perform them. Vega's attendance failures are especially egregious given the time-sensitive nature of the Medicaid work Vega's unit performed. While events and trauma surrounding her husband's arrest are devasting, Vega persistent attendance and call-out failures are inexcusable, especially when available leave could have afforded her the time to handle her increased family and personal responsibilities.

Violations of N.J.A.C. 4A:2-2.3(a)(12) for "other sufficient cause" can include violations of agency policy or procedures. Here, Essex relies upon its time and attendance policy, which Vega did not follow on multiple occasions despite numerous reminders. Thus, I **CONCLUDE** that a preponderance of credible evidence exists to support a violation of N.J.A.C. 4A:2-2.3(a)(12).

Generally, "neglect of duty" means that an employee has failed to perform and act as required by the description of their job title. Briggs. v. Dept. of Civil Service, 64

N.J. Super. 351, 356 (1980); In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977). "Duty" intends conformance to "the legal standard of reasonable conduct in the light of the apparent risk." Wytupeck v. Camden, 25 N.J. 450, 461 (1957) (internal citation omitted). Also, neglect of duty can arise from an omission or failure to perform a task imposed upon a public employee that indicates a deviation from usual standards of conduct. Rushin v. Bd. of Child Welfare, 65 N.J. Super. 504, 515 (App. Div. 1961). Neglect of duty does not require an intentional or willful act; however, there must be some evidence that the employee somehow breached a duty owed to the performance of the job. A failure to perform duties required by one's public position is self-evident as a basis for imposing a penalty without good cause for that failure. Essex expected Vega to be present to perform her job responsibilities and to abide by its attendance policies to ensure that its operations ran as efficiently as possible. Instead, I found that she was excessively absent, did not promptly inform Essex of numerous absences, and lacked the supporting documentation to excuse many of her absences. Therefore, I **CONCLUDE** that Vega breached a duty imposed by Essex's time and attendance policy and a preponderance of the evidence exists to sustain Essex's charge that Vega neglected her duties.

Further, I **CONCLUDE** that a preponderance of the credible evidence exists that Vega's conduct concerning her May 30, 2023, punch-in exception was unbecoming of a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6) because she was at worst, untruthful and at best, unconcerned with conscientiously and properly supporting her exception and admitted tardiness. Where the behavior is chronic, not only is this tendency to impair an employer's efficiency exacerbated, but the conduct can also negatively impact the public's confidence in the delivery of governmental services. Even viewing her family's distressing circumstances sympathetically and excusing some deficiency, Vega failed to properly apply for a leave of absence that could have allowed Essex to make other arrangements to cover her cases and responsibilities. Thus, I also **CONCLUDE** that her attendance problems also amount to conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6).

Penalty

Progressive discipline requires consideration once it is determined that an employee violated a statute, regulation, or rule concerning his employment. W. New York v. Bock, 38 N.J. 500 (1962). Where the underlying conduct is egregious, however, imposing a penalty up to and including removal is appropriate, regardless of an individual's disciplinary record. In re Herrmann, 192 N.J. 19 (2007). In determining the reasonableness of a sanction, the employee's record and any mitigating circumstances provide guidance. Bock, 38 N.J. 500.

Indeed, the Civil Service Commission may increase or decrease the penalty under progressive discipline. N.J.S.A. 11A:2-19; In re Carter, 191 N.J. 474, 483–86 (2007). Thus, an employee's prior disciplinary record is relevant to determining an appropriate penalty for a subsequent offense, and the question upon appellate review is whether such punishment is "so disproportionate to the offense, in the light of all the circumstances, as to be shocking to one's sense of fairness." Ibid. at 483-84 (quoting In re Polk, 90 N.J. 550, 578, (1982) (internal quotes omitted)). Generally, [courts] "accord substantial deference to an agency head's choice of remedy or sanction, seeing it as a matter of broad discretion, . . . especially where considerations of public policy are implicated." Division of State Police v. Jiras, 305 N.J. Super. 476, 482 (App. Div. 1997).

The concept of progressive discipline provides that "discipline based in part on the consideration of past misconduct can be a factor in the determination of the appropriate penalty for present misconduct." In re Hermann, 192 N.J. at 21 (citing Bock, 38 N.J. at 522 (1962)). An employee's record includes "an employee's reasonably recent history of promotions, commendations, and the like on the one hand and, on the other, formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated, so to speak, by having been previously brought to the attention of and admitted by the employee." Bock, 38 N.J. 523-524.

START HERE

Although the focus is generally on the seriousness of the current charge and the prior disciplinary history of the appellant, consideration of the civil service laws' purpose is required. Civil service laws "are designed to promote efficient public service, not to benefit errant employees." The welfare of the people, and "not exclusively the welfare of the civil servant, is the basic policy underlying our statutory scheme." Gaines, 309 N.J. Super. at 334. Indeed, "[t]he overriding concern in assessing the propriety of [the] penalty is the public good. Of the various considerations which bear upon that issue, several factors may be considered, including the nature of the offense, the concept of progressive discipline, and the employee's prior record." George v. North Princeton Developmental Ctr., 1996 N.J. AGEN. LEXIS 467, Initial Decision at *10 (March 6, 1996).

Vega urges that her mitigating circumstances concerning her family crisis and medical issues warrant less discipline than her removal. Although her legal representative argues that Vega's prior attendance issues somehow related to her older daughter's sexual abuse, she first learned of that abuse in 2022, not in 2017, when Essex charged Vega with prior discipline for poor attendance.

An employer's "[j]ust cause for dismissal can be [based on] habitual tardiness or similar chronic conduct." Bock, 38 N.J. at 522. While a single instance may not be sufficient, "numerous occurrences over a reasonably short space of time, even though sporadic, may evidence an attitude of indifference amounting to neglect of duty." Ibid. Notably, removal is appropriate "where the charges and proofs include a long-term, consistent, and unapproved course of habitual and chronic absenteeism and lateness by the appellant." Terrell v. Newark Hous. Auth., 1992 N.J. AGEN LEXIS 4882, Initial Decision at *12 (August 4, 1992). Moreover, "[e]xcessive absenteeism is not necessarily limited to instances of bad faith or lack of justification on the part of the employee who was frequently away from [their] job." Id. at *13–14. As explained in Terrell:

> After reasonable consideration is given to an employee by an appointing authority, the employer is left with a serious personnel problem, and a point is reached where the absenteeism must be weighed against the public right to efficient and economic service. An employer is entitled to be free of excessive disruption and inefficiency due to an inordinate amount of employee absence.
>
> [Id. at *13.]

Other cases reached similar conclusions. In Morgan v. Union County Runnells Specialized Hospital, 1996 N.J. AGEN LEXIS 1261, Initial Decision (December 3, 1996), the ALJ concluded that the employer was justified in removing a clerk typist for excessive absenteeism and lateness. Morgan was absent fifty-one days out of 130 workdays in six months and late approximately ten times. Significantly, from January 1, 1995, to July 21, 1995, there were only three periods in which Morgan was present for seven or more consecutive days. The ALJ concluded that termination was reasonable. Specifically, the ALJ noted "the substantial and egregious nature of the behavior complained of, coupled with the clear, acknowledged notice issued by the appointing authority" as to Morgan's required presence at work and "the burden this kind of absence places on others in the department, as well as the effect it has on morale." Id. at *6; see also Harris v. Woodbine Developmental Ctr., CSV 4885-02, Initial Decision (February 11, 2003), adopted, Civil Serv. Comm'n (March 27, 2003), http://njlaw.rutgers.edu/collections/oal/search.html (concluding that Harris's forty-one absences over one year amounted to chronic and excessive absenteeism warranting her removal); Ellis v. Jersey City Pub. Schs., CSV 1656-17 and CSV 4261-16, Initial Decision (November 27, 2017), http://njlaw.rutgers.edu/collections/oal/search.html, aff'd on reconsideration, Civil Serv. Comm'n, 2018 N.J. CSC LEXIS 657 (September 7, 2018) (determining that Ellis's twenty-six absences and three dates of tardiness warranted removal, even ignoring her prior disciplinary record).

Here, Vega has a prior disciplinary record regarding her poor attendance, including twelve-day and ninety-day suspensions. Essex attempted to be sensitive to

Vega's circumstances by allowing her extra time in the morning and urging her many times to take a leave of absence that would have excused her absences and allowed her to deal with her family needs. Yet, she did not.

Indeed, Essex cannot reasonably be obligated to continue the employment of an individual who cannot or will not regularly perform the duties assigned it assigned. Indeed, I concluded that Vega was chronically and excessively absent in violation of N.J.A.C. 4A:2-2.3(a)(4), knowing her obligations to attend work and failing to do so. The charges outlined in the FNDA are serious, and Vega's conduct is egregious. Indeed, the circumstances are like those in multiple termination cases reporting frequent absences over an extended period and the strain placed on employers, even when caused by the employee's illness or disability. Accordingly, I **CONCLUDE** that Vega's removal is the appropriate penalty under the circumstances.

ORDER

Given my findings of fact and conclusions of law, I **ORDER** that appellant be removed from employment.

I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

This recommended decision may be adopted, modified, or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision in this matter. If the Civil Service Commission does not adopt, modify, or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **DIRECTOR,**

DIVISION OF APPEALS AND REGULATORY AFFAIRS, UNIT H, CIVIL SERVICE COMMISSION, 44 South Clinton Avenue, PO Box 312, Trenton, New Jersey 08625-0312, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 4, 2024

DATE

NANCI G. STOKES, ALJ

Date Received at Agency: June 4, 2024

Date Mailed to Parties: June 4, 2024

ljb

APPENDIX
WITNESSES

For Appellant:

Nadia Vega

For Respondent:

Audra Pagano
Robert Novak

EXHIBITS

For Appellant:

P-1 Victim Witness Portal
P-2 Emails between Nadia Vega and Audra Pagano
P-3 February 3, 2023, letter from Wynona's House
P-4 April 20, 2023, NJ Gastro note
P-5 March 18, 2023, urgent care note
P-6 June 23, 2023, DCP&P letter
P-7 Email from Nadia Vega
P-8 Return to school certificates
P-9 2022 text messages between Nadia Vega and management
P-10 April 3, 2023, urgent care note
P-11 February 2, 2023, letter from the Essex County Prosecutor's Office
P-12 April 19, 2023, email between Nadia Vega and Audra Pagano
P-13 April 18, 2023, Ironbound Surgical Care report
P-14 Email to counsel
P-15 June 3, 2023, Family Mental Health payment

For Respondent:

R-1 County's Preliminary Notice of Disciplinary Action (31-A) dated March 14, 2023

R-2 County's Supplemental Notice of Disciplinary Action (31-A) dated July 13, 2023

R-3 County's Final Notice of Disciplinary Action (31-B) dated September 21, 2023

R-4 Memorandum from Audra Pagano to Division Director dated January 30, 2023, Recommending a Major Disciplinary Action against Nadia Vega

R-5 June 8, 2022, Memo from Audra Pagano to Nadia Vega regarding Abuse of Time and Attendance

R-6 July 18, 2022, letter to Nadia Vega from Audra Pagano regarding Job Abandonment

R-7 Employee Timecard Report from January 1, 2022 through June 30, 2022

R-8 Employee Timecard Report from July 1, 2022 through December 31, 2022

R-9 Employee Timecard Report from January 3, 2023 through May 1, 2023

R-10 Employee Timecard Report from May 16, 2023 through June 21, 2023

R-11 Employee Timecard Report from July 3, 2023 through July 31, 2023

R-12 Memorandum from Robert Novak to Nadia Vega dated May 25, 2022 regarding use of all paid time

R-13 Memorandum from Robert Novak to Nadia Vega dated June 21, 2022 regarding her failure to notify the office when out.

R-14 Annual Performance Appraisal Form for January 1, 2022 through June 30, 2022

R-15 Annual Performance Appraisal Form for July 1, 2022 through December 31, 2022

R-16 Memorandum from Robert Novak to Nadia Vega dated October 7, 2022, regarding calling out

R-17 Memorandum from Robert Novak to Nadia Vega dated October 31, 2022

R-18 Email dated November 7, 2022, between Audra Pagano and Nadia Vega

R-19 Email dated January 30, 2023, from Nadia Vega to Audra Pagano

R-20 Email dated January 31, 2023, from Audra Pagano to Nadia Vega

R-21 Email dated January 31, 2023, from Nadia Vega to Audra Pagano with attachments

R-22 Email dated February 1, 2023, from Audra Pagano to Nadia Vega

R-23 Email dated February 2, 2023, from Nadia Vega to Audra Pagano with attachment

R-24 Attachment from the February 2, 2023 email

R-25 Email dated February 2, 2023, from Audra Pagano responding to Nadia Vega's letter

R-26 Email correspondence from April 2023

R-27 NJ Gastro doctors note dated April 27, 2023

R-28 Email chain regarding April 2023 absences between Nadia Vega, Audra Pagano, and Employee Services

R-29 Email on May 16, 2023, from Nadia Vega stating she had to stay home for her Hearing.

R-30 Email on May 23, 2023, from Nadia Vega stating that she must call out for the day.

R-31 Email on May 31, 2023, from Nadia Vega stating that she has the hearing the following day and must stay home to get her paperwork in order.

R-32 E-mail on June 2, 2023, from Nadia Vega, calling out for the day.

R-33 E-mail on June 7, 2023, from Nadia Vega, calling out for the day

R-34 E-mail on June 12, 2023, from Nadia Vega, calling out for the day for her daughter, and saying she will provide notes.

R-35 Email on June 13, 2023, from Nadia Vega, calling out for the day

R-36 Email on June 14, 2023, from Nadia Vega, calling out for the day

R-37 Email on June 15, 2023, from Nadia Vega, calling out for the day

R-38 Email dated June 21, 2023, from Audra Pagano to Nadia Vega regarding 7 days AWOP with no supporting documentation.

R-39 June 21, 2023, letter to Nadia Vega from Audra Pagano regarding Absence for 5 Consecutive Days

R-40 Email on June 22, 2023, from Nadia Vega stating that she will try to be in a quarter day

R-41 Email on June 22, 2023, from Nadia Vega stating that she will not make it in for the day.

R-42 Email on June 23, 2023, from Nadia Vega stating that she won't be in due to her family going through a hard time with the unexpected passing of her sister.

R-43 Email on July 11, 2023, from Nadia Vega stating that she's not going to be at work the following day (July 12, 2023).

R-44 Email on July 13, 2023, from Nadia Vega stating that she won't be at work because of her daughter

R-45 Email on July 14, 2023, from Nadia Vega stating that she can't go in to work

R-46 Email on July 17, 2023, from Nadia Vega stating that she can't make it in, and that she won't be in the following day because of her hearing.

R-47 Email on July 31, 2023, from Nadia Vega stating that she will be out until the hearing on August 3, 2023

R-48 July 31, 2023, letter to Nadia Vega from Audra Pagano regarding absences since July 11, 2023

R-49 Email on May 31, 2023, regarding the May 30, 2023, exception request

R-50 Card Access Events for May 30, 2023, of access granted to Nadia Vega to DFAB office

R-51 Video- 320 Bridge

R-52 Video-320 Main 10-54

R-53 Video-321 second floor elevator.

R-54 Video-321 second floor hallway

R-55 Final Notice of Disciplinary Action (31-B) for Nadia Vega dated June 22, 2017, attached to a Stipulation of Settlement and General Release

R-56 Adjusted Final Notice of Disciplinary Action (31-B) for Nadia Vega dated March 19, 2019, and February 23, 2018, attached to a Stipulation of Settlement, General Release and Last Chance Agreement

R-57 County of Essex HR Policy Chap. V-5 – Attendance and Punctuality.

R-58 Attendance totals from R-7 through R-10