



**STATE OF NEW JERSEY**

In the Matter of Brian Crimmins,  
Hoboken, Department of Public  
Safety

**FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION**

CSC Docket Nos. 2025-1269 and  
2025-1270

Request for Reconsideration and  
Enforcement

**ISSUED: February 26, 2025 (SLK)**

Hoboken, represented by Stephen J. Edelstein, Esq., requests reconsideration of *In the Matter of Brian Crimmins* (CSC, decided November 6, 2024), where the Civil Service Commission modified Crimmins' demotion from Fire Chief to Fire Fighter to a written reprimand. Brian Crimmins, represented by Brent R. Pohlman, Esq., requests reconsideration of the Commission's decision to deny him counsel fees, and requests enforcement. These matters have been consolidated due to common issues presented.

By way of background, Crimmins was issued a Final Notice of Disciplinary Action (FNDA) demoting him from Fire Chief to Fire Fighter due to various charges. Crimmins appealed his demotion to the Commission, and the matter was transmitted to the Office of Administrative Law as a contested case. In the Administrative Law Judge's (ALJ) initial decision, she recommended reversing most of the charges but sustaining one charge. Further, the ALJ recommended reversing the demotion and issuing a written warning instead. Thereafter, the Commission adopted the ALJ's findings and modified the demotion to a written reprimand.

In Hoboken's request for reconsideration, it argues that the Commission failed to recognize the most important issue facing the Hoboken Fire Department today, which is Crimmins' "lying to, ignoring, attempting to manipulate, or otherwise antagonizing his Battalion Chiefs," as well as his incompetence in the essential Fire Chief duties, which has led to a loss of trust from his direct reports and the

administration in his ability to lead the Fire Department. It presents that the Battalion Chiefs who directly report to him as well as the Business Administrator, Crimmins' direct superior, testified at the hearing as to why Crimmins was unfit to serve as Fire Chief whereas the only testimony in support of Crimmins was his self-serving testimony without any witness support or corroboration.

Hoboken presents new information that was not available to be presented at the original proceeding. Specifically, it provides that the Acting Fire Chief has expressed his unwillingness to continue in the department if Crimmins is reinstated to Fire Chief, and he certifies that if Crimmins is reinstated there will be leadership instability, reduced morale and retention, operational disruptions, missed opportunities for development, and long-term strategic challenges. Additionally, Hoboken states that if Crimmins is reinstated, several ongoing projects spearheaded by the Acting Chief will suffer. Hoboken highlights that a fire department is a paramilitary organization and confidence and trust in leadership is critical. It notes that in the military, a loss of confidence is grounds for a military officer being fired.

In response, Crimmins states that Hoboken has presented three unconvincing, un compelling, and legally insufficient arguments in support of reconsideration. The first is "new" evidence, the second is that Hoboken "just doesn't want him back," and the third is that the Commission should disregard Civil Service law and rules and should use the military's standard for removal. Crimmins highlights that Hoboken is not making arguments related to the allegations as set forth in the FNDA.

Crimmins notes that reconsideration is not appropriate merely because of dissatisfaction with a decision. He asserts that Hoboken is presenting arguments that were already presented to the Commission and do not meet the standard. Crimmins contends that statements from unnamed Battalion Chiefs through counsel offer no probative value and are hearsay which must be disregarded. Crimmins notes that the Battalion Chiefs did not testify to any operational issues. Furthermore, any claim by the Battalion Chiefs that they fear retaliation is hypothetical with no basis. Additionally, he asserts that the Acting Chief is asking for the Commission's decision to be overturned so he will not be returned to Battalion Chief with a reduced salary. Also, the decision to reconsider the Commission's decision cannot be based on Hoboken's lack of transition planning if the Acting Chief is no longer involved in planned projects. Finally, he emphasizes that the military's standard for removal is not relevant to the present matter.

In Crimmins' request for reconsideration of the denial counsel fees, he states that counsel fees should be awarded to an appellant who has prevailed on substantially all issues on appeal. He presents that out of nine charges only one was sustained. Further, Crimmins argues that this matter is distinguishable from other cases where even though charges were dismissed, major discipline was sustained. He claims that if the Legislature meant to deny counsel fees based on discipline being

imposed, it would have included such language in the statute, and he emphasizes that counsel fees are to be awarded where an employee *substantially prevails* on all the issues. In the alternative, Crimmins requests partial counsel fees. Regarding enforcement, he indicates that Hoboken has yet to reinstate him.

In response, Hoboken asserts that there is no basis for Crimmins' argument that he *substantially prevailed* on all matters as he presents no case law to support his distinction between the imposition of major and minor discipline. Further, contrary to Crimmins' claim, Hoboken states that if the Legislature wanted to grant counsel fees where minor discipline was imposed, it would have stated so in the statute. It reiterates that the Commission was correct to deny counsel fees as charges were sustained against him and discipline was imposed. Regarding enforcement, Hoboken asserts that this request is premature as even if its request for reconsideration is denied, it will petition for a stay.

## CONCLUSION

*N.J.A.C.* 4A:2-1.6(b) provides that a request for must show the following:

1. The new evidence or additional information not presented at the original proceeding, which would change the outcome and the reasons that such evidence was not presented at the original proceeding; or
2. That a clear material error has occurred.

*N.J.A.C.* 4A:2-2.12(a) provides that the Commission shall award partial or full reasonable counsel fees incurred in proceedings before it and incurred in major disciplinary proceedings at the departmental level where an employee has prevailed on all or substantially all of the primary issues before the Commission.

*N.J.A.C.* 4A:2-1.2(b) provides that a request for a stay or interim relief shall be in writing, signed by the petitioner or his representative and must include supporting information for the request.

*N.J.A.C.* 4A:2-1.2 provides that the following factors will be considered in reviewing such requests:

1. Clear likelihood of success on the merits by the petitioner;
2. Danger of immediate or irreparable harm if the request is not granted;
3. Absence of substantial injury to other parties if the request is granted; and
4. The public interest

In this matter, the Commission finds that Hoboken has not met the standard for reconsideration. Specifically, as indicated in its decision, the Commission's decision was based on the ALJ's assessment of the testimony of the witnesses, who is

in the best position to make those determinations. As such, Hoboken has presented no substantive evidence in either the original matter or on reconsideration demonstrating that the Commission committed a clear material error by adopting those findings. Concerning the alleged “new” evidence, it is noted that Hoboken could have presented testimony or statements from the Acting Fire Chief in the original proceeding regarding the charges alleged. Any other “new” statements are irrelevant as they do not bear on the charges, but only on the perceived impact of Crimmins’ return to Fire Chief.

Referring to Crimmins’ request for counsel fees, the primary issue in any disciplinary appeal is the merits of the charges. The mere fact that some charges were dismissed against Crimmins, and the penalty was modified does not negate that one charge was sustained. Further, there is no requirement under Civil Service law or rules which mandates full or partial counsel fees even if major discipline was not warranted when a disciplinary charge is sustained. Moreover, the Commission properly has granted full counsel fees where underlying charges and the original disciplinary action is completely reversed, or partial counsel fees where a ***removal from employment*** is modified to a minor discipline, recognizing in those cases that an appointing authority has so improperly and abjectly impacted an appellant’s property right as to warrant such partial fees. Neither circumstance is present in this matter, as the original disciplinary penalty was a demotion, and Crimmins remained employed. Therefore, the Commission finds that Crimmins has not met the standard for reconsideration.

Regarding Crimmins’ request for enforcement, the Commission grants this request and orders Hoboken to comply with its order and immediately reinstate Crimmins to Fire Chief. Specifically, referring to any potential appeal that Hoboken may file with the Appellate Division, while every filing party in the Appellate Division believes that they have a clear likelihood of success on the merits, the Commission explained why it determined that Crimmins’ demotion from Fire Chief was not warranted in its original determination. *See In the Matter of Christopher D’Amico* (CSC, decided August 14, 2019). Moreover, it is Crimmins who is suffering damage by not being reinstated to his rightful position and it is in the public’s interest that Hoboken comply with the Commission’s order. Further, while Hoboken has indicated it will petition for a stay, the Commission notes that it considers this decision its final administrative action on this matter since, in this and its prior decision, it has addressed any such arguments that could be made under *N.J.A.C. 4A:2-1.2* and have found them unavailing. As such, assuming Hoboken is proceeding to the Appellate Division, any request for a stay should be made in that forum. However, the Commission notes that the filing of an appeal in the Appellate Division does not automatically stay a Commission decision, nor relieve an appointing authority from complying with said decision.

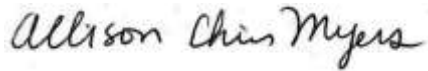
## ORDER

Therefore, it is ordered that these requests for reconsideration be denied. Crimmins' request for enforcement is granted and he is to be reinstated to his positions as Fire Chief as indicated in the Commission's previous decision.

Hoboken shall make a good faith effort to fully comply with this and the Commission's prior decision within 30 days of this decision. In the event that Hoboken fails to make a good faith effort to comply with this order within the prescribed timeframe, the Commission orders that a fine be assessed against it in the amount of \$100 per day, beginning on the 31st day from the issuance of this decision, and continuing for each day of continued violation, up to a maximum of \$10,000. *See N.J.A.C. 4A:10-1.1(b) and N.J.A.C. 4A:10-2-1(a).*

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 26<sup>TH</sup> DAY OF FEBRUARY, 2025




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