



## STATE OF NEW JERSEY

In the Matter of Muhammad Shouki,  
Newark School District

CSC Docket No. 2017-2637

OAL Docket No. CSV 03375-17

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

ISSUED: MAY 21, 2025

The appeal of Muhammad Shouki, Custodian, Newark School District, 45 working day suspension, on charges, was heard by Administrative Law Judge Kimberly K. Holmes (ALJ), who rendered her initial decision on April 25, 2025. 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, at its meeting on May 21, 2025, adopted the ALJ's Findings of Facts and Conclusions of Law and her recommendation to uphold the 45 working day suspension.

ORDER

The Civil Service Commission finds that the action of the appointing authority in suspending the appellant was justified. The Commission therefore upholds that action and dismisses the appeal of Muhammad Shouki.

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 21<sup>ST</sup> DAY OF MAY, 2025

*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 03375-17

AGENCY DKT. NO. 2017-2637

**IN THE MATTER OF MUHAMMAD SHOUKI,  
NEWARK PUBLIC SCHOOL DISTRICT.**

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**Muhammad Shouki**, appellant, pro se

**Bernard Mercado, Esq.**, Associate General Counsel, for respondent Newark  
Public School District (Newark Board of Education, attorneys)

Record Closed: March 11, 2025

Decided: April 25, 2025

**BEFORE KIMBERLY K. HOLMES, ALJ:**

**STATEMENT OF THE CASE**

On September 16, 2013, January 22, 2015, and January 17, 2017, appellant, Muhammad Shouki, a custodian with the Newark Public School District (Newark), consistently and continuously did not perform his job task after repeated verbal and written warnings from his supervisors. Is Shouki subject to discipline? Yes. An employee may be subject to discipline for more than five working days based on poor work performance. N.J.A.C. 4A:2-2.2(a).

### **PROCEDURAL HISTORY**

On September 16, 2013, a final notice of disciplinary action and a memorandum of agreement was issued to Shouki from Newark. Under the agreement, he was issued a fine in lieu of a four-day suspension for excessive lateness, neglect of duty, and other sufficient causes. (R-1.)

On January 22, 2015, Newark suspended Shouki for twenty days for chronic or excessive absenteeism or lateness, neglect of duty, insubordination, and other sufficient causes. (R-2.)

On December 9, 2016, Newark served Shouki with a preliminary notice of disciplinary action, charging Shouki with neglect of conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)6, insubordination in violation of N.J.A.C. 4A:2-2.3(a)2, and other sufficient causes in violation of N.J.A.C. 4A:2-2.3(a)11. In the preliminary notice, Newark specified that Shouki failed to report to the main office after having been paged twice over the school intercom system; that he failed to clean the cafeteria floors and take out the garbage; that he failed to clean the floors at the end of the after school program; that he failed to remove the pencil lines and marks on the hallway walls as directed; that he used profanity and threatened his supervisor and another custodian; and that he failed to complete every aspect of his job detail as directed by his supervisors.

On December 20, 2016, Newark conducted a departmental hearing.

On January 17, 2017, Newark served Shouki with a final notice of disciplinary action, sustaining the charges and suspending Shouki for forty-five working days, beginning January 30, 2017, and ending March 31, 2017.

On January 30, 2017, Shouki appealed the determination.

On March 8, 2017, the Civil Service 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.

On January 21, 2025, this case was reassigned to me because the previously assigned administrative law judge retired in January 2025.

On March 11, 2025, I conducted the hearing and closed the record.

### **FINDINGS OF FACT**

Based upon the testimony the parties provided, and my assessment of their credibility, together with the documents the parties submitted, and my assessment of their sufficiency, I **FIND** the following **FACTS**:

Dana Moore Mishoe has been employed for seventeen years with Newark. From 2015-2016, Moore was assigned to the Brick Avon Academy School (Avon) in a supervisory capacity as the operations manager. In that role, Moore was over the entire custodial team at Avon where Shouki was employed as a custodian. Part of Moore's job responsibilities was to make certain the custodial staff maintained a standard of cleanliness at Avon during the morning and evening shifts and when students attended the after-school program on a routine basis. The standards of cleanliness must be maintained daily to minimize disruption to students and teachers. If the classrooms and common areas required cleaning during school hours, it could delay the academic learning process.

When Shouki was suspended on January 17, 2017, he was employed as a custodial worker at the Avon school.

Shouki has a disciplinary history at Avon. More specifically, on September 16, 2013, he was issued a fine in lieu of a four-day suspension for excessive lateness, neglect of duty, and other sufficient cause.

From February 2, 2015, to February 27, 2015, Shouki served a twenty-day suspension for chronic or excessive absenteeism or lateness, neglect of duty, insubordination, and other sufficient causes. (R-2.)

From 2015 to 2016, Shouki worked the evening shift, and his work hours were from 3:00 p.m. to 11:00 p.m. He was permitted to take two breaks for ten minutes, but he could not leave the building. (R-5.) He was also permitted to take a daily lunch break for thirty minutes. (R-5.)

Newark provided Shouki with his job assignments at Avon. More specifically, his job assignments were outlined in the night custodial worker cleaning schedule and the weekly cleaning schedule. (R-5, R-6.) He was fully aware of the job duties assigned to him on the evening shift. (R-8.)

Among the job assignments, Shouki was specifically responsible for sweeping and mopping all classroom floors and buffing all hallway floors daily. (R-5.) He was responsible for making sure all trash was removed from the building daily. (R-5.) In addition, Shouki was required to clean the building, which included the cafeteria and wash down the corridor walls. (R-6.)

On October 23, 2015, Moore notified Shouki in writing that he failed to clean the floors and remove the trash in the cafeteria. (R-7.) When Moore spoke to Shouki about her observations regarding his work subpar performance, Shouki responded by saying "I'm only doing the trash. The floors are for the morning shift to do." He also told Moore, "The detail [report] could be burned because it was irrelevant, [and that he was] only doing the trash and that [Moore] could handle the rest the way [Moore] wanted to." (R-7.)

Moore advised Shouki in writing that cleaning the floors in the cafeteria and removing the trash was a part of his job responsibilities on the evening shift. (R-7.)

On November 18, 2015, Moore notified Shouki again that on October 15, 2015, and October 22, 2015, he received verbal and written communications from her

regarding his job responsibilities with respect to cleaning the floors and removing the trash in the cafeteria once the after-school program is over. (R-8.)

While Shouki emptied the trash on November 16, 2015, the floors were not cleaned, and there was trash left in the building from the after-school program. (R-8.)

Photographs depicted debris all around the cafeteria floors, garbage left in the building, and spilled milk on the table. (R-8.)

On December 21, 2015, Moore gave Shouki a letter, which detailed that pencil marks and lines drawn on the second-floor hallways weren't removed on December 10, 2015, and that it was part of his job detail to clean the walls. (R-9.)

While Shouki responded to Moore that he would "do the best [he] could," the pencil lines and marks remained the very next day. The photographs depicted how the walls looked on December 11, 2015. They were filthy, and the marks remained. (R-9.)

Shouki used a solution to remove the pencil marks, but it made the appearance worse. Shouki's attempts to remove the pencil marks on the walls were unacceptable. (R-9.)

On January 14, 2016, Moore gave Shouki a written letter stating that a pile of trash was left next to the trash in the cafeteria. (R-10.)

Shouki was advised again that sweeping the floor and emptying the trash was a part of his job responsibilities once the after-school program was completed. (R-10.)

On February 26, 2016, Moore gave Shouki a written letter stating that bags of trash were left on the floor from the evening shift. The floors were not swept as visible spots of dirt were depicted in the photographs Moore took. (R-11.)

Shouki was advised that further disciplinary action would be pursued if he failed to perform his job duties to completion. (R-11.)

A photograph depicted bags of trash Shouki left inside the building. (R-11.)

On April 11, 2016, Richard Shabazz, Shouki's supervisor, issued a written letter of warning to him for conduct unbecoming. (R-12.)

When Shabazz gave Shouki a directive to scrub the second floor, Shouki refused to perform the job task. Shouki told Shabazz that he would not do it and began to use profanity in speaking with him. Shouki also threatened to "knock [Shabazz] out." (R-12.)

On August 19, 2016, Michael Burton, the supervisor of custodians, issued a written warning to Shouki for insubordination, conduct unbecoming, and for job abandonment. (R-13.)

Shouki had an argument about custodial work with another custodian at Avon named Robin Isibor. When Isibor asked Shouki to clean the area, he threatened to punch Isibor in the face. Shouki used profanity during the argument, and Isibor reported to Burton that she felt unsafe in the workplace with Shouki. (R-13.)

Shouki continued to use profanity when Burton questioned him about what occurred with Isibor. (R-13.)

On August 18, 2016, Burton reassigned Shouki to the Hawthorne Avenue School to diffuse the situation between Shouki and Isibor. Shouki refused to report to the school and clocked out. (R-13.)

Shouki repeatedly told Burton that he did not have to leave Avon and that he was going to notify his union representative. Shouki left the building once Burton notified security. (R-13.)

On August 19, 2016, Burton advised Shouki in writing that his conduct on August 18, 2016, constituted insubordination, conduct unbecoming, and job abandonment.



### **CONCLUSIONS OF LAW**

The Civil Service Act and regulations promulgated under the act govern the rights and duties of a civil service employee. N.J.S.A. 11A:1-1 to 11A:12-6; N.J.A.C. 4A:2-1.1 to 4A:2-6.2. A civil service employee who commits a wrongful act related to his or her duties or who gives other just cause may be subject to major discipline. N.J.S.A. 11A:2-6; N.J.A.C. 4A:2-2.2.

The issues to be determined at this de novo hearing are whether the civil servant is guilty of the charges brought against him and, if so, the appropriate penalty, if any, that should be imposed. Any suspension greater than five working days is considered a major disciplinary action, and the appointing authority bears the burden of proof. N.J.A.C. 4A:2-1.4(a). The burden of proof is by a preponderance of the evidence, Atkinson v. Parsekian, 37 N.J. 143, 149 (1962), and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. 571, 579 (1980).

In this case, Shouki consciously failed to perform his job duties that were delineated in his night custodial worker cleaning schedule and in his weekly cleaning schedule (R-5, R-6.) Time after time, he consistently disregarded the warnings and did not perform all his job duties as required.

Shouki was careless and showed blatant disregard for the tasks he was assigned. He would not take out the trash from the night shift as required. Shouki would not clean the floors. He refused to follow orders from Moore, Shabazz, and Burton as required. More disturbing was his use of profanity and blatant threats to his co-worker Isibor, who felt unsafe around him when he threatened to punch her in the face. Shouki threatened not only Isibor but also Shabazz with physical harm.

Based on the discussion above, I **CONCLUDE** that Newark has established by a preponderance of the evidence that Shouki engaged in conduct unbecoming a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6), insubordination in violation of N.J.A.C. 4A:2-2.3(a)(6), and a failure to perform duties in violation of N.J.A.C. 4A:2-2.3(a)(1).

The only remaining issue is penalty. The Civil Service Commission may increase or decrease the penalty, N.J.S.A. 11A:2-19, and the concept of progressive discipline guides that determination. In re Carter, 191 N.J. at 483–86. Thus, an employee's prior disciplinary record is inherently relevant to determining an appropriate penalty for a subsequent offense. Ibid.

Consideration should also be given to the timing of the most recently adjudicated disciplinary history. Ibid. A past record, or lack thereof, cannot be used to prove or disprove the present charge. However, it can be used for guidance to determine the appropriate penalty. Ibid.

In this case, Shouki failed to listen to his supervisor on numerous occasions and therefore was insubordinate. His animated language and defiance toward his supervisors and co-worker was conduct unbecoming a public employee. Shouki claims he was not disciplined under a former supervisor while at Avon. However, Shouki's work performance was substandard and demonstrated complete disrespect for his job, his supervisors, and Avon. Meanwhile, Shouki had been disciplined repeatedly in 2013 and in 2015, which is close in time to this case as other instances of misconduct where Shouki received verbal warnings for his supervisors.

Given this discussion, I **CONCLUDE** that Shouki's actions warrant a suspension for forty-five days.

### **ORDER**

Given my findings of fact and conclusions of law, I **ORDER** that Shouki is **SUSPENDED** for forty-five working days and that his appeal is **DISMISSED**.

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

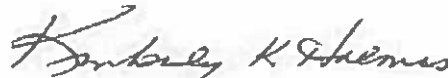
This recommended decision may be adopted, modified, or rejected by the **CIVIL SERVICE COMMISSION**, which by law is authorized to make a final decision on this

case. 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 becomes a final decision under 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.

April 25, 2025

DATE



KIMBERLY K. HOLMES, ALJ

Date Received at Agency:

April 25, 2025

Date Mailed to Parties:

April 25, 2025

Isr

**APPENDIX**

**Witnesses**

**For Appellant:**

Muhammad Shouki

**For Respondent:**

Dana Moore Mishoe

Richard Shabazz

Robin Isibor

Jacquelin Chavis

**Exhibits**

**For Appellant:**

None

**For Respondent:**

- R-1 FNDA dated September 16, 2013 (Exhibit "A")
- R-2 FNDA dated January 22, 2015 (Exhibit "B")
- R-3 FNDA dated January 27, 2017 (Exhibit "C")
- R-4 Not admitted FNDA dated November 12, 2021 (Exhibit "D")
- R-5 Newark BOE Night Custodial Worker Cleaning Schedule (Exhibit "E")
- R-6 Newark BOE Weekly Cleaning Schedule (Exhibit "F")
- R-7 Memorandum from DM dated October 23, 2015 (Exhibit "G")
- R-8 Memorandum from DM dated November 18, 2015 (Exhibit "H")
- R-9 Memorandum from DM dated December 21, 2015 (Exhibit "I")
- R-10 Memorandum from DM dated January 14, 2016 (Exhibit "J")

R-11 Memorandum from DM dated February 26, 2016 (Exhibit "K")

R-12 Memorandum from RS dated April 11, 2016 (Exhibit "L")

R-13 Memorandum from MB dated April 19, 2016 (Exhibit "M")