

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). Upon its review and notwithstanding the appellant's arguments in the exceptions, the Commission finds no persuasive evidence in the record or the exceptions to demonstrate that the ALJ's findings and conclusions based on his credibility determinations were arbitrary, capricious or unreasonable.

Additionally, the appellant contends that the ALJ did not properly assess whether the appointing authority established that any requested accommodations presented an undue hardship. The Commission is not persuaded. The ALJ made a number of factual findings as to this issue. The ALJ specifically found the appellant's exemption request was individually considered by a group that had both familiarity with her job functions and the impact of COVID-19 on the appointing authority's operations. That information was provided to the individuals who ultimately decided to deny the request, after they independently reviewed the request. The ALJ also found that the credible evidence and testimony in the record as to the appellant's job duties, location, limitations, and accommodation requests were all considered while evaluating her religious exemption request. Ultimately, the ALJ, determined that the appellant's request was denied because no possible accommodation existed, and her unvaccinated status would have caused an undue hardship to appointing authority's operations. Upon its review of the entire record as well as the exceptions, the Commission finds nothing to question that determination.

Regarding the penalty, 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).

Significant in this regard, the Commission notes that the appellant had received several previous disciplinary actions in her short tenure with the appointing authority.² Most significantly, the record reflects that the appellant received six minor disciplinary suspensions and a 15 working day suspension in 2021 for attendance-related matters that arose in 2020. This record of discipline in the appellant's short tenure coupled with the appellant's failure to comply with required provisions in this matter, supports her removal from employment. In this regard, the Commission finds removal to be 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 was justified. The Commission therefore upholds that action and dismisses the appeal of Quantara Ross.

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 5TH DAY OF NOVEMBER, 2025

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

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

Attachment

² The appellant's personnel record indicates that the appellant started with the appointing authority in June 2017.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 01006-23

AGENCY DKT. NO. N/A

(ON REMAND CSV 05908-22)

**IN THE MATTER OF QUANTARA ROSS,
JUVENILE JUSTICE COMMISSION.**

Karyn L. White, Esq., for appellant Quantara Ross (Pacific Justice Institute, attorneys)

Kathryn B. Moynihan, Deputy Attorney General, for respondent Juvenile Justice Commission (Matthew J. Platkin, Attorney General of New Jersey, attorney)

Record Closed: August 6, 2025,

Decided: September 22, 2025

BEFORE **WILLIAM T. COOPER III**, ALJ:

STATEMENT OF THE CASE

Appellant Quantara Ross (appellant or Ross), a communication operator employed by respondent Juvenile Justice Commission (respondent or JJC), appeals her removal from employment due to her failure to comply with Executive Order 283 (E.O. 283) requiring certain public employees to furnish proof of a COVID-19 vaccination and the JJC "Policy Regarding the Implementation of E.O. 283; Vaccination Requirements for

Covered Workers.” Appellant maintains that her request for accommodation was improperly denied by the JJC.

PROCEDURAL HISTORY

The JJC served upon the appellant a Preliminary Notice of Disciplinary Action (PNDA) dated March 2, 2022, charging her with violations of conduct unbecoming a public employee (N.J.A.C. 4A:2-2.3(a)(6)) and other sufficient cause (N.J.A.C. 4A:2-2.3(a)(12)), to wit, E.O. 283 and JJC policy regarding implementation of E.O. 283. A departmental hearing was held on April 18, 2022, and, on June 3, 2022, the respondent served upon the appellant a Final Notice of Disciplinary Action (FNDA) sustaining the charges and immediately removing her from respondent’s employment. The sustained charges were:

1. N.J.A.C. 4A:2-2.3(a)(6)—Conduct Unbecoming a Public Employee, and;
2. N.J.A.C. 4A:2-2.3(a)(12)—Other Sufficient Cause, to wit, E.O. 283 and JJC policy regarding implementation of E.O. 283.

The specifications in support of the charges noted:

You failed to comply with Executive Order 283 and JJC’s Policy Regarding the Implementation of Executive Order 283.

Your presence in a congregate setting is a serious health and safety risk which could adversely affect the health and safety of others.

[See R-1]

On July 16, 2022, the appellant filed a timely appeal, and the matter was transmitted to the Office of Administrative Law (OAL), where it was filed as a contested case under OAL docket number CSV 05908-22 on July 18, 2022. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13.

On September 12, 2022, an Order to Consolidate was entered consolidating appellant's appeal with the appeals of JJC senior correctional police officers Kurtis Warner (CSR 05340-22), Timothy Jillson (CSR 05341-22), John Jester (CSR 05342-22), Alberto Campos (CSR 06218-22), and Douglas Weedon (CSR 05339-22).

The JJC moved for summary decision, and by Initial Decision dated December 9, 2022, the motion for summary decision was granted, and the removal of the appellants was affirmed.

On February 1, 2023, the Civil Service Commission (CSC) determined that summary decision was not appropriate and remanded each matter for a determination as to whether the granting of each appellant's requested accommodation would amount to an undue hardship to the JJC.

On May 17, 2023, an order consolidating the remanded cases of Quantara Ross (CSR 01006-23), Kurtis Warner (CSR 01008-23), Timothy Jillson (CSR 01005-23), John Jester (CSR 01003-23), Alberto Campos (CSR 00998-23), and Douglas Weedon (CSR 01000-23), as well as the appeal of Daniel Borrero-Melendez (CSR 00995-23), (collectively "appellants") was entered.

On May 25, 2023, a status conference was conducted to discuss the issues remaining to be determined pursuant to the CSC remand order, as well as an unresolved discovery motion. The JJC agreed to provide updated responses to appellants' discovery demands.

On June 9, 2023, the JJC provided updated responses to appellants' discovery requests, and on June 13, 2023, appellants renewed their motion to compel discovery, specifying the requests they deemed deficient. On July 25, 2023, oral argument on the discovery motion was heard, and on August 31, 2023, an Order denying the motion was entered.

On September 14, 2023, appellants filed a motion seeking a copy of the written recommendations of the "working group" that reviewed the request for religious

accommodations of the named appellants. Oral argument was conducted on October 2, and 13, 2023.

On November 29, 2023, an Order was issued severing the consolidated appeals of appellant Quantara Ross (CSR 01006-23), Kurtis Warner (CSR 01008-23), Timothy Jillson (CSR 01005-23), John Jester (CSR 01003-23), Alberto Campos (CSR 00998-23), Douglas Weedon (CSR 01000-23), and Daniel Borrero-Melendez (CSR 00995-23)¹.

On January 18, 2024, an order denying the motion for the written recommendations of the “working group” that reviewed the request for religious accommodations of the named appellants was entered.

On May 30, 2024, appellant filed a motion to bar the expert report and testimony of the JJC’s expert witness, Edward Lifshitz, M.D., F.A.C.P. On September 9, 2024, an order held that “the efficacy and safety of the COVID-19 vaccines was not in issue and therefore there was no basis for expert testimony on that subject. However, Dr. Lifshitz was permitted to testify regarding the challenges the COVID-19 Pandemic imposed in correctional facilities and the challenges, Infection-Induced Immunity, Testing Strategies, Masking, and the COVID-19 crisis in 2022.”

On October 7, 2024, the appellant served upon the respondent an expert report prepared by Peter McCullough. The JJC filed a motion to bar the expert report and testimony on the grounds that Dr. McCullough’s report only addressed the efficacy of the COVID-19 vaccines. On December 13, 2024, an order granting the motion was entered.

Hearings were conducted on January 14, 2025, and March 25, 2025. The record remained open for the submission of written summations.

Written summations were submitted on August 6, 2025, and the record closed.

¹ The matters involving Kurtis Warner (CSR 01008-23), Timothy Jillson (CSR 01005-23), John Jester (CSR 01003-23), Alberto Campos (CSR 00998-23), Douglas Weedon (CSR 01000-23), and Daniel Borrero-Melendez (CSR 00995-23) were resolved via settlement.

FACTUAL DISCUSSION

Findings

The following facts are undisputed, and I so **FIND**:

The JJC is a paramilitary organization charged with maintaining order and discipline in facilities housing often dangerous yet vulnerable populations, namely, incarcerated youth, in a communal or congregate setting.

To fulfill its mission of rehabilitating troubled youthful offenders, the JJC must provide a safe and healthy environment for its residents.

On January 19, 2022, Governor Philip D. Murphy issued E.O. 283 and declared it effective immediately. E.O. 283, in relevant part, required “covered high risk congregate settings” to adopt a policy requiring covered workers “to provide adequate proof that they are up to date with their COVID-19 vaccinations.”

E.O. 283 (Jan. 19, 2022), 54 N.J.R. 295(a), defined covered high-risk congregate settings as: “all congregate care settings operated by the [JJC], which includes secure care facilities and residential community homes; licensed community residences for individuals with . . . intellectual and developmental disabilities (“IDD”) and traumatic brain injury (“TBI”); licensed community residences for adults with mental illness; certified day programs for individuals with IDD and TBI, and group homes and psychiatric community homes licensed by [New Jersey Department of Children and Families].”

The JJC operates a congregate setting at Bordentown, New Jersey, called the Johnstone Campus. The JJC website describes the Johnstone Campus as follows:

The Johnstone Campus is the location of the JJC’s most secure facilities. The male facilities are known as the Juvenile Medium Security Facility-North Compound (JMSF-N), the Juvenile Medium Security Facility-South Compound (JMSF-S), and the female facility is referred to as the Juvenile Female Secure Care and Intake Facility (JFSCIF). These

facilities provide secure and structured environments for male and female juveniles committed to the JJC by the courts.

The Johnstone Campus has the capacity to serve 262 male offenders and 52 female offenders. The age[s] of the juveniles range from 14 to 20 years of age, with the majority of juveniles being 16 or 17 years old.

The Johnstone Campus provides education, training and rehabilitation for those residents who are unable to participate in a less secure setting. This diverse group of juveniles possesses serious emotional and behavioral disorders that require a highly structured and secure environment.²

Pursuant to E.O. 283, the JJC first implemented a vaccination policy on January 20, 2022. The policy was entitled the JJC “Policy Regarding the Implementation of E.O. 283; Vaccination Requirements for Covered Workers” (JJC policy).

The JJC policy defined covered workers as both full and part-time “employees, and contractors, who work in, or who may have occasion to enter, a JJC secure facility or residential community home.”

Because Ross is employed as a communication operator at the Johnstone Campus, a high-risk congregate setting, she is a covered worker under the JJC policy.

Under the JJC policy, unvaccinated covered workers were required to obtain their first dose of a vaccine by February 16, 2022. To be “up to date,” covered workers also had to demonstrate that by March 30, 2022, they received any booster doses for which they were eligible, or were within three weeks of becoming eligible for a booster dose, whichever was later.

Governor Murphy subsequently issued Executive Order 290 (E.O. 290) on March 7, 2022, and extended the time for employees to provide adequate proof of vaccination to May 11, 2022. Exec. Order No. 290, 54 N.J.R. 509(a).

² Juvenile Justice Commission Facilities, https://www.nj.gov/oag/jjc/secure_johnstone.htm (last visited September 12, 2025).

The original JJC policy provided that covered workers were previously required to show that they received the first dose of a COVID-19 vaccine, or an approved single dose COVID-19 vaccine, by February 16, 2022. Consistent with E.O. 290, the JJC policy was updated and provided that “[a]ll covered workers then had until May 11, 2022, to submit proof that they are up to date with their vaccinations.”

The updated JJC policy also provided covered workers the ability to request an exemption from vaccination in accordance with applicable law because of a disability, medical condition, or sincerely held religious belief, practice, or observance by contacting Alicia Warner or Lisa Everett in the JJC Human Resource Department prior to February 16, 2022.

The appellant requested an exemption from the vaccination requirements due to sincerely held religious beliefs, practice, or observance; the exemption request was subsequently denied. In issuing the denial of appellant’s request, the JJC noted the following:

While it is unclear whether you have articulated that getting vaccinated against Covid-19 is in conflict with a sincerely held religious belief or practice, your request for an accommodation in the form of an exemption from the requirement that you provide adequate proof that you are up to date with COVID-19 vaccinations is denied because it is an undue hardship. In your position as a Communication Operator, you are an essential employee and are in an indoor congregate care setting. Your not being unvaccinated risks the introduction to or spread of COVID-19 into the facility where you are assigned. COVID-19 has burdened the JJC with significant operational and financial costs, including requiring the temporary closure and consolidation of housing units, the denial of vacation leave time, and the requirement that healthy staff work more overtime. Notably, unvaccinated staff, which comprised 32% of the workforce, were responsible for nearly half the positive cases.

[See R-8]

In a certification, Gregory Spellmeyer (Spellmeyer), general counsel to the Division of Administration, New Jersey Department of Law and Public Safety, explained the

deliberative process utilized in rendering decisions concerning covered employees' requests for exemption from vaccination. According to Spellmeyer:

- The working group did not make any final decision as to whether the requests were granted or denied.
- As to each covered worker who requested an exemption or alternative accommodation, various JJC employees provided input regarding the covered worker's position, including their job responsibilities and duties, as well as how those job responsibilities and duties impacted or affected the operations of the JJC facilities, its staff, and its residents.
- Every religious exemption request was individually reviewed and discussed by several participants of the working group.
- Following completion of the individual review of each request, the working group drafted a recommendation as to whether the request should be approved or denied and forwarded the request to Sara Pascale for her review.

In a certification, Sara Pascale (Pascale), a deputy chief administrative officer for the Division of Administration, New Jersey Department of Law and Public Safety, explained the deliberative process utilized in rendering decisions concerning covered employees' requests for exemption from vaccination. According to Pascale:

- I was responsible for decisions in response to requests from covered workers of the JJC to be exempt or otherwise accommodated from compliance under E.O. 283, and/or 290, and/or 294, on the basis of holding a sincerely held religious observation, practice or belief that conflicts with their requirement.
- Each request was first individually reviewed and discussed by several members of a working group.
- The working group was made up of individuals who were either knowledgeable about the New Jersey Law Against Discrimination (NJ LAD), and American with Disabilities Act (ADA), including legal and human resource staff, or

knowledgeable about JJC facilities, operations, and the job duties and responsibilities of covered workers' titles and positions.

- Following the working group's individual review of a covered worker's request, I received the request and the working group's written recommendation regarding the request.
- I reviewed each religious exemption request independent of the working group and independent of any other covered worker's exemption request.
- I also reviewed the working group's recommendation regarding each request prior to making a decision, including whether to grant or deny the request.

Appellant filed a discrimination complaint with the New Jersey Attorney General's Office of Equal Employment Opportunity (EEO) challenging JJC's denial of her religious-exemption request. On August 22, 2022, the EEO found in part as follows:

the office of EEO finds that JJC's proffered non-discriminatory reasons in its Accommodation Decisions as well as the safe operation of its facilities formed the foundation for its "undue hardship" denials here, and as a result, the JJC did not commit a violation of the State Anti-Discrimination Policy.

Appellant admittedly failed to comply with the JJC "Policy Regarding the Implementation of E.O. 283; Vaccination Requirements for Covered Workers," and presently remains unvaccinated.

The updated JJC policy advised that covered workers who are not up to date with their vaccinations, or for whom vaccination status is unknown, or who have not provided sufficient proof of vaccination in accordance with the approved schedule are considered noncompliant with E.O. 283 and E.O. 290 and this policy.

The updated JJC policy warned that covered workers who were noncompliant were subject to disciplinary actions, including termination.

Testimony

Kathleen DeZottis (DeZottis) works as the Employee Relations Coordinator (“ERC”) at the JJC. As ERC, DeZottis manages a small staff that processes employee disciplinary actions, grievances, equal opportunity claims, and workplace violence claims. Prior to working for the JJC, DeZottis worked in Employee Relations for the State for approximately eight and a half years. DeZottis confirmed that her staff drafted a summary of Ross’ disciplinary history, which is reflected in her personnel file. Of Ross’ various disciplinary charges, two have not been finalized.

Gregory Spellmeyer (Spellmeyer) is General Counsel to the Department of Law and Public Safety (“Department”), Division of Administration. He has held his current position for five years and has worked for the Department for over twenty-five years. As General Counsel, he provides legal counsel regarding, in part, employee and labor relations issues. Spellmeyer testified that he worked with the JJC in 2021 to assist in implementing the Policy for E.O. 283. He testified that the JJC formed a working group of himself, other Department attorneys, Department Human Resources personnel, and individuals within the JJC “who had programmatic and administrative experience and knowledge [of] the JJC” (collectively, the “Working Group”). Specifically, the Working Group consisted of legal counsel, who had familiarity with the accommodation process, familiarity with employment work, and, from the JJC perspective, familiarity with the titles within the JJC, the job duties of the people within the JJC, and the working environment of the facilities and employee interactions.

The Working Group was formed to provide administrative support and legal input in order to effectuate the JJC’s Policy. The Working Group processed 150 to 200 religious accommodation requests that the JJC received. Spellmeyer testified that the Working Group met virtually to discuss each request individually and provide a recommendation to Sara Pascale, the Department’s Deputy Chief Administrator, who made the final decision regarding the request. Individually, Spellmeyer provided legal counsel, conducted legal research, reviewed federal guidance on the issue, and received legal advice from the Division of Law. Regarding the appellant’s request, Spellmeyer testified

that the Working Group considered her job duties and work environment, both of which the JJC provided information on. The Working Group recommended that Ross' exemption request be denied because her working environment exposed her to custodial staff, who then had exposure to other custodial staff and JJC residents. This exposure created undue hardship by risking excessive absences and mandatory overtime, which in turn would impact housing operations and closures of sections of the facility. In considering the appellant's request, the Working Group relied on Ross' job description, her job title, and the JJC personnel that provided information on her working environment and job duties.

Spellmeyer testified that the Working Group considered Ross' proposed accommodation. However, weekly testing, as well as masking and social distancing, was not considered to be acceptable accommodation because the Governor, through E.O. 283, already contemplated that these mitigation strategies were in place and determined they were insufficient. It was concluded that for a congregate care setting, the appellant's proposed accommodation was not feasible.

Edward Lifshitz, M.D. (Dr. Lifshitz), was appointed in 2011 as the Medical Director of the Communicable Disease Service within the New Jersey Department of Health. As Medical Director, he oversees epidemiologists, nurses, infection control specialists, veterinarians, and other public health specialists that work in communicable diseases. Dr. Lifshitz testified that his office assisted the State throughout the COVID-19 pandemic by working with local health departments to understand the transmission of COVID-19 and promoting best practices for individuals to protect themselves from COVID-19. The Communicable Disease Service worked with multiple state agencies, including the Governor's Office. Dr. Lifshitz opined that the COVID-19 pandemic caused a significant threat to New Jersey. He testified that COVID-19 has caused 37,000 New Jerseyans to die, 800,000 New Jerseyans—or 2% of the State's population—to be hospitalized, and 5.7% of the State's population to contract "long COVID." Dr. Lifshitz testified that the Omicron surge occurred in the late fall of 2021 through early 2022 and was marked by the "single highest number of cases," which caused hospitalizations and deaths to increase.

Dr. Lifshitz testified that correctional facilities are a difficult environment as far as infectious diseases go because the staff is free to come and go and they are often constrained as to where they are in tight quarters for long periods of time, which makes it very difficult to maintain other means of preventing the spread of an infectious disease. Dr. Lifshitz opined that, at the end of 2021, masking could help if done appropriately and effectively, but noted that masking, by itself, for long periods of time, was not the most effective strategy. Further, if employees were working for long periods of time around people, people eat, people do other things, and they don't wear the mask correctly, and it is a help, but it's certainly not itself the most effective mitigation strategy.

Dr. Lifshitz similarly opined that testing also was one of those things that can help, but that there were a couple problems regarding testing. Specifically, he noted that testing is not always done appropriately, so you have to believe in the way it was done in the test result. Assuming that it was done correctly, and assuming that the test itself was negative, it's only telling you what it is at that exact minute and time when that test was done, and it's not telling you what that person will be later in the day or the next day. He did not find testing as effective, illustrating that, when the testing was required by a previous Executive Order through the Omicron Pandemic, there were multiple reports of outbreaks in facilities where testing was mandated. When asked whether testing and masking were a comparable substitute for the COVID-19 vaccine, Dr. Lifshitz testified that masking and testing were helpful for preventing the spread of COVID-19, but by the end of 2021, the vaccination was the single most effective means for preventing the spread.

Roy Hambrecht (Hambrecht) worked as the JJC's Chief Administrative Officer ("CAO") from 2022 to 2024. He began working for the JJC in 2015 as a Special Projects Manager. As CAO, Hambrecht's job responsibilities included information technology, human resources, budget, fiscal, and health and safety supervision in facilities state-wide. Hambrecht regularly visited the Johnstone Campus to meet with the facility staff and was familiar with its layout and operations. Hambrecht testified in detail about the role of Communications Officers (CO) at Johnstone Campus. COs work from a secure, locked control booth near the front of the facility. After a CO enters the facility's main entrance, they are searched by an officer, after which they enter a secure door and gate. Hambrecht stated that the control booth is to the right of the first door and gate.

Hambrecht testified that the booth is small, approximately 6x8 or 8x10 square feet, but no more than eighty square feet. The duties of a CO include ensuring consistent communication throughout the building, particularly violent disturbances, and contacting officers to fill shift gaps or provide emergency coverage. While COs do not typically interact with juvenile residents, they may briefly pass one when leaving their booth for breaks. They do, however, have regular contact with other JJC employees, including lieutenants who work in the same small booth, and with staff entering the booth to receive equipment or instructions.

Hambrecht testified that there could be several people entering the control booth on a regular basis. Hambrecht emphasized that a CO must be present in the control booth at all times and that shortages create significant safety risks due to the need for rapid, reliable communication during emergencies. Hambrecht testified that he was familiar with the JJC's response to the COVID-19 pandemic and that safety was the JJC's primary concern in crafting its response. He stated that the COVID-19 pandemic was a difficult period of time because there was a significant amount of the staff who were out sick, which in turn caused the JJC to spend a significant amount of money on overtime. It also required administration to mandate officers and staff in general to stay and work overtime. This led to officers and staff being in difficult situations because they were tired, and they were getting overworked with all the hours they were putting in.

Hambrecht testified that he participated in developing the JJC's response to E.O. 283 by drafting the JJC's initial policy and the subsequent March 2022 update. Hambrecht collaborated with Dr. LeBaron and Deputy Executive Directors Edwin Lee and Guy White on the policy and update. The policy required all covered employees to be vaccinated by set deadlines unless granted a medical or religious exemption. Employees acknowledged the policy via a digital portal system, and Hambrecht tracked compliance through the IT department. Hambrecht confirmed that the January 2022 policy and the March 2022 policy were identical other than the compliance dates.

Hambrecht testified that he was part of the Working Group that reviewed the appellant's religious exemption request. Although he never met the appellant and had no personal conflicts with her, he reviewed her exemption request, along with approximately

five or six other committee members. Hambrecht stated that the Working Group did not rely on precise infection data when evaluating exemption requests. Rather, their concern was ensuring safety and continuity of operations during a period when COVID-19 infections had reached thousands within the JJC. Weekly testing and masking were not accepted as alternatives for covered workers like the appellant, who were required to physically enter secure facilities. The final decision to deny Ross's exemption request was made by Pascale, based on the committee's recommendation. The Working Group relied on guidance from the CDC and the New Jersey Department of Health.

Jennifer LeBaron (Dr. LeBaron) has worked at the JJC since 1998 and became Executive Director in 2022. As Executive Director, she oversees all functions of the agency, including oversight of both secure and residential facilities on the Johnstone Campus. Dr. LeBaron acknowledged that the Johnstone Campus was a congregate care setting, where youth live in close quarters and require continuous staff supervision. Therefore, the JJC was subject to E.O. 283's vaccine mandate for high-risk congregate settings.

Dr. LeBaron testified that the COVID-19 pandemic significantly disrupted JJC operations. She oversaw agency-wide responses, including vaccine distribution, routine testing for staff and residents, and quarantine and isolation procedures for COVID-positive residents. These efforts required intensive coordination and were hampered by staffing shortages, which sometimes led to housing unit closures or reduced post coverage. Dr. LeBaron testified that after E.O. 283 was implemented, the JJC continued to test employees that entered congregate care facilities as a continuing means to be able to identify cases, implement quarantine and isolation protocols, and, therefore, prevent illness and death.

Dr. LeBaron was not involved in the decision-making process for vaccination exemption requests and played no role in determining the outcome of Ross' request. On cross-examination, she confirmed this and emphasized that she was not a part of the Working Group established to review requests for accommodation and did not communicate with them.

Quantara Ross (Ross or appellant) began working for the JJC in June 2017 as a CO. Her position included two possible posts, in the front office, answering phones and building officer schedules, or in the Center Control, a secure booth inside the facility where she was responsible for tracking resident counts, operating the doors, passing paperwork and equipment through a window, and communicating over the radio with facility staff. Ross typically worked the second shift, from 2:00 p.m. through 10:00 p.m.

First and second shifts each required two CO's, third shift (10:00 p.m.–6:00 a.m.) required only one. Her post at Center Control was a locked room with one seat (typically shared with a lieutenant). The booth had a door requiring a key, and she passed paperwork and equipment, like radios and handcuffs, through the booth window. After learning of the JJC policy, Ross submitted a request for a religious exemption on February 15, 2022. A written denial was sent from Pascale on February 25, 2022. Ross was suspended on March 2, 2022, after refusing to get the COVID-19 vaccine after the denial of her accommodation request.

Ross acknowledged she had multiple disciplinary suspensions for calling out without sick leave and arriving late, ranging from three to fifteen days, in 2020 and 2021. Ross additionally had a settlement on her record regarding refusal to wear a mask and a marijuana possession allegation. While she disagreed with those charges and had challenged their validity, she admitted they were still active on her employment record. On cross-examination, Ross acknowledged that she might contact other employees in a hallway or in the course of her work. She did not dispute that other employees entered the control booth or that lieutenants and officers who rotated in and out of the room had direct contact with residents.

Ross acknowledged that she was aware of the JJC's Policy and that after receiving her exemption decision letter, she made no attempt to schedule a vaccination appointment.

Credibility

For testimony to be believed, it must not only come from the mouth of a credible witness, but it also must be credible. It must elicit evidence that is from such common experience and observation that it can be approved as proper under the circumstances. See Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961). A credibility determination requires an overall assessment of the witnesses' story in light of its rationality or internal consistency and the manner in which it "hangs together" with other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). Also, "the interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony." State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted).

A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super 282, 287 (App. Div. 1958).

Here, the testimony from DeZottis, Spellmeyer, Hambrecht, and Dr. LeBaron was straightforward, detailed, and provided with no animus toward the appellant. The testimony was informative and consistent, depicting an organization that was concerned about the facility and the individuals under their care. Their testimony also revealed the efforts undertaken to fully comply with E.O. 283. I accept them all as credible.

The testimony from these witnesses outlined the creation of a working group to review and process covered workers' requests for religious exemption from being vaccinated. The members of the working group included individuals familiar with employee job functions, human resources, and legal requirements. The employee's request was reviewed, and a recommendation was generated and sent to Deputy Attorney Sara Pascale, who made the final decision.

Spellmeyer testified that the appellant's request to undergo regular testing, wear a mask, and practice social distancing was deemed as impractical because her job functions exposed her to custodial staff, who then had exposure to other custodial staff and ultimately JJC residents. Additionally, weekly testing and masking was being practiced prior to the issuance of E.O. 283, and those practices alone were not effectively halting the spread of COVID-19 among employees or within the facility. The appellant argues that she could have been assigned to the front office while the COVID-19 vaccine mandate was in effect. This argument is ineffective and would have been in violation of the E.O. 283 requirement that all covered workers be vaccinated. Covered workers were any employees who entered the facility. To allow the appellant and other employees to enter the facility while unvaccinated would have led to the potential exposure E.O. 283 was attempting to avoid in order to prevent the spread of COVID-19 in congregate settings.

LeBaron testified how COVID-19 was disrupting JJC operations. She explained that movement in and out of the facility had to be restricted in order to limit exposure. There was an increase in employees being out sick, which in turn threatened the overall safety of the facility. Employees were forced to work overtime to cover for co-workers who were absent due to COVID-19 illness. However, this strategy alone was insufficient as a lack of staffing required the closure of some residential cottages and other sections of the facility. LeBaron noted that mandatory overtime had to be employed in order to combat staffing shortages and ensure residents' safety.

Dr. Lifshitz candidly testified that there was no "single bullet" to stop COVID-19 but opined that the vaccination was the single most effective means for preventing the spread. I accept his opinion as persuasive.

Appellant's testimony was also generally credible; she recounted her job duties, acknowledging that she worked in a control booth, typically with a lieutenant, and that she came into contact with other employees, either as she passed keys, paperwork, or equipment through a window in the control booth door or in the hallways as she traversed the facility. The appellant candidly admitted to her prior disciplinary history. Lastly, the

appellant admitted that after receiving the denial of her accommodation request, she made no attempt to obtain the COVID-19 immunization as required.

Additional Findings

Based upon the testimony of the witnesses, documentary evidence, and written summations, as to these charges:

I **FIND** that when the vaccination policy was announced, the JJC received between 150 to 200 requests from employees for religious exemptions. In an effort to resolve all of these requests in a timely fashion, the JJC formed working groups to review the requests and make recommendations. I **FIND** that Spellmeyer and Hambrecht were part of the working group that reviewed the appellant's exemption request; that they were familiar with the appellant's job functions; and that they were concerned with ensuring the safety and continuity of operations during a period when COVID-19 infections had reached thousands within the JJC. I **FIND** that the working group denied the appellant's request for a religious exemption. I **FIND** that due to COVID-19 there was a significant number of staff who were out sick, causing the JJC to spend a significant amount of money on overtime and requiring administration to mandate healthy employees to work more overtime. I **FIND** that staff who worked during this period were tired and overworked due to the overtime hours they were required to perform. I **FIND** that as a result of COVID-19, the JJC was required to temporarily close and consolidate housing units.

I **FIND** that as a result of receiving numerous religious exemptions from the JJC immunization policy, a working group was created to make recommendations as to requested accommodations. I **FIND** that the working group consisted of department legal counsel, human resource personnel, and JJC staff knowledgeable as to both JJC programmatic and administrative functions. I **FIND** that the working group reviewed each request for accommodation and then made a recommendation to the Deputy Chief of the Department, who made the final decision. I **FIND** that the working group, in considering the appellant's accommodation request to test regularly, wear a mask, and practice social distancing, reviewed the appellant's job duties and work environment and recommended the request be denied.

I **FIND** that the appellant was designated as an essential employee whose duties included, among other things, ensuring consistent communication throughout the facility and contacting correctional staff to fill shift gaps or provide emergency coverage. I **FIND** that the appellant's core job functions placed her in contact with other staff members who also came into contact with residents. I **FIND** that appellant's unvaccinated status risked exposure of COVID-19 to custodial staff. I **FIND** that this exposure created undue hardship for the respondent as it risked adding to the excessive absences of JJC staff due to COVID-19, and increasing mandatory overtime by healthy staff members, both of which would impact on housing operations and the closures of sections of the facility.

LEGAL ANALYSIS AND CONCLUSION

The issue to be determined here is whether the granting of the appellant's requested accommodation would amount to an undue hardship to the JJC.

The State of New Jersey is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender, pregnancy, marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability. To achieve the goal of maintaining a work environment free from discrimination and harassment, the State of New Jersey strictly prohibits the conduct that is described in this policy. This is a zero-tolerance policy. This means that the State and its agencies reserve the right to take either disciplinary action, if appropriate, or other corrective action to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment. N.J.A.C. 4A:7-3.1(a). It is a violation of this policy to engage in any employment practice

or procedure that treats an individual less favorably based upon any of the protected categories referred to in (a) above. N.J.A.C. 4A:7-3.1(a)(3).

Under the New Jersey Law Against Discrimination, “undue hardship” means an accommodation requiring unreasonable expense or difficulty, unreasonable interference with the safe or efficient operation of the workplace, or a violation of a bona fide seniority system, or a violation of any provision of a bona fide collective bargaining agreement. N.J.S.A. 10:5-12(q)(3)(a).

Pursuant to N.J.S.A. 10:5-12(q)(3)(b), in determining whether the accommodation constitutes an undue hardship, the factors considered shall include:

- (i) The identifiable cost of the accommodation, including the costs of loss of productivity and of retaining or hiring employees or transferring employees from one facility to another, in relation to the size and operating cost of the employer.
- (ii) The number of individuals who will need the particular accommodation for a sincerely held religious observance or practice.
- (iii) For an employer with multiple facilities, the degree to which the geographic separateness or administrative or fiscal relationship of the facilities will make the accommodation more difficult or expensive.

[ibid.]

In upholding the Governor’s authority to issue E.O. 283, the Superior Court, Appellate Division noted among other things that:

The JJC employs 1,083 staff, 994 of whom are “covered workers” under [E.O. 283]

Up until now, with testing, 229 JJC residents tested positive out of a total of 628 residents between March 2020 and January 25, 2022; 585 JJC staff members tested positive in

that same time frame, more than half of the covered workers employed since testing began.

The JJC reports that in the last few months, the use of leave time due to the virus has “increased exponentially.” In October 2021, 70 staff members took COVID-19 sick-leave, in November the number rose to 126, in December it rose to 321, and in January, 231 took sick leave. Considering the overall number of employees. It is obvious that this has had a profound effect on JJC operations. We are told the JJC was required to temporarily close and consolidate housing units and deny vacation leave time while also requiring healthy staff to work more overtime. Unvaccinated staff, which comprises 32% of the workforce, were responsible for nearly half the positive cases.

[New Jersey State Policeman’s Benev. Assoc. v. Murphy, 470 N.J. Super. 568, 585–586 (App. Div. 2022).]

The credible evidence here establishes that the JJC denied appellant’s request for an exemption because it would be an undue hardship to its operations. COVID-19 burdened the JJC with significant operational and financial costs, including requiring the temporary closure and consolidation of housing units, the denial of vacation leave time, and the requirement that healthy staff work more overtime. The Superior Court, Appellate Division reached this conclusion (Ibid.), and the testimony of Spellmeyer, Hambrecht, and Dr. LeBaron also confirmed the dramatic impact COVID-19 was having on both JJC staffing and housing. Applying the credible evidence to the law, I **CONCLUDE** that the JJC has established that the appellant’s requested accommodation for her religious beliefs posed an undue hardship to its operations. I further **CONCLUDE** that after her request for accommodation was denied, the appellant refused to obtain a COVID-19 vaccine.

As a result of the appellant’s failure to obtain the COVID-19 vaccination, she faced disciplinary action and removal. The FNDA cited two charges: 1. N.J.A.C. 4A:2-2.3(a)(6)—Conduct Unbecoming a Public Employee; and 2. N.J.A.C. 4A:2-2.3(a)(12)—Other Sufficient Cause, to wit, E.O. 283 and JJC policy regarding implementation of E.O. 283.

The appointing authority has the burden of establishing the truth of the allegations by a preponderance of the credible evidence. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). Evidence is said to preponderate “if it establishes the reasonable probability of the fact.” Jaeger v. Elizabethtown Consol. Gas Co., 124 N.J.L. 420, 423 (Sup. Ct. 1940) (citation omitted). The evidence must “be such as to lead a reasonably cautious mind to the given conclusion.” Bornstein v. Metro. Bottling Co., 26 N.J. 263, 275 (1958); see also Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div. 1959), overruled on other grounds, Dwyer v Ford Motor Co, 36 N.J. 487 (1962).

The evidence must be such as leading a reasonably cautious mind to the given conclusion. Bornstein, 26 N.J. at 275. Therefore, the judge must “decide in favor of the party on whose side the weight of the evidence preponderates, and according to the reasonable probability of truth.” Jackson v. Delaware, Lackawanna, and W. R.R., 111 N.J.L. 487, 490 (E. & A. 1933).

As to N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee, this term has been described as an “elastic” phrase that includes “conduct which adversely affects the morale or efficiency” of the public entity or “which has a tendency to destroy public respect for [public] employees and confidence in the operation of [public] services.” In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960) (citation omitted); see Karins v. City of Atl. City, 152 N.J. 532 (1998).

The appellant has also been charged with N.J.A.C. 4A:2-2.3(a)(12) other sufficient cause, in this case violating the JJC policy requiring vaccination. Violating a rule or policy means failure to adhere to the standards set forth by the institution, in this case, E.O. 283, which required all employees in a congregate setting to obtain a COVID-19 vaccination, and the JJC policy regarding implementation of E.O. 283.

Applying the credible facts to the law I **CONCLUDE** that the JJC has established by a preponderance of the credible evidence that the appellant has violated both N.J.A.C. 4A:2-2.3(a)(6), conduct unbecoming a public employee and N.J.A.C. 4A:2-2.3(a)(12), other sufficient cause, through her refusal to obtain the COVID-19 vaccine.

PENALTY

Once a determination has been made that an employee violated a statute, rule, or regulation concerning their employment, the concept of progressive discipline requires consideration. In re Stallworth, 208 N.J. 182, 195–96 (2011); West New York v. Bock, 38 N.J. 500, 523. When deciding what disciplinary action is an appropriate penalty, the fact finder shall consider the nature of the sustained charges and the appellant's past record. Bock, 38 N.J. at 523–24. The employee's past record is said to encompass their reasonably recent history of promotions or commendations on the one hand, and on the other hand, any "formally adjudicated disciplinary actions as well as instances of misconduct informally adjudicated . . . by having been previously called to the attention of and admitted by the employee." Id. at 524. Consideration as to the timing of the most recently adjudicated disciplinary history should also be given. Ibid.

However, the theory of progressive discipline is not a fixed rule to be followed without question. In re Carter, 191 N.J. 474, 484 (2007). "[S]ome disciplinary infractions are so serious that removal is appropriate notwithstanding a largely unblemished prior record." Ibid. The question for the fact finder is whether the disciplinary action is so disproportionate to the offense, considering all the circumstances, to shock one's sense of fairness. Ibid. Removal has been upheld where the acts charged, with or without a prior disciplinary history, have warranted imposition of that sanction. Ibid. Hence an employee may be removed, without regard to progressive discipline, if their conduct was egregious. Ibid.; In re Herrmann, 192 N.J. 19, 33–34 (2007). Indeed, progressive discipline "is not a necessary consideration when . . . it is unbecoming to the employee's position or renders the employee unsuitable for continuation in the position, or when application of the principle would be contrary to the public interest." Herrmann, 192 N.J. at 33.

Here, the appellant was an essential employee who came into contact with custodial staff, who in turn came into contact with JJC residents. Her unvaccinated status risked exposure of COVID-19 to both employees and the residents and was in violation of the JJC policy enforcing E.O. 283. After her request for accommodation was denied,

the appellant refused to comply, and thus removal was appropriate in order to avoid the risk of exposure to COVID-19 to both staff and residents.

Further, the appellant acknowledged she had multiple disciplinary suspensions, as follows:

- Offense date January 16, 2022, to January 22, 2022, No Appeal, (Case # D6425): Appellant failed to submit proof of vaccination and therefore was required to test in COVID Testing Round 24.3 but failed to do so; she received a written reprimand.
- Offense date November 28, 2020, FNDA dated January 20, 2021, (Case # D6198) Chronic or Excessive Absenteeism: Having concluded that the appellant called out for her scheduled shift after exhausting her annual sick leave as of August 14, 2020, she received a fifteen-day suspension.
- Offense date October 5, 2020, FNDA dated March 24, 2021, (Case # D6172) Chronic or Excessive Absenteeism: Having concluded that the appellant called out for her scheduled shift after exhausting her annual sick leave as of August 14, 2020, she received a five-day suspension.
- Offense date October 3, 2020, FNDA dated March 8, 2021, (Case # D6171) Chronic or Excessive Absenteeism: Having concluded that the appellant called out for her scheduled shift after exhausting her annual sick leave as of August 14, 2020, she received a three-day suspension.
- Offense date September 14, 2020, FNDA dated January 25, 2021, (Case # D6130) Chronic or Excessive Absenteeism: Having concluded that the appellant called out for her scheduled shift after exhausting her annual sick leave as of August 14, 2020, she received a three-day suspension.

- Offense date September 7, 2020, FNDA dated January 20, 2021, (Case # D6129) Chronic or Excessive Absenteeism: Having concluded that the appellant called out for her scheduled shift on September 7, 2020, after exhausting her annual sick leave as of August 14, 2020, she received a written reprimand.
- Offense date September 8, 2020, FNDA dated June 29, 2021, (Case # D6128): Approved settlement for appellant's insubordination, refusing to wear a protective mask after ordered to do so, she received a five-day suspension.
- Offense date May 28, 2019, FNDA dated November 30, 2021, (Case # D5071): Having concluded the appellant's conduct unbecoming a public employee, she received a five-day suspension; three without pay.
- Offense date June 1, 2018, FNDA dated October 3, 2019, (Case # D4940): Approved settlement for conduct unbecoming a public employee; she received a three-day suspension.

Under the circumstances presented here, the penalty is proportionate with the facts surrounding the sustained charges. I therefore **CONCLUDE** that termination is appropriate under the circumstances presented here.

ORDER

I **ORDER** that the charges entered on the FNDA, dated June 3, 2022, by the respondent, the JCC, against the appellant, Quantara Ross, are hereby **SUSTAINED**. The appeal is **DISMISSED**.

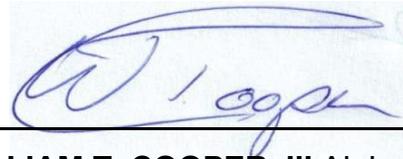
I hereby **FILE** my initial decision with the **CIVIL SERVICE COMMISSION** for consideration.

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

September 22, 2025 _____

DATE



WILLIAM T. COOPER, III ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

WTC/am

APPENDIX

Witnesses

For Appellant:

Quantara Ross

For Respondent:

Kathleen DeZottis

Gregory Spellmeyer

Dr. Edward Lifshitz

Roy Hambrecht

Jennifer LeBaron

Exhibits

For Appellant:

None

For Respondent:

R-1 PNDA for case # 6053 dated March 21, 2021.

R-2 FNDA for case # 6053 dated June 3, 2023.

R-3 PNDA for case # 6054 dated March 21, 2021.

R-4 FNDA for case # 6054 dated June 3, 2023.

R-5 JJC Policy Regarding Implementation of E.O. 283 (1/20/22).

R-6 JJC Policy Regarding Implementation of E.O. 283 (3/9/22).

R-7 Religious Exemption Request for Quantara Ross dated 2/15/22.

R-8 Accommodation Decision dated 2/25/22.

R-9 Summary of appellant's disciplinary history.

R-10 Curriculum Vitae of

R-11 Expert Report by Dr. Edward Lifshitz.