STATE OF NEW JERSEY

In the Matter of Sherene Gray,
Passaic County, Preakness
Healthcare Center

CSC Docket No. 2025-2734
OAL Docket No. CSV 11125-25

FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION

ISSUED: FEBRUARY 23, 2026

The appeal of Sherene Gray, a Nurse' Aide with Passaic County, Preakness Healthcare Center, of her removal, effective May 12, 2025, on charges, was heard by Administrative Law Judge Joann LaSala Candido (ALJ), who rendered her initial decision on January 12, 2026.

Having considered the record and the attached ALJ's initial decision, and having made an independent evaluation of the record, the Civil Service Commission (Commission), at its meeting of February 4, 2026, accepted and adopted the Findings of Fact and Conclusions as contained in the ALJ's initial decision and her recommendation to uphold the removal.

As indicated above, the Commission thoroughly reviewed the ALJ's initial decision and the record in this matter. Upon that review, there is no evidence in the record that the ALJ's findings and conclusions or her recommendation to uphold the removal were arbitrary, capricious, or unreasonable. Accordingly, the Commission upholds those actions for the reasons expressed by the ALJ. It makes only the following comments regarding the penalty and Last Chance Agreements.

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 notes that the use of a Last Chance Agreement is solely for the purpose of determining the appropriate penalty. While the Office of Administrative Law and the Commission are not strictly bound by the terms set forth in the agreement, since neither entity was a party to the settlement, the Commission is nonetheless cognizant of the fact that the parties in this matter voluntarily agreed to the penalty of removal for any subsequent violation. Consequently, a Last Chance Agreement can be used by the Commission as a significant factor to be considered, along with the appellant's prior disciplinary history, when determining the appropriate penalty in an appeal. Additionally, Last Chance Agreements are construed in favor of appointing authorities because to do otherwise would discourage their use by making their terms meaningless. *See Watson v. City of East Orange*, 175 *N.J.* 442 (2003) (The Supreme Court found an employee's termination was warranted when that employee did not perform in compliance with a Last Chance Agreement as contemplated by the parties. The Court added that a contrary conclusion would likely chill employers from entering into such agreements to the detriment of future employees.); *In the Matter of Phillip Montgomery* (MSB, decided May 9, 2000) (In denying a request for reconsideration of an employee's removal, it was indicated that in addition to the employee's extensive history of infractions and the concept of progressive discipline, it gave significant weight to the fact that the employee signed an agreement acknowledging that further instances of certain infractions would result in further disciplinary action up to and including removal).

In the instant matter, there is indisputable evidence that, after entering into a Last Chance Agreement on September 10, 2024, the appellant was absent on multiple occasions, exhausting her sick leave by February 2025. The ALJ also found that the appellant "clearly and continually violated the policy regarding chronic, habitual, excessive absenteeism and lateness." An employer, especially in a healthcare facility, has the legitimate right to expect that its employees will attend work when scheduled and the appellant chronically failed to do so. Accordingly, the charges against the appellant are sustained and her removal is upheld.

ORDER

The Commission finds that the action of the appointing authority in removing the appellant was justified. The Commission therefore affirms that action and dismisses the appeal of Sherene Gray.

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 4TH DAY OF FEBRUARY, 2026

Allison Chris Myers

Allison Chris Myers
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Dulce A. Sulit-Villamor
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 11125-25
AGENCY DKT. NO. 2025-2734

IN THE MATTER OF SHERENE GRAY, PASSAIC COUNTY PREAKNESS HEALTHCARE CENTER

Sherene Gray, appellant appearing pro se

Zaid M. Qasem, Assistant County Counsel, for respondent Passaic County (Nadege D. Allwaters, County Counsel, attorney)

Record Closed: December 19, 2025 Decided: January 12, 2026

BEFORE **JOANN LASALA CANDIDO**, ALAJ:

Appellant, Sherene Gray, a certified nurse assistant, appeals the determination of respondent, the Passaic County Preakness Healthcare Center (County/respondent), to impose removal from her duties based upon chronic or excessive absenteeism or lateness and other sufficient cause. By Preliminary Notices of Disciplinary Action dated June 10, 2024, Respondent advised appellant of the charges and specifications, pursuant to N.J.A.C. 4A:2-2.3, as follows: (1) conduct unbecoming a public employee; (2) chronic or excessive absenteeism; and (3) other sufficient cause, patterning; violation of Last Chance Agreement dated September 10, 2024. Following a

departmental hearing on April 11, 2025, appellant being represented by Terry Woodrow, AFSCME, a Final Notice of Disciplinary Action was issued on May 12, 2025, imposing the removal for (1) conduct unbecoming a public employee; (2) chronic or excessive absenteeism; and (3) other sufficient cause: violation of Last Chance Agreement dated September 10, 2024.

PROCEDURAL HISTORY

Appellant appealed the removal and the matter was transmitted to the Office of Administrative Law (OAL) on June 24, 2025, for determination as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13. The hearing was held on October 29, 2025. At this hearing, and while the respondent was questioning the first witness, appellant decided she wanted to retain an attorney. The undersigned was able to contact the attorney at the hearing who requested an adjournment to review the file. The matter was adjourned until December 19, 2025. On November 10, 2025, the attorney advised the parties that she will not be representing the appellant. Appellant appeared at the hearing pro se once again. The hearing proceeded on December 19, 2025, and the record closed on that date.

ISSUES

The issues in this case are whether respondent has proven the charges by a preponderance of the credible evidence and whether removal is warranted. Yes, respondent has proven chronic excessive absenteeism and lateness as well as a violation of a Last Chance Agreement dated September 10, 2024.

FINDINGS OF FACT

Respondent presented the credible testimony of Francine Wood, Personnel Technician and Marlene Williams, Management Assistant. Appellant chose not to testify. Appellant has been employed by the Passaic County Preakness Healthcare Center as a certified nurse's aide commencing April 18, 2011, part-time and full-time in December 2012. Her job responsibilities included assisting the residents with bathing,

cleaning, feeding and routine care that the resident may need. Appellant stated she worked from 11:00 p.m. to 7:00 a.m. It is a forty-hour work week. The nursing office retains the attendance cards for the CNAs. They get fifteen sick days per year, having accrued 1.25 days per month. Vacation days vary depending on the start date. The new employee starts with twelve vacation days per year. Personal days are accrued every four months. When an employee uses all their time within a few months, they then may take leave without pay (LWP).

Appellant has an extensive grievance history regarding excessive absenteeism and lateness. (R-4)

11/20/24 – 1 day suspension for LW
2/19/15 - 2 day suspension + EAP
7/8/15 - 10 day suspension for chronic excessive absenteeism and patterning
8/5/15 - Alternate Sanction
3/17/16 - 90 day probation until 6-10-16, 20 day suspension if absent MD note on day of RTW & EAP program
5/19/16 - Chronic or Excessive Absenteeism dismissed
8/26/16 - 14 day suspension
8/17/17 - 13 day suspension
10/6/17 - Conduct Unbecoming charges dismissed
11/22/17 - 13 day suspension
1/24/18 - 15 day suspension for chronic excessive absenteeism and patterning
4/19/18 - 15 day suspension and EAP program
12/19/18 - 20 day suspension for chronic excessive absenteeism and patterning
3/22/19 - 25 day suspension
12/19/19 - 30 day suspension
6/24/21 - 10 day Alternate Sanction and EAP program with a fine of $397.00

On 11/9/21, the FNDA sustained charges of chronic absenteeism or lateness and other sufficient cause, patterning. In lieu of the 45 day suspension imposed, appellant accepted the Alternate Sanction with a fine of $1831.05, as well as a Last Chance Agreement and Release, after providing doctors notes for some of her absences but recognized she was out of sick time.

3/11/25 - Violation of Last Chance Agreement entered into on September 10, 2024- removal.

The Last Chance Agreement dated September 10, 2024, would remove appellant if she were to call out excessively in violation of the attendance policy. R-19 Her attendance record shows that in January, 2025, appellant used six sick days and February 2025 she used ten sick days and one day leave without pay, as well as two days leave without pay in March 2025. She had no more sick time accrued for the rest of the year and was in violation of the Last Chance Agreement. R-3 Appellant would also call out at times just minutes before her shift was to start. Because of the violation of excessive absenteeism in violation of its attendance policy mandating up to and including removal (R-19) and the Last Chance Agreement, appellant was terminated.

LEGAL ANALYSIS AND CONCLUSIONS

The Civil Service Act and the regulations promulgated pursuant thereto 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:1-1.1 et seq. A civil service employee who commits a wrongful act related to his or her duties, or gives other just cause, may be subject to major discipline. N.J.S.A. 11:2-6; N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.3. Grounds for discipline include, among other things, insubordination, chronic or excessive absenteeism or lateness, conduct unbecoming a public employee, and neglect of duty. See N.J.A.C. 4A:2-2.3(a)(2), (4), (6), and (7).

Appellant was served and charged with the FNDA of May 12, 2025, with chronic or excessive absenteeism or lateness (patterning) not listed in the FNDA) because she was absent without authorization and other sufficient cause in violation of the Last Chance Agreement dated September 10, 2024.

Appellant had been excessively absent from work sufficient to warrant disciplinary charges, and I so **CONCLUDE**.

An employee may be subject to discipline for chronic or excessive absenteeism, N.J.A.C. 4A:2-2.3(a)(4). While there is no precise number that constitutes "chronic," it is generally understood that chronic conduct is conduct that continues over a long time or recurs frequently. Good v. N. State Prison, 97 N.J.A.R.2d (CSV) 529, 531. Courts have consistently held that excessive absenteeism need not be accommodated, and that attendance is an essential function of most jobs. See, e.g., Muller v. Exxon Research and Eng'g Co., 345 N.J. Super. 595, 605–06 (App. Div. 2001) (under the Law Against Discrimination, excess absenteeism need not be accommodated even if it is caused by a disability otherwise protected by the Act); Svarnas v. AT&T Commc'ns, 326 N.J. Super. 59, 78 (App. Div. 1999) ("[a]n employee who does not come to work cannot perform any of her job functions, essential or otherwise"). Courts have consistently held that excessive absenteeism need not be accommodated, and that attendance is an essential function of most jobs. See, e.g., Muller v. Exxon Rsch. & Eng'g Co., 345 N.J. Super. 595, 605–06 (App. Div. 2001); Svarnas v. AT&T Commc'ns, 326 N.J. Super. 59, 78 (App. Div. 1999) ("[a]n employee who does not come to work cannot perform any of her job functions, essential or otherwise").

As such, employers cannot be expected to find a way to accommodate the unpredictable nature of an employee's sporadic and unscheduled absences. Svarnas, 326 N.J. Super. at 77. As noted by the New Jersey Supreme Court, "[j]ust cause for dismissal can be found in habitual tardiness or similar chronic conduct." West New York v. Bock , 38 N.J. 500, 522 (1962). 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. As the Appellate Division summarized, "[w]e do not expect heroics, but 'being there,' i.e. appearing for work on a regular and timely basis is not asking too much" of an employee. State-Operated Sch. Dist. of Newark v. Gaines, 309 N.J. Super. 327, 333 (App. Div. 1998).

It is undisputed from the lengthy disciplinary history, that appellant called out sick from work excessively throughout her career at Preakness Healthcare Center. Appellant would need to be replaced during that shift which becomes a hardship, especially when calling in at times minutes before her shift starts. The State mandates that a certain

number of CNA's be assigned to the residents. The facility has one CNA for every ten residents. If they are short staffed, they are fined. Here, appellant used all her sick time by February 2025. She would have no sick time remaining for the rest of the year. Appellant's last day of employment was March 10, 2025.

As the Civil Service Commission has previously noted:

> [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 her job. 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.

[Terrell v. Newark Housing Auth., 92 N.J.A.R.2d (CSV) 750, 752.]

In this matter, the hardship to cover appellant's job duties was a hardship due to limited staff and the inability to hire replacements, especially when given such short notice by appellant. I therefore **CONCLUDE** that the respondent has met its burden of proof regarding excessive absenteeism.

Appellant was charged with Other Sufficient Cause in violation of Last Chance Agreement dated September 10, 2024.

There is no definition in the New Jersey Administrative Code for "other sufficient cause." "Other sufficient cause" is generally defined in the charges against an appellant. The charge of other sufficient cause has been dismissed when the "respondent has not given any substance to the allegation." Simmons v. City of Newark, CSV 9122-99, Initial Decision (February 22, 2006), adopted, Comm'r (April 27, 2006), <http://njlaw.rutgers.edu/collections/oal/>.

Appellant clearly and continually violated the policy regarding chronic, habitual, excessive absenteeism and lateness. She was afforded two Last chance Agreements and violated both. Because I **CONCLUDE** that respondent has proven the above-named charges by a preponderance of the credible evidence, I therefore **CONCLUDE** that respondent has also satisfied its burden of proving, by a preponderance of the credible evidence other sufficient cause as to excessive absenteeism and violation of the Last Chance Agreement.

Appellant was also charged with conduct unbecoming an employee, N.J.A.C. 4A:2-2.3(a)(6), because she failed to abide by policy and procedure when she failed to obtain approved authorization to be absent from her continued excessive absenteeism, not only in 2025 but throughout her tenure. "Conduct unbecoming a public employee" is an elastic phrase, which encompasses conduct that adversely affects the morale or efficiency of a governmental unit or that has a tendency to destroy public respect in the delivery of governmental services. Karins v. City of Atl. City, 152 N.J. 532, 554 (1998); see also In re Emmons, 63 N.J. Super. 136, 140 (App. Div. 1960). It is sufficient that the complained-of conduct and its attending circumstances "be such as to offend publicly accepted standards of decency." Karins, supra, 152 N.J. at 555 (quoting In re Zeber, 156 A.2d 821, 825 (1959)). Such misconduct need not necessarily "be predicated upon the violation of any particular rule or regulation but may be based merely upon the violation of the implicit standard of good behavior which devolves upon one who stands in the public eye as an upholder of that which is morally and legally correct." Hartmann v. Police Dep't of Ridgewood, 258 N.J. Super. 32, 40 (App. Div. 1992) (quoting Asbury Park v. Dep't of Civil Serv., 17 N.J. 419, 429 (1955)). "Neglect" connotes a deviation from normal standards of conduct. In re Kerlin, 151 N.J. Super. 179, 186 (App. Div. 1977). The term "duty" means conformance to "the legal standard of reasonable conduct in the light of the apparent risk." Wytupeck v. Camden, 25 N.J. 450, 461 (1957). Thus, the charge has been interpreted to cover an employee who has neglected to perform an act required by his or her job title or was negligent in its discharge. State v. Dunphy, 19 N.J. 531, 534 (1955) (police chief violated his sworn duty by failing to enforce criminal laws); Avanti v. Dep't of Military & Veterans Affairs, 97 N.J.A.R.2d (CSV) 564; Ruggiero v. Jackson Twp. Dep't of Law and Pub. Safety, 92 N.J.A.R.2d (CSV) 214.

I **CONCLUDE** that a preponderance of the credible evidence exists that appellant's conduct was unbecoming of a public employee in violation of N.J.A.C. 4A:2-2.3(a)(6) because her actions adversely affected respondent's efficiency. Where the behavior is chronic, such as here, not only is this tendency to impair efficiency exacerbated, the respondent cannot reasonably be obligated to continue the employment of an individual who cannot or will not regularly perform the duties assigned to her.

When determining the appropriate penalty to be imposed, the Board must consider an employee's past record, including reasonably recent commendations and prior disciplinary actions. Depending on the conduct complained of and the employee's disciplinary history, major discipline may be imposed. Major discipline may include removal, disciplinary demotion, suspension or fine no greater than six months. N.J.S.A. 11A:2-6(a); N.J.S.A. 11A:2-20; N.J.A.C. 4A:2-2.2; N.J.A.C. 4A:2-2.4. A system of progressive discipline has evolved in New Jersey to serve the goals of providing employees with job security and protecting them from arbitrary employment decisions. The concept of progressive discipline is related to an employee's past record. The use of progressive discipline benefits employees and is strongly encouraged. The core of this concept is the nature, number and proximity of prior disciplinary infractions evaluated by progressively increasing penalties. It underscores the philosophy that an appointing authority has a responsibility to encourage the development of employee potential.

Appellant demonstrated a disregard for her obligations to her employer and her responsibilities to those receiving care at the Passaic County Preakness Healthcare Center as evidenced from her long disciplinary record.

Based upon the foregoing, including the credible evidence in the record and the specific findings above, I **CONCLUDE** that respondent has met its burden of proving, by a preponderance of the credible evidence, the charges against appellant and removal are the appropriate form of discipline.

ORDER

Based upon the foregoing, it is **ORDERED** that the charges of excessive and chronic absenteeism, conduct unbecoming, and other sufficient cause be and are hereby **UPHELD**.

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.

January 12, 2026
DATE

JOANN LASALA CANDIDO, ALAJ

Date Received at Agency: January 12, 2026

Date Mailed to Parties: January 12, 2026

ljb

APPENDIX

WITNESS LIST

For Appellant:

None

For Respondent:

Francine Wood
Marlene Williams

EXHIBIT LIST

For Appellant:

None

For respondent:

R-1 Proof of Service and FNDA dated March 11, 2025

R-2 Last Chance Agreement dated September 10, 2024

R-3 Employee Attendance Record for years 2024 and 2025

R-4 Grievance Record

R-5 Notice of Minor Disciplinary Record dated April 4, 2024

R-6 Record of all absences and leave

R-7 Job Description

R-8 AFSCME Local 2273 CBA Excerpts

R-9 FNDA dated November 9, 2021

R-10 CAMPS Fine in lieu of a 45-day Suspension

R-11 Alternate Sanction Agreement dated October 22, 2021

R-12 Hearing Officer recommendation of 45-day suspension

R-13 PNDA dated July 21, 2021

R-14 2021 Employee Attendance Record

R-15 Alternate Sanction Agreement dated June 21, 2021

R-16 FNDA dated June 21, 2021

R-17 Settlement Agreement Form dated June 4, 2021

R-18 PNDA dated March 15, 2021

R-19 Employee Discipline Policy