



STATE OF NEW JERSEY

 DECISION OF THE
CIVIL SERVICE COMMISSION

 In the Matter of Vincent Vidinha,
Newark Fire Division

 CSC Docket No. 2026-1696
OAL Docket No. CSR 01211-26

ISSUED: September 2, 2026

The appeal of Vincent Vidinha, Firefighter, Newark, Fire Division, removal, effective December 19, 2025, on charges, was heard by Administrative Law Judge Patrice E. Hobbs (ALJ), who rendered her initial decision on August 3, 2026. Exceptions were filed on behalf of the appellant, and a reply was filed on behalf of the appointing authority.

Having considered the record and the ALJ's initial decision, and having made an independent, *de novo* evaluation of the record, including a thorough review of the exceptions and reply, the Civil Service Commission (Commission), at its meeting on September 2, 2026, remanded the matter to the Office of Administrative Law (OAL) for further proceedings.

Initially, the Commission notes that the ALJ recommended dismissing the charge of inability to perform duties.¹ Upon its *de novo* review, it agrees with the ALJ, and no further action in that regard is required upon remand. The purpose of the remand is described below.

In her initial decision, the ALJ essentially based her decision to uphold the charge of other sufficient cause on testimony from the doctor who performed the appellant's 2025 fitness-for-duty examination. Specifically, the ALJ indicated that Dr. Ingrid Diaz testified that the appellant admitted to her that "he had relapsed." Further, the ALJ credited Dr. Diaz's opinion that:

¹ While initially properly indicating the charge as inability to perform duties under *N.J.A.C.* 4A:2-2.3(a)3, the ALJ later incorrectly indicates the charge as "failure to perform duties" under *N.J.A.C.* "4A:2-2.1(a)1." This typographical error is of no import and does not change the Commission's agreement with the ALJ regarding the dismissal of that charge.

Based on Vidinha's statement that his whole world could "implode," his medical history, his prior drug use and alcohol abuse history, and his admission that he abstained from drug use from 2022-2024, [she] opined that Vidinha's relapse was physical and that he had been using heroin.

Additionally, the ALJ credited both Diaz and another witness who testified that the appellant did not provide consent for either Diaz or the appointing authority to obtain his medical records while he was at a rehabilitation facility. Based on the above, the ALJ determined that the preponderance of the evidence demonstrated that the appellant had used drugs and thus, violated the letter of conditional employment. She recommended upholding the removal on that basis.

Upon its *de novo* review, the Commission has concerns. The ALJ's decision is based on the testimony of Dr. Diaz that the appellant told her that he relapsed and most critically, her *opinion*, based on the circumstances, that the nature of the relapse involved drug use. Since the appellant does not appear to dispute Dr. Diaz's testimony that he had relapsed, the Commission has no basis to reject that evidence.² See *N.J.A.C.* 1:1-15.5. However, Dr. Diaz's opinion as to the nature of the relapse, absent some other tangible evidence, would not normally satisfy the appointing authority's burden of proof. In that regard, the medical records from the rehabilitation center could provide such evidence. However, the ALJ found that the appellant did not consent to the release of those records. Notably, in his exceptions, the appellant disputes that characterization, stating the ALJ:

inexplicably found that Dr. Diaz and the City sought Firefighter Vidinha's records from the Shatterproof Program but were unsuccessful because Vidinha did not provide consent. Nothing in the record indicates that Dr. Diaz or the City of Newark sought his medical records or Vidinha's consent to obtain them. The Initial Decision portrays Firefighter Vidinha as uncooperative by not providing consent to retrieve his medical records . . . The Initial Decision cannot assign a negative connotation for events and conduct that never occurred.

The main goal of the Commission is to seek and obtain the truth. To do so, it requires further proceedings in this matter. Based on the appellant's representations above, it does not appear that he is averse to providing consent to the appointing authority allowing it to obtain the pertinent medical records, which clearly bear on this matter. Those records will assist in providing evidence to confirm Dr. Diaz's opinion as to the nature of the relapse, or conversely, negatively bear on the credibility of that opinion. Accordingly, the Commission orders that this matter be remanded to the OAL for further proceedings as follows. The ALJ shall reopen the record and afford the appointing authority the opportunity to request consent from the appellant to obtain the pertinent medical records. Upon the appointing

² The fact that the appellant voluntarily admitted himself into a rehabilitation facility bolsters this finding.

authority's receipt of those records, the ALJ, at her discretion, will determine how to best proceed via further hearing proceedings or otherwise. If further hearing proceedings are conducted, the appellant should be permitted to testify regarding the content of the medical records if he chooses to do so. If the appellant fails to provide consent to obtain the records, the ALJ may close the record and may draw an adverse inference from that lack of consent and consider that, as applicable, along with the already existing evidence in the record.

ORDER

The Civil Service Commission remands this matter to the Office of Administrative Law for further proceedings as described above.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 2ND DAY OF SEPTEMBER, 2026



Mary Cruz
Acting Chairperson
Civil Service Commission

Inquiries
and
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Attachment



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. CSR 01211-26

AGENCY DKT NO. N/A

**IN THE MATTER OF VINCENT
VIDINHA, CITY OF NEWARK FIRE
DIVISION.**

Philip J. Cranwell, Esq., for appellant (Cranwell Law, attorneys)

Ashley E. Morgan, Esq., for Respondent (Chasan, Lamparello, Mallon &
Capuzzo, attorneys)

Record Closed: July 29, 2026

Decided: August 3, 2026

BEFORE **PATRICE E. HOBBS**, ALJ:

STATEMENT OF THE CASE

Vincent Vidinha, a firefighter with the City of Newark Fire Division (Newark), violated his second Letter of Conditional Employment by using a Controlled Dangerous Substance (CDS), specifically heroin. Must Vidinha be terminated? Yes, under N.J.A.C. 4A:2-2.3, a public employee must behave in a manner that is morally and legally acceptable, including abiding by an employer's rules and regulations.

PROCEDURAL HISTORY

On April 18, 2022, Vidinha was served with a Preliminary Notice of Disciplinary Action and charged with a violation of N.J.A.C. 4A:2-2.3(a)(1), Incompetency, Inefficiency, or Failure to Perform Duties, N.J.A.C. 4A:2-2.3(a)(2), Insubordination, N.J.A.C. 4A:2-2.3(a)(2) Inability to Perform Duties, N.J.A.C. 4A:2-2.3(a)(7), Neglect of Duty, and N.J.A.C. 4A:2-2.3(a)(12), Other Sufficient Cause, violation of Newark Fire Department Rules and Regulations for reporting to work under the influence. On May 23, 2022, Newark sustained all charges and issued a Final Notice of Disciplinary Action. Vidinha was suspended for six months, from January 2, 2022, to July 2, 2022. On July 21, 2022, he was provided with a Letter of Conditional Employment.

On August 12, 2022, Newark issued a Preliminary Notice of Disciplinary Action for violation of N.J.A.C. 4A:2-2.3(a)(6), Conduct Unbecoming and N.J.A.C. 4A:2-2.3(a)(12), Other Sufficient Cause, violation of Newark Fire Department Rules and Regulations. On February 28, 2023, Newark sustained all the charges and issued a Final Notice of Disciplinary Action. Vidinha had been immediately suspended when the Preliminary Notice of Disciplinary Action was issued and the penalty imposed was served from August 12, 2022, to February 12, 2023. On February 10, 2023, Vidinha was provided with a second Letter of Conditional Employment.

On August 6, 2025, Vidinha was served with a Preliminary Notice of Disciplinary Action for violation of N.J.A.C. 4A:2-2.3(a)(3) Inability to Perform Duties and N.J.A.C. 4A:2-2.3(a)(12) Other Sufficient Cause, Newark Fire Department Rules and Regulations. Article 11 (Personal Example), Article 23 (Conduct of Members), Article 28 (Use of Intoxicating Beverages and/or Controlled Dangerous Substances), Article 59 (Official Inefficiency or Incompetence), and Article 60 (Chronic Inefficiency or Incompetence). Specifically, on June 7, 2024, Vidinha voluntarily admitted himself into a drug rehabilitation program in Florida. On June 9, 2024, Vidinha notified Newark that he was taking stress leave from work and did not notify Newark he would be hospitalized in an out-of-state drug rehabilitation program. On June 25, 2025, Vidinha was referred for a fitness for duty evaluation. During that evaluation, Vidinha admitted to Dr. Ingrid Diaz that he had relapsed and had been in the drug rehabilitation program.

On December 17, 2025, Vidinha was served with a Final Notice of Disciplinary Action. A departmental hearing was held and Vidinha was represented by counsel. Newark sustained all charges. The appeal was perfected on January 16, 2026, and filed with the Office of Administrative Law (OAL) under N.J.S.A. 52:14B-1 to-15 and the act establishing the OAL, N.J.S.A. 52:14F-1 to-13, for a hearing as a contested case under the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1.1 to 21.6 and N.J.S.A. 52:14B-1 to-15 and N.J.S.A. 52:14F-1 to-13. On January 29, 2026, I held an initial prehearing conference and Newark failed to appear. On February 25, 2026, I held a second prehearing conference, and the parties were just beginning the discovery process. On March 26, 2026, I held a third prehearing conference and scheduled the case for hearing. On May 18, 2026, the hearing date was adjourned for a scheduling conflict and settlement negotiations. On July 23, 2026, Vidinha filed a Motion for reinstatement on the payroll and on July 27, 2026, respondent filed their opposition. On July 29, 2026, I held a hearing, and, on that date, I 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**:

Vidinha has been a firefighter with Newark for approximately twenty years.

First Letter of Conditional Employment 2022

On January 2, 2022, Vidinha reported for duty. Captain Newkirk and Chief Kupko observed that Vidinha was pale, sweaty, shaky and lacked motor control. They believed he was impaired and unable to perform his duties. (R-8.) Vidinha spoke incoherently, pacing, banging lockers, and talking to himself. Emergency Medical Services (EMS) was contacted and Vidinha was transported to UHNJ for observation. Medical personnel requested that Vidinha submit a urine specimen for analysis. He declined. Vidinha contacted his union representative. Medical personnel again requested a urine specimen for analysis. He declined.

Newark issued a Preliminary Notice of Disciplinary Action. The charges were sustained and a Final Notice of Disciplinary Action (R-8) was issued. Vidinha was suspended from January 2, 2022, to July 2, 2022.

On July 21, 2022, Vidinha and Newark signed a Letter of Conditional Employment (R-9) which stated, among other things, that Vidinha is subject to random drug testing, and he must be terminated if he uses illegal drugs, any mood-altering substance, or abuses alcohol for the duration of his career with Newark.

Second Letter of Conditional Employment

On August 11, 2022, Cedar Grove Police Department was notified that there was a suspicious person operating a vehicle, acting oddly, banging on the hood of his vehicle and attempting to park the vehicle. A police officer responded to the address and found Vidinha asleep behind the wheel of the vehicle. The police officer confiscated two empty wax folds, two wax folds containing heroin, a CDS, and drug paraphernalia. Vidinha was transferred to the police department, and an alco-test was performed. A drug expert examined Vidinha and determined that Vidinha was under the influence of a CDS, specifically, heroin. Vidinha was arrested and charged with possession of a CDS in a motor vehicle, possession of a CDS, and driving under the influence of a CDS. (R-4.)

Newark issued a Preliminary Notice of Disciplinary Action. The charges were sustained and a Final Notice of Disciplinary Action was issued. Vidinha was suspended for time served from August 12, 2022, to February 12, 2023.

On February 10, 2023, Vidinha and Newark signed a second Letter of Conditional Employment (R-5) which stated, among other things, that Vidinha is subject to random drug testing and he must be terminated if he uses illegal drugs, any mood-altering substance, or abuses alcohol for the duration of his career with Newark.

2024

Vidinha was admitted to the Florida House Shatterproof Program from June 7, 2024, to August 5, 2024. Upon discharge from the Florida House Shatterproof Program, Vidinha was admitted to Meadows Counseling Center in Florida from August 5, 2024, to May 20, 2025. (A-1.) While at the Meadows Counseling Center, Vidinha participated in structured therapy which included individual and group therapy.

2025

On June 25, 2025, Vidinha was sent to Keystone Psychological Services for a fitness for duty evaluation. This evaluation is required for any firefighter absent from duty for six months or more. He was seen by Dr. Ingrid Diaz. Diaz is a clinical forensic psychologist. She has been an expert in forensic psychology for over fifteen years. Diaz performed the evaluation and prepared a report dated July 7, 2025. (R-1.) Vidinha admitted to Diaz that he had abstained from drug use from 2022-2024. He also admitted to her that he is cognizant of his abuse of alcohol and use of heroin. Vidinha admitted that his drug addiction stemmed from a back injury in 2013. He had been given medication for this injury that escalated to his abuse of an illicit drug, specifically, Percocet. Vidinha admitted to her that he remained drug-free for seven years, from 2015 to 2022. Vidinha admitted to her that he began abusing alcohol and using heroin which resulted in the two prior Final Notices of Disciplinary Action. Vidinha admitted to Diaz that he had relapsed. Relapses have three stages: emotional, mental and physical. Vidinha told Diaz that he went to the Florida House Shatterproof Program for treatment because he felt he needed professional help before his “whole world imploded”. Diaz attempted to get Vidinha’s records from Florida House Shatterproof Program, but they would not provide them without his consent and Vidinha did not provide that consent. Diaz stated that Florida House Shatterproof Program is a program for people addicted to drugs or who abuse alcohol. As an admitted addict, Vidinha must be continuously monitored to ensure abstinence. Florida House Shatterproof Program is the first in-patient program for Vidinha. Based on Vidinha’s statement that his whole world could “implode”, his medical history, his prior drug use and alcohol abuse history, and his admission that he

abstained from drug use from 2022-2024, Diaz opined that Vidinha's relapse was physical and that he had been using heroin.

Steven Anderson is the Assistant Director of Public Safety for Newark and has been for two years. Prior to that he was the Deputy Chief. He has been a firefighter for twenty-six years. Use of a CDS impairs the functions of firefighters who are responsible for the safety of the public. Firefighters with Newark must abide by the Rules and Regulations. All firefighters are given a copy of the Rules and Regulations (R-7) and are required to be familiar with all the rules. In addition to the Rules and Regulations, Newark has issued General Orders and these are also provided to all employees. Newark has issued several General Orders, two of them are specifically applicable to the charges against Vidinha. General Order A-3 (R-10) enumerates the Duties and Responsibilities for all ranks of firefighters. General Order G-1 (R-6) specifies the procedures for charges, suspensions and trials of firefighters. G-1 also states that all charges against any firefighter must be brought within thirty days after the violation has occurred. Anderson knows the Florida House Shatterproof Program because it is a specialized program for first responders and veterans. Newark was unable to get Vidinha's records from them without his consent. He did not provide consent.

Newark received the report from Diaz. Anderson discussed the report with the Chief. During that meeting, Anderson concurred that Vidinha must be terminated. On August 6, 2025, Newark issued a Preliminary Notice of Disciplinary Action. (R-2.) Newark sustained all the charges and issued a Final Notice of Disciplinary Action (R-3) seeking termination.

Anderson stated that Vidinha requested stress leave. Stress leave is given for any number of reasons, including addiction issues, and is limited to one year of paid leave. If a firefighter requires additional time beyond one year, they must request it. When Vidinha requested stress leave, he did not inform Newark that it was for an out-of-state drug recovery program. If Vidinha requested leave to attend the program, it would have been granted and would not have been a violation of his Letter of Conditional Employment. Vidinha is subject to random drug testing as a part of his Letter of Conditional Employment. Anderson stated that when Vidinha requested stress leave, he did not notify

Newark he would be in an out-of-state drug rehabilitation program because his second Letter of Conditional Employment subjected him to random drug testing. Anderson further stated the report from Diaz stated that Vidinha had relapsed. He has no information that Vidinha had been using heroin other than the report from Dr. Diaz.

CONCLUSIONS OF LAW

The Civil Service Act (the 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-.2.3. Employees who are engaged in conduct unbecoming are subject to discipline. N.J.A.C. 4A:2-2.3(a)(6). Employees can also be disciplined for other sufficient cause. N.J.A.C. 4A:2-2.3(a)(12).

The issues to be determined at the de novo hearing are whether Vidinha is guilty of the charges brought against him and, if so, the appropriate penalty, if any, that should be imposed. Henry v. Rahway State Prison, 81 N.J. 571 (1980); W. New York v. Bock, 38 N.J. 500 (1962). In this matter, Newark bears the burden of proving the charges against Vidinha by a preponderance of the credible evidence. In re Matter of Revocation of the License of Polk, 90 N.J. 550 (1982); Atkinson v. Parsekian, 37 N.J. 143 (1962).

“Inability to perform duties” is not, strictly speaking, a disciplinary charge. An employee must be able to perform his duties physically, intellectually, and psychologically. A charge under N.J.A.C. 4A:2-2.3(a)(3) challenges Vidinha’s ability to perform the duties associated with the position.

“Other sufficient cause” stems from a continuation of conduct unbecoming a public employee, increasing criminal history and progressive discipline history. Used as a catch-all provision in the Code, discipline does not have to be warranted because of a violation of any or all the rules of the department. It can be based upon the “standard of good behavior.” Hartmann, 258 N.J. Super. at 39–40.

Newark Fire Department Rules and Regulations

Article 11 – Personal Example. Members shall at all times appear neatly attired and clean in person and shall set examples to subordinates and peers in dignity, sobriety, courtesy, skill and the observance of discipline.

Article 23 – Conduct of Members. Members shall not engage in altercations, nor be guilty of improper, indecent or immoral conduct. Members shall at all times be civil and orderly in their conduct and refrain from doing anything which may bring discredit to themselves or the Department.

Article 28 – Use of Intoxicating Beverages and/or Controlled Dangerous Substances. Members shall not have or cause, allow or permit intoxication beverages, narcotics or other controlled dangerous substances to be brought into any quarters or other Department facility, nor in the immediate area of such buildings. The use of intoxicating beverages, narcotics or other controlled dangerous substances, or any other behavior to such extent as to render a member unfit for proper performance of duty, while on duty or off duty, whether in uniform or otherwise, will be cause for immediate suspension from duty. The addiction of any member to the use of intoxicating beverages, narcotics or other controlled dangers substances shall be considered an act against the best interest of the Department, justifying the dismissal of the Member from the Department.

Article 59 – Official Inefficiency or Incompetence. Members whose performance is demonstrably inadequate or unsuitable and fail to meet, obtain or produce the effects or results mandated by Department Rules and Regulations shall be deemed in violation of the Department Rules and Regulations. Members found guilty of Official Inefficiency or Incompetency shall be subject to Departmental charges.

Article 60 – Chronic Insufficiency or Incompetence. Members charged with repeated instances of Official Inefficiency or Incompetence which by their nature and frequency demonstrate unwillingness or inability to meet, obtain, or produce the effects or results necessary for adequate performance, shall be deemed in violation of

Department Rules and Regulations. Members found guilty of Chronic Insufficiency or Incompetence shall be subject to demotion to the next lower rank or dismissal from the Department.

Vidinha has a checkered history during his tenure with Newark. In 2022, he was suspended for six months for being under the influence of an unknown substance while on duty. Newark agreed to continue Vidinha's employment under a Letter of Conditional Employment. This letter specified, among other things, that Vidinha was subject to random drug testing and that the use of illegal drugs or abuse of alcohol during his career with Newark would result in immediate termination. This Letter of Conditional Employment was signed on July 21, 2022. On August 11, 2022, less than thirty days after Vidinha executed the Letter of Conditional Employment, Vidinha was arrested for driving under the influence of a CDS and possession of a CDS. This conduct was significant enough to warrant termination. Instead, Newark gave Vidinha another chance and signed a Second Letter of Conditional Employment. This letter also specified, among other things, that Vidinha was subject to random drug testing and that the use of illegal drugs or abuse of alcohol during his career with Newark would result in immediate termination. Vidinha admitted to Diaz that he remained clean from August 2022 through June 2024. However, Vidinha was struggling to remain drug-free. He requested and received stress leave from June 2024 to June 2025 and attended a drug rehabilitation program in Florida. Any firefighter who takes a leave of absence for six months or more must submit to a fitness for duty evaluation upon their return. During this evaluation, Newark was informed that Vidinha relapsed.

Failure to Perform Duties

Vidinha was charged with a violation of N.J.A.C. 4A:2-2.3(a)(1) Failure to Perform Duties. Vidinha was on stress leave while he was in Florida. He was not expected to report to work. There was no testimony or evidence that Vidinha was required to report and failed to report or was even required to be in New Jersey while on leave. The overwhelming evidence and testimony presented by both Vidinha and Newark is focused on his use of a CDS, specifically heroin, his lack of candor with Newark for the reasons surrounding his need for leave, and his violation of the second Letter of Conditional

Employment. No evidence or testimony was presented that Vidinha has ever failed to perform any duties from July 2022 to the time of the Final Notice of Disciplinary Action on August 6, 2025. Based on the foregoing, I **CONCLUDE** that this charge must be dismissed.

Other Sufficient Cause

Vidinha was also charged with a violation of N.J.A.C. 4A:2-2.3(a)(12) Other Sufficient Cause. There is no dispute that Vidinha relapsed after the execution of the second Letter of Conditional Employment. There is also no dispute that Vidinha was in a rehabilitation program in Florida for a year. Vidinha argues that a relapse does not equate to actual drug use, that relapses can be emotional, mental or physical. Indeed, Diaz confirmed that as a possibility. Vidinha did not provide any testimony or evidence to support his claim that his admitted relapse was not physical. Nor did he provide the records from Florida House Shatterproof Program despite requests from Newark and Diaz. Newark submitted testimony from Diaz, an expert forensic psychologist who opined that when Vidinha stated he relapsed, he physically used heroin.

Vidinha was not transparent with Newark, nor did he cooperate by providing consent for the release of his records from Florida House Shatterproof Program. He simply asked for stress leave. Stress leave is regularly granted for several reasons including admission to rehabilitation programs. Because his letter of Conditional Employment subjected him to random drug testing, stress leave for drug treatment may have triggered a drug test. Newark has been accommodating, affording Vidinha, not one but **two** chances to remain employed. There is no evidence to support use or abstinence from heroin from 2022-2024. Vidinha knew he had a problem with his abuse of alcohol and use of illegal drugs for many years and could have self-committed to an abuse treatment program after the first Letter of Conditional Employment, or even after the second Letter of Conditional Employment. He did not. By his own admission, he did not seek professional treatment until there was a threat of his world imploding. Vidinha presented no evidence or testimony to rebut Diaz's opinion that his relapse equated to physical use of an illegal CDS, heroin. I **CONCLUDE** that Newark has met its burden to support the charge of N.J.A.C. 4A:2-2.3(a)(12) Other Sufficient Cause for his addiction to

a CDS, for his use of a CDS in violation of his Conditional Letter of Employment, and for his violation of the Newark Fire Department Rules and Regulations, Article 28.

Penalty

There is no constitutional or statutory right to a government job. State-Operated Sch. Dist. v. Gaines, 309 N.J. Super. 327, 334 (App. Div. 1998). Civil Service employees' rights and duties are governed by the Civil Service Act, which provides that a public employee may be subject to major discipline for various employment-related offenses. N.J.A.C. 4A:2-2.3. In an appeal from a disciplinary action or ruling by an appointing authority, the appointing authority shoulders the burden to show, by a preponderance of the evidence, that the action taken was appropriate. N.J.A.C. 4A:2-1.4(a).

Termination is a major disciplinary action, and respondent 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. at 149, and the hearing is de novo, Henry v. Rahway State Prison, 81 N.J. at 579. On such appeals, 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. 474, 483–86 (2007). Progressive discipline need not be considered if the conduct is severe when it is unbecoming to the employee's position, renders the employee unsuitable for continuation in the position or when it is contrary to the public interest. In re Hermann, 192 N.J. 19, 33 (2007). The punishment must be so disproportionate to the offense as to be "shocking to one's sense of fairness." In re Polk, 90 N.J. 550, 578 (1982).

Courts have affirmed terminations of public servants for serious infractions or if they involve the safety of the public. Klusaritz v. Cape May Cnty., 387 N.J. Super. 305 (App. Div. 2006) (affirming dismissal of incompetent CPA despite no disciplinary record); In re Hall, 335 N.J. Super. 45 (App. Div. 2000) (sustaining dismissal for attempted theft); Cosme v. Borough of E. Newark Twp. Comm., 304 N.J. Super. 191 (App. Div. 1997) (affirming dismissal of police officer who took unauthorized paid vacation); Bowden v. Bayside State Prison, 268 N.J. Super. 301 (App. Div. 1993) (sustaining removal of prison guard who gambled with inmates for cigarettes); City of Newark v. Massey, 93 N.J. Super.

317 (App. Div. 1967) (affirming dismissal of police officer based on his multiple instances of insubordination and careless handling of weapon).

Having concluded that Newark has sustained the charge of Other Sufficient Cause against Vidinha, the only remaining issue to be resolved is the penalty to be imposed. Vidinha is cognizant of his abuse of alcohol and use of a CDS, namely heroin. Vidinha admitted to Diaz that his drug addiction stemmed from a back injury in 2013. He had been given medication for that pain that escalated to his abuse of Percocet. Vidinha admitted to Diaz that he remained drug-free for seven years, from 2015 to 2022. Vidinha admitted that he abused alcohol and used heroin which resulted in the two prior Final Notices of Disciplinary Action.

Newark could have sought termination in 2022, but they gave Vidinha a second chance. Less than thirty days after this second chance, Vidinha violated the terms of the first Letter of Conditional Employment. Newark did not terminate Vidinha. Rather, Newark gave him a third chance. Vidinha did not admit that he had a problem and needed time to address this problem. Vidinha did not seek treatment from the Florida House Shatterproof Program.

There was no testimony or evidence presented that Vidinha committed any violations between 2022 and 2024. Vidinha admitted that he remained drug free during that time. In 2024, he believed his world would implode and Vidinha requested and obtained leave under false pretenses and self-committed himself into a drug rehabilitation program.

As a firefighter, he is entrusted with the safety of the public. While it is commendable that Vidinha has finally recognized his problems with drugs and alcohol and is obtaining professional treatment for his addiction issues, he did not seek this treatment until after he was already given two prior chances. Moreover, he did not admit his problem and request a leave of absence to address the problem. Instead, he obtained Newark's approval for his treatment under false pretenses because he knew he was subject to random drug testing. Vidinha argues that Newark has not sustained their burden because they have not shown that he physically used heroin. However, Vidinha

provided no evidence or testimony to rebut Diaz's testimony that his relapse was the physical use of heroin. I therefore **CONCLUDE** that Vidinha must be terminated from his position as a firefighter because Newark has shown by a preponderance of the credible evidence that Vidinha has intentionally violated the Rules and Regulations of the Newark Fire Department. I further **CONCLUDE** that Vidinha must be terminated from his position as a firefighter for violating the second Letter of Conditional Employment for his relapse.

Violation of General Order G-1

Vidinha argues that Newark violated General Order G-1 because they did not serve Vidinha with the Preliminary Notice of Disciplinary Action within thirty days of the alleged violation. Vidinha argues that Newark knew of the alleged violation on July 7, 2025, when they received Diaz's report and that Newark did not serve Vidinha with the notice until after August 12, 2025. Newark argues that General Order G-1 states that the charges must be brought within thirty days of the alleged violation. A strict reading of General Order G-1 requires only that the charges be brought within thirty days and not served upon Vidinha. Moreover, the Preliminary Notice of Disciplinary Action was filed on August 6, 2025, and the Final Notice of Disciplinary Action states that it was served on August 7, 2025. Based on the foregoing, I **CONCLUDE** that Newark was not in violation of General Order G-1 and Vidinha's motion to dismiss the charges for procedural error is **DENIED**.

Reinstatement on the Payroll

When a firefighter is suspended without pay, and the fire department seeks to terminate his or her employment for the conduct that was the basis of the suspension, a final determination must be rendered 180 days from the date the employee was suspended without pay. N.J.S.A. 40A:14-201(a). If a final determination is not rendered within those 180-days, the firefighter must receive his or her base salary again, beginning on the 181st day, and until a final determination is rendered. Id.

Not all calendar days accrue toward determining when the firefighter is returned to pay status. N.J.S.A. 40A:14-201(b). More specifically, the calendar days that accrue

between the date of termination and the date the appeal is filed with the OAL are not included. N.J.S.A. 40A:14-201(b)(1). The calendar days that accrue because the firefighter is granted a postponement or delay of the hearing are also not included. N.J.S.A. 40A:14-201(b)(2). The calendar days that accrue because the firefighter causes a postponement or delay of the hearing are also not included. N.J.S.A. 40A:14-201(b)(3). Even the calendar days that accrue because the parties agree to a postponement or delay of the hearing are not included. N.J.S.A. 40A:14-201(b)(4).

Other circumstances can cause calendar days which are not included in the pay status determination. Specifically, the calendar days that accrue because the administrative law judge or the Civil Service Commission (CSC) causes a postponement or delay of the hearing for good cause are not included. N.J.S.A. 40A:14-201(b)(5).

Like the enabling statute, the implementing regulation states that a final determination must be rendered within 180 days. N.J.A.C. 4A:2-2.13(g). If a final determination is not rendered within 180 days, the firefighter must begin to receive his or her base salary. N.J.A.C. 4A:2-2.13(h). Certain days are excluded from the 180-day period. Id.

The regulation also defines the term “date of removal.” Under N.J.A.C. 4A:2-2.13(a)(4), the terms “removal,” “removal date,” and “removal effective date” mean the first date on which the firefighter is “separated from employment without pay.” Given this definition of the term “date of removal,” the exclusionary period under subsection (h)(3) is the period between the date when the firefighter is separated from employment without pay and the date on when they appeal a Final Notice of Disciplinary Action with the OAL and the CSC.

Moreover, the filing date for purposes of N.J.S.A. 40A:14-201 is when the OAL receives all required information along with confirmation of fee payment to the CSC. N.J.A.C. 1:4B-3.2 (d). There is no dispute that Vidinha perfected his appeal on January 16, 2026, and that a straight 180-day count would be July 15, 2026. However, given the facts and circumstances detailed above, I **CONCLUDE** that the period between June 9, 2026, and July 29, 2026, (when I adjourned the case for good cause) is excluded from

the 180 days under N.J.A.C. 4A:2-2.13(h)(9). N.J.S.A. 40A:14-201(b)(5). There are 144 days between January 16, 2026, and June 9, 2026. There are thirty-six days remaining until the OAL must issue an initial decision and for the CSC to issue a final decision. Vidinha's motion to be reinstated to the payroll is premature and must be **DENIED**.

ORDER

For the reasons stated above, I hereby **ORDER** that Vidinha's Motion to Dismiss all charges because of a violation of General Rule G-1 is **DENIED**.

It is further **ORDERED** that Vidinha's Motion to be Reinstated to the Payroll is premature and is **DENIED**.

It is further **ORDERED** that Vidinha be **TERMINATED** from his position as a firefighter at the City of Newark Fire Division.

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. 40A:14-204.

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.

August 3, 2026
DATE



PATRICE E. HOBBS, ALJ

Date Received at Agency:

August 3, 2026

Date Mailed to Parties:

August 3, 2026

APPENDIX

WITNESSES

For appellant:

None

For respondent:

Assistant Director Steven Anderson

Dr. Ingrid Diaz

EXHIBITS

For appellant:

A-1 Letter from Dr. Frank Galimidi dated May 20, 2025

For respondent:

- R-1 Fitness-For-Duty Evaluation by Dr. Diaz, dated July 7, 2025, 7 pages
(Bates NWK 1-7)
- R-2 Preliminary Notice of Disciplinary Action, dated August 6, 2025, 5 pages
(Bates NWK 8-12)
- R-3 Final Notice of Disciplinary Action, dated December 17, 2025, 6 pages
(Bates NWK 13-18)
- R-4 Final Notice of Disciplinary Action, dated February 28, 2023, 5 pages
(Bates NWK 20-24)
- R-5 Letter of Conditional Employment, dated February 10, 2023, 2 pages
(Bates NWK 31-32)
- R-6 Newark Fire Department General Order G-1, dated October 15, 2010, 3
pages (Bates NWK 54-56)
- R-7 Newark Fire Department Rules & Regulations, dated March 1, 1988, 16
pages (Bates NWK 57-72)
- R-8 Final Notice of Disciplinary Action, dated May 23, 2022, 5 pages (Bates
NWK 316-320)

- R-9 Letter of Conditional Employment, dated July 21, 2022, 2 pages (Bates NWK 314-315)
- R-10 Newark Fire Department General Order A-3, dated March 1, 1988, 19 pages (Bates NWK 293-311)