STATE OF NEW JERSEY

In the Matter of M.L.	:	**FINAL ADMINISTRATIVE ACTION OF THE CIVIL SERVICE COMMISSION**
CSC Docket No. 2026-2043	:	Administrative Appeal

ISSUED: September 23, 2026 **(HS)**

M.L., a former Assistant Engineer, Transportation, Department of Transportation (Transportation), appeals his resignation not in good standing, effective September 20, 2021.

As background, on April 1, 2022, Transportation served the appellant with a Final Notice of Disciplinary Action (FNDA) resigning him not in good standing.[1]

In his appeal to the Civil Service Commission (Commission), filed March 10, 2026, the appellant argues that he is no longer employed by Transportation and is not CWA-represented and seeks modification of his resignation not in good standing to medical/disability separation under *N.J.A.C.* 4A:2-6.2 for good cause due to mental incapacity from work-related post-traumatic stress disorder (PTSD). He contends that he is not appealing discipline; rather, he is asking the Commission to correct a record after the fact so that his resignation may be recorded as being in good standing. He maintains that the FNDA is incorrect as his appeal concerns his November 15,

[1] The FNDA was specific to employees who are members of the Communications Workers of America (CWA) union. In this regard, it designates "CWA" at the top and in the "Appeal Procedure" section of the FNDA, it indicates that the appropriate CWA Local "may appeal this action . . . to the Governor's Office of Employee Relations (OER) within **thirty (30) calendar days** of *your* receipt" (emphasis in original) of the FNDA.

2021 termination,[2] which he asserts was mischaracterized as a resignation not in good standing. The appellant notes that a CWA notification letter dated March 22, 2022 shows that CWA initiated an appeal but withdrew it due to lack of response from him, caused by PTSD avoidance, which he contends further supports good cause for Commission jurisdiction. The appellant argues that equitable tolling is warranted due to PTSD-induced delays under precedents such as *Lopez v. Swyer*, 62 N.J. 267 (1973) and *Fisher v. Hollingsworth*, 115 F.4th 197 (3d Cir. 2024).

CONCLUSION

The Civil Service Act, under *N.J.S.A.* 11A:2-6a(1) indicates, in pertinent part, that the Commission shall "[a]fter a hearing, render the final administrative decision on appeals concerning permanent career service employees" who are disciplinarily removed from their position. This provision is codified under *N.J.A.C.* 4A:2-2.1(a).

N.J.S.A. 11A:2-14 outlines a permanent career service employee's disciplinary appeal rights to the Commission. Specifically, that section states, in pertinent part:

> Except as otherwise provided herein, within 20 days of the hearing provided in *N.J.S.* 11A:2-13, the appointing authority shall make a final disposition of the charges against the employee and shall furnish the employee with written notice. If the appointing authority determines that the employee is to be removed, demoted or receive a suspension or a fine greater than five days, the employee shall have a right to appeal to the Civil Service Commission . . . .
>
> When the State of New Jersey and the majority representative have agreed pursuant to the New Jersey Employer-Employee Relations Act, section 7 of *P.L.*1968, c.303 (C.34:13A-5.3), to a disciplinary review procedure that provides for binding arbitration of disputes involving disciplinary action in subsection a.(1), (2) and (3) of *N.J.S.* 11A:2-6, which would be otherwise appealable to the Civil Service Commission under *N.J.S.* 11A:2-14, being taken against a permanent employee in the career service or a person serving a working test period, *such procedure shall be the exclusive procedure for any appeal of such disciplinary action* (emphasis added).

The provision of *N.J.S.A.* 11A:2-14 referring to the alternative disciplinary review procedure is codified under *N.J.A.C.* 4A:2-2.1(c).

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[2] The record reflects that November 15, 2021 is the date of service for the Preliminary Notice of Disciplinary Action.

The relevant CWA contract with the State of New Jersey[3] contains the following provisions. Under Article 1A, paragraph 1, it indicates that the CWA is the "exclusive representative for collective negotiations" for all its employees in, among others, Professional units. Further, Article 1A, paragraph 2.a. states that included in the above unit are "full-time permanent career service" employees whose titles are listed in Appendix 4 of the contract. Moreover, Article 5, which deals with discipline, under paragraph F states "[t]his article is the exclusive procedure for the processing of disciplinary actions for employees covered by this Agreement." Finally, and importantly, under paragraph I.1., the contract states, in pertinent part:

> Within thirty (30) days of receipt of the Final Notice of Discipline, the Union may file an appeal of . . . terminations to arbitration . . . by submitting a written request for arbitration or binding mediation to the Governor's Office of Employee Relations.

It is noted that substantially similar provisions have been contained in all previous contracts between the CWA and the State of New Jersey dating back to 2007.

As clearly laid out above, the statutory provisions governing the appeal rights of permanent career service employees allows for an alternative appeal process via the collective negotiations process. In this matter, the record is clear that the CWA and the State of New Jersey have utilized the provisions of *N.J.S.A.* 11A:2-14 to "contract" out of the major disciplinary appeal process to the Commission and afford CWA employees an appeal process via arbitration outside of the Commission's purview. Moreover, the Commission has no jurisdiction or authority to question the Legislature's passage of these provisions. Further, the Commission has no authority or jurisdiction to interfere with duly executed contractual provisions between the CWA and the State of New Jersey effectuated via the implementation of such statutory provisions. *See, e.g., In the Matter of Rachel Collins* (CSC, decided February 16, 2022). While the appellant highlights that he is no longer employed by Transportation, his permanent title at the time of the disciplinary action was Assistant Engineer Transportation, a covered title under the contract. Thus, his present status as a former employee of Transportation does not take this matter outside the scope of the disciplinary review procedure to which the State of New Jersey and CWA agreed. The Commission is also unconvinced by the appellant's argument that he is requesting a mere record correction and not appealing the discipline. This argument places form over substance. For the Commission to order that the appellant's resignation not in good standing should be modified to a resignation in good standing, the Commission would have to review the discipline Transportation issued. However, such review is precluded for the reasons discussed.

[3] This contract ran from July 1, 2019 through June 20, 2023.

Even assuming, for the sake of argument only, that the above-discussed contractual process did not apply, the Commission still could not entertain the instant appeal. In this regard, *N.J.S.A.* 11A:2-15 provides that appeals from major disciplinary matters be made in writing to the Commission no later than 20 days from receipt of the final written determination of the appointing authority. This 20-day time limitation is jurisdictional, and the Commission does not have the authority to relax or waive it. *See Borough of Park Ridge v. Salimone*, 21 *N.J.* 28, 46 (1956); *See also, Mesghali v. Bayside State Prison*, 334 *N.J. Super.* 617 (App. Div. 2000), *cert. denied*, 167 *N.J.* 630 (2001); *Murphy v. Department of Civil Service*, 155 *N.J. Super.* 491, 493 (App. Div. 1978). Here, the FNDA was appealed almost four years later, rendering the appeal untimely. *Lopez, supra*, and *Fisher, supra*, are inapposite as neither case addresses the Commission's authority to equitably toll the statute. Specifically, *Lopez* concerned the statute applicable to personal injury claims requiring that they be brought within two years of the accrual of the cause of action, *N.J.S.A.* 2A:14-2, while *Fisher* concerned the timeliness of an inmate's federal constitutional claim seeking to recover damages from federal prison officials because of sexual assaults committed by another inmate.

Accordingly, while the circumstances described by the appellant are unfortunate, an appeal to the Commission is not a viable avenue for the appellant to challenge the merits of his resignation not in good standing.[4]

ORDER

Therefore, it is ordered that this appeal be dismissed for lack of jurisdiction.

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 23RD DAY OF SEPTEMBER, 2026



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Mary Cruz
Acting Chairperson
Civil Service Commission

[4] The Commission supposes that the appellant could attempt to seek assistance from the union, but it can make no representation as to the viability of any such attempt.

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