



**Kevin Porter,**  
Petitioner,

**STATE OF NEW JERSEY  
DEPARTMENT OF LABOR  
AND WORKFORCE DEVELOPMENT**

v.

**University Hospital**  
Respondent.

**FINAL ADMINISTRATIVE ACTION  
OF THE  
COMMISSIONER**

**OAL DKT. NO LID 18276-25  
AGENCY DKT. NO. D61-14-457**

Issued: June 25, 2026

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The Division of Public Safety and Occupational Safety and Health (the Division), within the Department of Labor and Workforce Development, issued a determination dismissing the discrimination complaint of Kevin Porter (petitioner), on the basis that he had failed to establish a *prima facie* case of discrimination as required under N.J.A.C. 12:110-7.5. In his complaint, Mr. Porter, a Medical Office Assistant employed by University Hospital, alleged that he had been subjected to “an unlawful disciplinary meeting.” However, within his complaint, Mr. Porter failed to identify any specific protected activity as having motivated the alleged adverse employment action. Following the Division’s dismissal of petitioner’s complaint, he requested a hearing, at which time the matter was transmitted to the Office of Administrative Law (OAL) for determination as a contested case. The matter was assigned to Administrative Law Judge (ALJ) Nanci G. Stokes.

Prior to a hearing, respondent filed a motion for summary decision. The ALJ granted respondent’s motion for summary decision and dismissed petitioner’s discrimination complaint, explaining in pertinent part as follows:

Under N.J.A.C. 12:110-7.5, the employee has the burden of establishing a *prima facie* case demonstrating that they “engaged in protected activity, that the employer knew of this activity, that the employer was hostile to

the protected conduct and that the employer took the alleged action in retaliation for the exercise of protected rights.” Here, Porter filed a disciplinary grievance on June 24, 2024, and a PEOSH complaint concerning that action on September 9, 2025. He presents no evidence of ...alleged protected activity. If Porter made complaints about workplace safety and health conditions, he supplied no evidence to identify or support them. Thus, I CONCLUDE that Porter has not met his burden, given that his complaint relates only to a disciplinary dispute rather than any evidence that he was engaged in a protected activity under the PEOSH Act that resulted in or preceded the discipline.<sup>1</sup>

Petitioner filed exceptions to the initial decision of the ALJ.

In petitioner’s exceptions, he claims that the ALJ’s findings that no protected activity had been identified, that no evidence had been supplied, and that the complaint was untimely, “result[ed] from how the record was interpreted and limited, not from an absence of factual content.”

Upon *de novo* review of the record, and after consideration of the ALJ’s initial decision, as well as the exceptions filed by petitioner, I hereby accept the ALJ’s findings of fact and conclusions of law as well as his recommendation that petitioner’s complaint of discrimination be dismissed. I have reviewed the entire record forwarded to me by the OAL and find no trace of any submission by petitioner at any time in these proceedings which would meet the standard set forth at N.J.A.C. 1:1-12.5 for defeat by an adverse party of a supported motion for summary decision. That is, N.J.A.C. 1:1-12.5(b) states the following: “When a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.” I agree with the ALJ that petitioner has failed even to allege (no less establish) that he engaged in *any* protected activity. Therefore, petitioner could not possibly establish that any action of his employer, including the alleged “disciplinary meeting” was in retaliation for his having engaged in a protected activity.

## ORDER

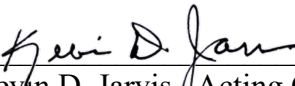
Therefore, it is ordered that the discrimination complaint of Kevin Porter, be dismissed.

This is the final administrative decision in this matter. Any further review should be pursued in a judicial forum.

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<sup>1</sup> The ALJ also found that petitioner’s PEOSH discrimination complaint had been untimely as it was filed in September 2025, more than 180 days after the June 2024 disciplinary action. See N.J.A.C. 12:110-7.4(b).

DECISION RENDERED BY  
THE COMMISSIONER, DEPARTMENT  
OF LABOR AND WORKFORCE DEVELOPMENT

  
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Kevin D. Jarvis, Acting Commissioner  
Department of Labor and Workforce Development

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