



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
SUITE 900 - 1340 POYDRAS ST.
NEW ORLEANS LA 70112
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CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
JOHN KORN, VICE-CHAIRPERSON
MARK SURPRENANT
RUTH WHITE DAVIS
ANDREW MONTEVERDE

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Tuesday, November 25, 2025

Mr. Brent Plains

Re: **Brent Plains VS.
Recreation Department
Docket Number: 9727**

Dear Mr. Plains:

Attached is the decision of the City Civil Service Commission in the above-referenced appeal.

This is to notify you that, in accordance with the rules of the Court of Appeal, Fourth Circuit, State of Louisiana, the decision for the above captioned matter is this date - 11/25/2025 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Orleans Tower, New Orleans, Louisiana.

If you choose to appeal this decision, such appeal must conform to the deadlines established by the Commission's Rules and Article X, Sec.12(B) of the Louisiana Constitution. Further, any such appeal shall be taken in accordance with Article 2121 et. seq. of the Louisiana Code of Civil Procedure.

For the Commission,

A handwritten signature in blue ink that reads "Doddie K. Smith".

Doddie K. Smith
Chief, Management Services Division

cc: Larry Barabino
Elizabeth A Weigand
Jay Ginsberg
file



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**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

**BRENT PLAINS,
Appellant**

Docket Nos. 9727 & 9739

v.

**RECREATION DEPARTMENT,
Appointing Authority**

DECISION

Appellant Brent Plains brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from the Recreation Department's (NORD) suspension of him effective March 6-7, 2024, and termination of his employment effective May 9, 2025. (Ex. HE-1; Ex. NORD-3). At all relevant times, Mr. Plains had permanent status as a Laborer at NORD. (Ex. HE-1). A Hearing Examiner, appointed by the Commission, presided over a hearing on August 7, 2025. At this hearing, both parties had an opportunity to call witnesses and present evidence.

The undersigned Commissioners have reviewed and analyzed the entire record in this matter, including the transcript from the hearing, all exhibits submitted at the hearing, the Hearing Examiner's report dated October 27, 2025, and controlling Louisiana law.

NORD filed a motion for summary disposition as to Mr. Plains' appeal of his suspension on May 8, 2025. At the Commission's regular meeting on July 11, 2025, NORD withdrew its motion and moved to consolidate the appeals of Mr. Plains' suspension in March of 2024 and the termination of his employment in May of 2025. The Commission entered an order consolidating the two appeals.

Because Mr. Plains's appeal of his March 6-7, 2024, suspension was untimely, the Commission dismisses this appeal (docket number 9727) under Civil Service Rule II, Sections 6.5 and 6.1(d).

For the reasons set forth below, Mr. Plains's appeal of his termination (docket number 9739) is DENIED.

I. FACTUAL BACKGROUND

NORD suspended Mr. Plains for two days because of excessive tardiness and absenteeism on March 6-7, 2024. (Ex. NORD-3; Tr. at 29). Mr. Plains failed to appeal this suspension timely, so the underlying facts are considered established. Wayne McCormick, Mr. Plains' second-level supervisor testified about 84 specific dates and times Mr. Plains was late to work or absent from March 8, 2024, to April 9, 2025. (Tr. at 44-55). In addition, NORD entered the underlying payroll records into evidence. (Ex. NORD-7). Monique Richardson testified about the text messages she received from Mr. Plains when he was late or absent, but she testified these absences and/or tardies were unexcused. (Tr. at 65; Ex. NORD-9).

Mr. Plains testified that he was often late because he had to ensure his children were safely on the school bus. (Tr. at 10). Mr. McCormick testified that he delayed Mr. Plains' start time 15 minutes from 7:00 to 7:15 charging Mr. McCormick's annual leave balance for the difference. (Tr. at 56). Mr. McCormick also testified that Mr. Plains then reported to work after 7:15. (Tr. at 60).

Mr. McCormick testified that he counseled Mr. Plains on numerous occasions about his attendance. (Tr. at 55-56). Before the two-day suspension discussed above, NORD had issued corrective action forms to Ms. Plains concerning his attendance on December 11, 2023, and on February 6, 2024.. (Tr. at 25-26).

II. ANALYSIS

A. Legal Standard for Commission's Review of Discipline

1. The Appointing Authority must show cause for discipline

“Employees with the permanent status in the classified service may be disciplined only for cause expressed in writing. La. Const., Art. X, Sec. 8(A).” *Whitaker v. New Orleans Police Dep’t*, 2003-0512 (La. App. 4 Cir. 9/17/03), 863 So. 2d 572 (quoting *Stevens v. Dep’t of Police*, 2000-1682 (La. App. 4 Cir. 5/9/01)). “Legal cause exists whenever an employee’s conduct impairs the efficiency of the public service in which the employee is engaged.” *Id.* “The Appointing Authority has the burden of proving the impairment.” *Id.* (citing La. Const., art. X, § 8(A)). “The appointing authority must prove its case by a preponderance of the evidence.” *Id.* “Disciplinary action against a civil service employee will be deemed arbitrary and capricious unless there is a real and substantial relationship between the improper conduct and the “efficient operation” of the public service.” *Id.* “It is well-settled that, in an appeal before the Commission pursuant to Article X, § 8(A) of the Louisiana Constitution, the appointing authority has the burden of proving by a preponderance of the evidence: 1) the occurrence of the complained of activity, and 2) that the conduct complained of impaired the efficiency of the public service in which the appointing authority is engaged. *Gast v. Dep’t of Police*, 2013-0781 (La. App. 4 Cir. 3/13/14), 137 So. 3d 731, 733 (quoting *Cure v. Dep’t of Police*, 2007-0166 (La. App. 4 Cir. 8/1/07), 964 So. 2d 1093, 1094).

2. The Appointing Authority must show the discipline was commensurate with the infraction

The Commission has a duty to decide independently from the facts presented in the record whether the appointing authority carried its legally imposed burden of proving by a preponderance

of evidence that it had good or lawful cause for suspending the classified employee and, if so, whether such discipline was commensurate with the dereliction. *Durning v. New Orleans Police Dep't*, 2019-0987 (La. App. 4 Cir. 3/25/20), 294 So. 3d 536, 538, *writ denied*, 2020-00697 (La. 9/29/20), 301 So. 3d 1195; *Abbott v. New Orleans Police Dep't*, 2014-0993 (La. App. 4 Cir. 2/11/15); 165 So.3d 191, 197; *Walters v. Dept. of Police of the City of New Orleans*, 454 So. 2d 106 (La. 1984). The Appointing Authority has the burden of showing that the discipline was reasonable and not arbitrary or capricious. *Neely v. Dep't of Fire*, 2021-0454 (La. App. 4 Cir. 12/1/21), 332 So. 3d 194, 207 (“[NOFD] did not demonstrate . . . that termination was reasonable discipline”); *Durning*, 294 So. 3d at 540 (“the termination . . . deemed to be arbitrary and capricious”).

a. Factors considered by Commission

“In determining whether discipline is commensurate with the infraction, the Civil Service Commission considers the nature of the offense as well as the employee’s work record and previous disciplinary record.” *Matusoff v. Dep't of Fire*, 2019-0932 (La. App. 4 Cir. 5/20/20), 2020 Westlaw 2562940, *writ denied*, 2020-00955 (La. 10/20/20), 303 So. 3d 313. The Commission considers the nature of the offense, the employee’s work ethic, prior disciplinary records, job evaluations, and any grievances filed by the employee.” *Honore v. Dep't of Pub. Works*, 14-0986, pp. 8-9 (La. App. 4 Cir. 10/29/15), 178 So. 3d 1120, 1131, *writ denied*, 2015-2161 (La. 1/25/16), 185 So. 3d 749.

B. The Recreation Department has shown cause for the termination of Mr. Plains’ employment

NORD has shown that Mr. Plains was excessively late or absent between March 8, 2024, and April 9, 2025. This conduct impaired the efficient operation of NORD. Larry Barabino, the

Director, testified that crews would have to maintain recreation centers without one crew member. (Tr. at 71). Mr. McCormick testified that Mr. Plains' absenteeism negatively affected the morale of the organization. (Tr. at 57-58).

C. The penalty is commensurate with the violation.

Mr. McCormick testified he repeatedly counseled Mr. Plains about his attendance. In addition, NORD issued two corrective action forms and then suspended Mr. Plains for two days in March of 2024. Therefore, NORD engaged in progressive discipline of Mr. Plains before terminating his employment. Termination is commensurate with the excessive absenteeism and tardiness of Mr. Plains.

Mr. Plains's appeal is DENIED.

WRITER:

Mark Surprenant, Commissioner

[Mark Surprenant, Commissioner \(Nov 19, 2025 10:39:06 CST\)](#)

MARK SURPRENANT, COMMISSIONER

CONCUR:

Brittney Richardson

[Brittney Richardson, Chairperson \(Nov 24, 2025 15:08:37 CST\)](#)

BRITTNEY RICHARDSON, CHAIRPERSON

Ruth Davis

[Ruth Davis, Commissioner \(Nov 21, 2025 11:38:16 CST\)](#)

RUTH DAVIS, COMMISSIONER