



CITY OF NEW ORLEANS

DEPARTMENT OF CITY CIVIL SERVICE
SUITE 900 - 1340 POYDRAS ST.
NEW ORLEANS, LA 70112
(504)658-3500 FAX NO. (504) 658-3598

CITY CIVIL SERVICE COMMISSION
BRITTNEY RICHARDSON, CHAIRPERSON
JOHN H. KORN, VICE-CHAIRPERSON
MARK SURPRENANT
RUTH WHITE DAVIS
ANDREW MONTEVERDE

AMY TREPAGNIER
DIRECTOR OF PERSONNEL

Tuesday, March 3, 2026

Mr. Kendall Phillips

Re: **Kendall Phillips VS.
Department of Sanitation
Docket Number: 9763**

Dear Mr. Phillips:

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 - 3/3/2026 - filed in the Office of the Civil Service Commission at 1340 Poydras St. Suite 900, Amoco Building, New Orleans, Louisiana.

If you choose to appeal this decision, 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 purple ink that reads "Stacie Joseph".

Stacie Joseph
Management Services Division

cc: Matt Torri
Jalen Harris
Bryce Murray
file

**CIVIL SERVICE COMMISSION
CITY OF NEW ORLEANS**

KENDALL PHILLIPS
Appellant

v.

Docket No. 9763

DEPARTMENT OF SANITATION
Appointing Authority

DECISION

Appellant, Kendall Phillips, brings this appeal pursuant to Article X, § 8(A) of the Louisiana Constitution and this Commission's Rule II, § 4.1 seeking relief from his July 23, 2025, termination of employment from the Department of Sanitation. (Exhibit HE-1). At all relevant times, Appellant was employed as a Laborer and had permanent status as a classified employee. (Tr. at 25). A Hearing Examiner, appointed by the Commission, presided over a hearing on November 20, 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 December 15, 2025, and controlling Louisiana law. For the reasons set forth below, Mr. Phillips's appeal is DENIED.

I. FACTUAL BACKGROUND

The Department of Sanitation terminated Mr. Phillips's employment based on his poor attendance. (Ex. HE-1). Matt Torri, the Director of the Department of Sanitation, testified that Mr. Phillips had "ongoing attendance issues," despite the Department's repeated attempts to remediate Mr. Phillips's attendance. (Tr. at 47). Prior to the termination of his employment, the Department of Sanitation had placed him on Performance Improvement Plans (PIPs) on July 30, 2024, and on

March 25, 2025, to improve his attendance. (Ex. HE-1; Ex. AA-1; Tr. at 17). The 2025 PIP followed a negative performance evaluation for 2024 based on poor attendance. (Tr. at 34, 47). In 2024, Mr. Phillips took 369.25 hours of leave without pay (LWOP). (Ex. HE-1; Tr. at 27-28). The Director testified that Mr. Phillips was on LWOP for over 40 days in 2024, constituting 20% of his scheduled work hours. (Tr. at 43).

An Appointing Authority places an employee on LWOP when the employee has exhausted all accrued sick and annual leave under Civil Service Rule VIII, Section 5.1(c). (Tr. at 10, 28). If an employee is on LWOP during a pay period, the employee does not accrue sick or annual leave under Civil Service Rule VIII, Sections 1.1(e), 2.1(d). (Tr. at 28).

The March 25, 2025, PIP required Mr. Phillips to “[l]imit LWOP hours” and to arrive at work on time over a 90-day period. (Ex. AA-1). Mr. Phillips failed to meet the requirements of the PIP. (Tr. at 25, 48; Ex. AA-1). Mr. Phillips was on leave without pay for 64.5 hours and was late on six occasions during the 90-day PIP. (Ex. HE-1; Tr. at 9).

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”).

B. The Department of Sanitation has Shown Cause for the Termination of Mr. Phillips’ Employment

Mr. Phillips failed to report to work consistently, despite repeated efforts by the Department of Sanitation to encourage Mr. Phillips to improve his attendance. Even though the Department of Sanitation issued Mr. Phillips a July 30, 2024, PIP requiring improvement in LWOP and tardies, Mr. Phillips ultimately received a negative performance evaluation for 2024 based on poor attendance. Mr. Phillips’s attendance in 2025 did not improve, despite the March 25, 2025, PIP required under Civil Service Rule 11, Section 1.9(c).

Mr. Phillips’s chronic absences impaired the efficient operation of the Department of Sanitation. Other employees were required to perform Mr. Phillips’s duties. (Tr. at 11). This increased workload affected employee morale. (Tr. at 50). In addition, Mr. Phillips’s absences hampered the Department of Sanitation’s efforts to provide essential services in as productive a manner as possible. (Tr. at 50).

1. The penalty of termination is commensurate with the infraction

The penalty of termination is commensurate with Mr. Phillips’s failure to improve his attendance. The Department of Sanitation provided Mr. Phillips with ample opportunities to improve his attendance before the termination of his employment. Despite receipt of a negative performance appraisal for 2024, and placement on a second PIP in 2025, Mr. Phillips failed to improve his attendance.

Mr. Phillips’s appeal is DENIED.

WRITER:

Mark Surprenant, Commissioner

Mark Surprenant, Commissioner (Feb 24, 2026 15:27:33 CST)

MARK SURPRENANT, COMMISSIONER

CONCUR:

Bh

Brittney Richardson, Chairperson (Mar 2, 2026 17:45:33 CST)

BRITTNEY RICHARDSON, CHAIRPERSON

Andrew Monteverde, Commissioner

Andrew Monteverde, Commissioner (Feb 27, 2026 22:02:54 CST)

ANDREW MONTEVERDE, COMMISSIONER