

IN THE CLEVELAND CIVIL SERVICE COMMISSION  
CUYAHOGA COUNTY, OHIO

IN RE: APPEAL OF JAKIMAH DYE            )  
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CIVIL SERVICE COMMISSION'S  
FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND RULINGS

The Cleveland Civil Service Commission (“Commission”) now issues its Findings of Fact, Conclusions of Law, and Rulings in this appeal by Appellant Jakimah Dye (hereinafter “Appellant”) from the decision of the City of Cleveland’s Director of Public Safety (hereinafter “Director” or “City”) to overrule the November 22, 2024, Report and Recommendation of the Hearing Referee (hereinafter “Referee Report”). The Commission heard<sup>1</sup> oral arguments from the parties on July 25, 2025.

The Commission agrees that the Referee’s Report accurately states the nature and history of The Case. See Referee’s Report pages 2-3. The Commission hereby adopts “THE CASE” portion on pages 2-3 of the Referee’s Report and incorporates it herein as if fully rewritten.

The Commission agrees that in general, the Referee’s Report accurately states the facts as presented in the nature of the evidence and testimony to the Commission. Except for any specific and contrary findings made herein, the Commission hereby adopts “THE FACTS” portion on pages 4-6 of the Referee’s Report and incorporates it as if fully rewritten.

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<sup>1</sup> Record (“R.”) at Transcript (“Tr.”) 7-25-2025. Although present at the end of the oral arguments, one Commission Member was not present for the entirety of the hearing. As such, he did not participate in the decision of the Commission. The Commission members noticed his presence and asked for executive session to clarify from its attorney about his ability to participate. See Tr. 7-25-2025 at pp 52-58.

Based upon the evidence, testimony of the witnesses, briefs, and oral arguments of the parties, the Commission hereby makes the following specific findings and conclusions in this appeal:

#### COMMISSION FINDINGS OF FACT

1. The Commission's Referee heard three (3) days of testimony (June 21, 2024, June 24, 2024, and August 19, 2024)<sup>2</sup> and issued his Referee's Report<sup>3</sup> on November 22, 2024. Upon referral back to the Referee because both parties requested additional evidence be presented in this appeal, the Referee heard an additional day of testimony (April 22, 2025).<sup>4</sup> The Referee presented his Referee's Summary of Additional Evidence and Findings of Fact ("Referee's Additional Findings") on May 19, 2025.<sup>5</sup>

2. The Commission agrees with the Referee's Report that this is a discipline case and that the City bears the burden<sup>6</sup> to prove the termination decision was supported by a preponderance of the evidence in the record in this appeal.

3. The Commission agrees with the Referee's Report finding that this appeal is about dishonesty.<sup>7</sup>

4. The Commission agrees with the Referee's Report finding that Appellant failed to initially disclose the presence of children in the City vehicle at the time of the accident.<sup>8</sup>

5. The Commission agrees with the Referee's Report finding that Appellant also failed to disclose the number of children in the City vehicle when asked.<sup>9</sup>

6. The Commission agrees with the Referee's Report finding that Appellant's actions in this matter constitute a lack of candor.<sup>10</sup>

7. The Commission disagrees with the Referee's Report that Appellant's acts and lack of candor do not constitute "dishonesty" to support removal of an employee.<sup>11</sup>

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<sup>2</sup> R. at Tr. 6-21-2024, Tr. 6-24-2024, and Tr. 8-19-2024.

<sup>3</sup> R. at Referee Report, Notice of Appeal, App. Exh. Y, City Exh. 47.

<sup>4</sup> R. at Tr. 4-22-2025.

<sup>5</sup> R. at Referee's Additional Evidence Findings.

<sup>6</sup> R. at Referee's Report at p 10.

<sup>7</sup> *Id.* pp 10-11.

<sup>8</sup> *Id.* at p 11.

<sup>9</sup> *Id.*

<sup>10</sup> R. at Referee's Report at p 13.

<sup>11</sup> *Id.*

8. The Commission agrees with the Referee's Report finding that Appellant's actions violated:<sup>12</sup>

- a. Civil Service Commission Rule 9.10(12) – damage to the city owned vehicle.
- b. Civil Service Commission Rule 9.10(13) – Unauthorized use of a City Vehicle.
- c. Commuter Policy II A – Personal use of a city owned vehicle.
- d. Vehicle Use Policy I D – Comply with all laws concerning the operation of vehicles.
- e. Vehicle use Policy I H – Transporting a person not a City employee.

9. The Commission finds that Appellant's actions in this matter also violated Civil Service Rule 9.10(18) – For other failure of good behavior which is detrimental to the service, or for any other act of misfeasance, malfeasance, or nonfeasance in office. The Commission finds that the entirety of the record supports that the City proved by preponderance of the evidence that Appellant's actions violate Civil Service Rule 9.10(18).

10. The Commission finds that Appellant's acts of dishonesty and lack of candor as cited above and provided in the entire record in this appeal support the finding of violation of R. 9.10(18).

11. The Commission finds that the City terminated Appellant for her dishonesty and not for violation of other City policies, including the Commuter Use and Vehicle Use Policies. The Commission further finds that the City met its burden to prove Appellant's termination was for her dishonesty by a preponderance of the evidence in the record.

12. The Commission finds that Appellant's Oath of Office<sup>13</sup> required her to execute her duties with the City "faithfully, honestly, and impartially," including when answering questions during an investigation for a motor vehicle accident. The Commission further finds that Appellant did not meet this oath due to her lack of candor and dishonesty when answering questions during the investigation into the accident.

13. The Commission finds that the evidence in the record demonstrates that Appellant's supervisor gave her permission<sup>14</sup> to use the City's vehicle for transporting non-City employees, including minors, at the time of the February 17, 2024, motor vehicle accident, contrary to City policy. The Commission finds that this permission does not, nor should it, grant permission to lack candor or fail to be fully honest when answering questions during an investigation into the accident, including identifying passengers in the vehicle (whether City employees or others) at the time of the accident.

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<sup>12</sup> *Id.*

<sup>13</sup> R. at City Exh. 3.

<sup>14</sup> App. Exh. R, R. at Tr. 6-24-2024 at pp392-393.

14. The Commission finds that on February 20, 2024, Bradford Davy, the City's Chief of Staff, emailed Appellant, notifying her that her vehicle privileges were suspended pending the outcome of the associated investigation into her February 17, 2024, motor vehicle accident.<sup>15</sup> The Commission further finds that this email is sufficient notice to Appellant that an investigation into the accident was being made by the City.

15. Appellant did not testify to this Commission at the July 25, 2025, oral argument, including not answering a question asked by a Commission member if there were "other options" available to Appellant regarding the transportation of the children during the incident at issue in this instant appeal.<sup>16</sup> The Commission acknowledges that the City at all times has the burden of proof in this appeal, but the Commission attempted to gather additional relevant information in this matter.

16. The Commission agrees with the Referee's Report finding that the factual basis for the City's claims that Appellant was terminated was for being dishonest.

17. The Commission finds that Appellant was dishonest<sup>17</sup> due to her lack of candor in providing information during the City's investigation<sup>18</sup> of the February 17, 2024, motor vehicle accident. Specifically, Appellant was dishonest, not forthright and lacked candor<sup>19</sup> in not initially explaining (when she knew she should have explained)<sup>20</sup> the presence of four (4) minors<sup>21</sup> with her<sup>22</sup> in the City vehicle that held five (5) passengers at the time of the February 17, 2024, motor vehicle accident. After just being in a motor vehicle accident, Appellant then had the four (4) minors and herself leave the accident scene in her supervisor's City vehicle<sup>23</sup> that also only held five (5) passengers in which he was present with his own child in a car seat.<sup>24</sup>

#### COMMISSION CONCLUSIONS OF LAW

1. Ohio Constitution Article XV, Section 10 requires the "appointments and promotions in the civil service of the state, the several counties, and cities, shall be made according to the merit and fitness, to be ascertained, as far as practicable, by competitive examination. Laws shall be passed providing for the enforcement of this provision."

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<sup>15</sup> R. at City Exh. 14.

<sup>16</sup> R. at Tr. 7-25-25, p. 37, l. 9, See also at pp. 36-38.

<sup>17</sup> R. at City Exh. 3 (Oath of Office was to "faithfully, honestly, and impartially discharge the duties of Executive Commission of Public Safety Operations...")

<sup>18</sup> R. at City Exh. 14.

<sup>19</sup> R. at City Exh. 3 (Oath of Office was to "faithfully, honestly, and impartially discharge the duties of Executive Commission of Public Safety Operations...")

<sup>20</sup> R. at Tr. 6-21-2024 at p 175-176 ("...because I don't want anybody to say I didn't tell them about the kids.")

<sup>21</sup> R. at City Exh. 11, 13, 15.

<sup>22</sup> R. at City Exh. 3, 7, 11, 13, 15, 17, Tr. 6-21-2024 at pp 167-178.

<sup>23</sup> R. at Tr. 6-24-24 at pp 397-398.

<sup>24</sup> R. at Tr. 6-24-24 at p 397.

2. A classified civil service employee has a constitutionally protected property interest in her continued employment and is entitled to due process of notice and an opportunity to respond and present reasons why the adverse action should not be taken, prior to termination of employment. *Washington v. Cleveland Civ. Serv. Comm.* (Nov. 18, 2010), Cuyahoga App. No. 94596, 2010-Ohio-5608 at ¶¶ 26-29. See also *LaChance v. Erickson* (1998), 522 U.S. 262, 266 (“The core of due process is the right to notice and a meaningful opportunity to be heard.” Citing *Cleveland Bd. of Ed. v. Loudermill* (1985), 470 U.S. 532).<sup>25</sup>

3. Cleveland Charter § 79<sup>26</sup> provides that:

The work of the several departments shall be distributed among such divisions thereof as are established by this Charter or as may be established by the Council by ordinance, with the concurrence of the Board of Control. There shall be a commissioner or chief in charge of each division who shall be appointed, and may be removed by the director of the department in conformity with the Civil Service provisions of this Charter. Each commissioner shall, with the approval of the director of his department, appoint all officers and employees in his division and have supervision and control of its affairs.

4. Charter § 126 provides that “the civil service of the City is hereby divided into the unclassified and classified service.” Charter § 126(1)(b) provides that the unclassified service shall include “all directors and assistant directors of departments.” Charter § 126(2) provides that “the classified service shall comprise all positions not specifically included by this charter in the unclassified service.” Although she did not have any personnel report to her, the Commission concludes that, because Appellant’s Oath of Office<sup>27</sup> was for “Executive Commissioner” and job description<sup>28</sup> indicated that the position, albeit titled with a “working title” of “Assistant Director of Public Safety,” her employment was part of the classified positions within the City.<sup>29</sup> Additionally, all of the City’s Notices of Pre-Discipline Conference<sup>30</sup> indicate that Appellant was in the classified service of the City. The Commission is not persuaded by the City’s arguments that because Appellant was in such a fiduciary role, she was not in a classified position. This argument is contrary to all of the City’s own evidence.<sup>31</sup> The Commission agrees with the

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<sup>25</sup> The Cleveland Civil Service Rules provide “more due process than that articulated in the *Loudermill* decision by the U.S. Supreme Court.” *City of Cleveland v. AFSCME Local 100* (Aug. 5, 1999), Cuyahoga App. No. 74467, 1999 WL 588238 at \*5.

<sup>26</sup> Cleveland’s Charter and Codified Ordinances are found online at: [https://codelibrary.amlegal.com/codes/cleveland/latest/cleveland\\_oh/0-0-0-1](https://codelibrary.amlegal.com/codes/cleveland/latest/cleveland_oh/0-0-0-1)

<sup>27</sup> R. at City Exh. 3.

<sup>28</sup> R. at City Ex. 4.

<sup>29</sup> R. at City Exh. 3, 4, and 5.

<sup>30</sup> R. at City Exh. 17.

<sup>31</sup> R. at City Exh. 3, 4, 5, and 17.

Referee's findings, conclusion, and recommendation<sup>32</sup> on the Motion to Dismiss. As such, the City has not proven by a preponderance of evidence that Appellant was not a classified employee and its Motion to Dismiss is denied.

5. Charter § 127 provides that "the Civil Service Commission shall make, promulgate, and when necessary may amend, rules for the appointment, promotion, transfer, lay-off, reinstatement, suspension and removal of City officials and employees in the classified service."

6. Charter § 128(n) requires the Commission's Rules to provide "for discharge or demotion in rank or compensation, only after the person has been presented with the reasons specifically stated in writing and has been given an opportunity to be heard in his or her own defense. The reasons for the discharge or demotion and any reply in writing by the employee shall be filed with the Commission."

7. Charter § 121 provides for an appeal to the Commission within ten days of the date of dismissal or termination of employment in the classified service of the City. The Commission concludes that this appeal from the Director's termination decision was timely filed with the Commission.

8. Cleveland Codified Ordinance ("CCO") § 169.03 authorizes the Commission to employ attorneys to act as referees to conduct Civil Service hearings as required by law or the rules of the Commission. Commission Rule ("Rule")<sup>33</sup> 9.40 requires that, upon conclusion of receiving the evidence, testimony, and arguments of the parties, the referee provides the Commission with his Referee Report,<sup>34</sup> which was provided on November 22, 2024. Rule 9.60 allows additional evidence be presented by the parties to the Commission in an appeal. After both parties requested additional evidence in this matter, the Referee heard and submitted the Referee's Additional Findings on May 19, 2025.<sup>35</sup> The Commission finds that this matter was properly referred to and heard by the Commission's Referee.

9. CCO § 171.53(a) provides that every City employee has the right at all times to have present and be represented by his or her chosen counsel, including an attorney, at any stage of a discipline hearing, including "formal or informal preliminary steps, stages or levels of hearings, investigations, or interrogations or any kind, including by not limited to the questioning of any employee, which may result in or lead to any disciplinary and/or criminal charges being brought against any such employee. CCO § 171.53(b) requires the dismissal of any discipline or other proceeding against and the reinstatement of an employee for proceedings taken in violation of CCO § 171.53(a). CCO § 171.53 does not require the City to specifically provide an employee with a statement of the right to

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<sup>32</sup> R. at Referee Report at pp 3-4

<sup>33</sup> R. at City Exh. 23; App. Exh. GG.

<sup>34</sup> R. at Referee Report, Notice of Appeal, App. Exh. Y, City Exh. 47.

<sup>35</sup> R. at Referee's Additional Findings.

counsel under this provision. Appellant received written notice, via the February 20, 2024, Bradford Davy email, that an investigation into the February 17, 2024, accident was underway.<sup>36</sup> When Appellant notified the City that she wanted to retain counsel,<sup>37</sup> the City continued her matter. The Commission finds that Appellant was not denied her right of representation under CCO § 171.53.

10. Rule 9.70 provides for the procedure for appeals before this Commission. The City has the burden to prove by preponderance of evidence that the departmental director's decision is supported by the whole record before the Commission. The rule allows for the arguments by the parties to the appeal, and "any member of the Commission, after recognition by the President, may ask questions of any party or their counsel." R. 9.70. The Eighth District Court of Appeals held in *Holmes v. Cleveland Civ. Serv. Comm.* (Jan. 14, 2010), Cuyahoga App. No. 93191, 2010-Ohio-76 at ¶ 11, that an appellant "was again permitted to testify and explain her behavior," at the hearing. Although present for the hearing and afforded the opportunity, Appellant did not respond when asked whether other options existed and her counsel, when responding on her behalf, also did not answer the relevant question by the Commission member.<sup>38</sup>

11. Rule 9.70 allows each party to the appeal fifteen (15) minutes for oral arguments before the Commission. Additionally, Rule 14.10 allows for the waiver of any specific rule by a majority of vote of the Commission when, in the interest of the public service, it is found appropriate. No party requested waiver of Rule 9.70 fifteen (15) minutes oral argument rule.

12. Rule 9.10 provides that the "tenure of every officer or employee in the classified service shall be during good behavior and efficient service." It provides eighteen (18) listed "causes" for which an employee "may be discharged, suspended, or reduced in rank..." Although listed in the Notices as "9.1,"<sup>39</sup> the Notices cite to the specific cause listed in Rule 9.10 correctly, no other Rule "9.1" exists, and the Commission finds that the parties proceeded with this appeal under Rule 9.10.

13. Rule 9.20A requires an appointing authority contemplating discipline action against an employee to "give such officer or employee oral or written notice of the action contemplated and an opportunity to respond."

14. Rule 9.22 requires an appointing authority who decides to discharge an employee:

- To promptly notify the employee in writing of such decision,
- Set forth the charges and specifications for the discharge,

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<sup>36</sup> R. at City Exh. 14

<sup>37</sup> R. at City Exh. 16.

<sup>38</sup> R. at Tr. 7-25-25, p. 37, l. 9, See also at pp. 36-38.

<sup>39</sup> R. at City Exh. 17.

- Inform the employee that he or she must advise the Commission in writing within ten (10) working days of the charging letter of the desire to have a disciplinary hearing before a Commission referee, and
- Provide a copy of the letter to the Commission.

15. Rule 9.23 requires an appointing authority to provide all charges “that can or may be preferred against such officer or employee, up to the time of charging, or such appointing authority...shall thereafter be barred from preferring charges which arose prior to the notice to such officer or employee, except those charges which cannot with reasonable diligence be discovered or known.” Rule 9.23 does not prohibit an appointing authority from amending any notice of charges upon the discovery of additional charges against an employee. The Commission finds that the City’s Notices of Pre-Discipline Conference<sup>40</sup> properly presented Appellant with specific reasons for the proposed adverse action against her, set forth the charges and specifications for the proposed action, and provided her with the opportunity to be heard in her defense. The Commission further finds that there was no prohibition from the City amending the original Notice, and the evidence in this appeal indicates that such amendment was made timely and upon the City learning of the additional facts with reasonable diligence.

16. The Commission has the authority to interpret its own rules. Rule 9.40 provides for the hearing before the referee, and within seven (7) calendar days from the date the “Director in the City service”<sup>41</sup> receives the referee’s recommendations, the Director shall forward the written decision to sustain, modify, or overrule the referee’s recommendations to the Commission, the employee, and employee’s legal counsel. The “Director in the City service” is intended to be the City’s departmental director,<sup>42</sup> not the “Director or Assistant Director” of the Commission under Rule 1.20, who is not delegated (and cannot legally be delegated) the authority to “affirm, disaffirm or modify”<sup>43</sup> another departmental director’s decisions, but has the authority over the “administrative functions of the Office”<sup>44</sup> of the Commission. Moreover, the Commission’s Rules specifically define “Director” as “Department head, who has supervision and control of all officers and employees within the separate divisions comprising his/her department.”<sup>45</sup> The “appointing authority” of a classified employee is not always the department “Director,” (albeit with the approval of a director).<sup>46</sup> Although worded awkwardly, the Commission’s Rule 9.40 is intended to be, and has historically been treated by the Commission as, a similar procedural process to a magistrate or referee objection process.<sup>47</sup> Appellant

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<sup>40</sup> R. at City Exh. 17.

<sup>41</sup> R. 9.40.

<sup>42</sup> App. Exh. GG at Definitions, p. “49.”

<sup>43</sup> Charter § 121.

<sup>44</sup> Rule 1.20.

<sup>45</sup> App. Exh. GG at Definitions, p. “49.”

<sup>46</sup> See Charter § 79.

<sup>47</sup> As a special proceeding, the Ohio Rules of Civil Procedure are inapplicable to this appeal, but they are advisory. Ohio Civ. R. 1(C)(8). Moreover, hearsay evidence is allowed in an administrative proceeding, including evidence of a lack of candor. *Doran v. Wilkie* (6<sup>th</sup> Cir. Apr. 1, 2019), 468 Fed. Appx. 340.

argues that the Director's decision in this matter was untimely filed with the Commission. The Commission's Referee forwarded the Referee Report on November 22, 2024, to the parties' counsel and the Commission's Assistant Director, Rachon Long.<sup>48</sup> The record is silent as to when the *Director of Public Safety* received the Referee Report. However, upon inquiry by Appellant's counsel, Rachon Long notified parties' counsel that the Director's decision was due to the Commission by 5:00pm on Monday, December 2, 2025.<sup>49</sup> The Commission disagrees with the Referee's Additional Findings that the "Director" stated in Rule 9.40 is the Commission's Assistant Director Rachon Long. It would be illogical and against the City's Charter<sup>50</sup> to allow one City departmental director, the "director" of the Civil Service Commission, to be granted the Charter power to "affirm, disaffirm, or modify" the decision of another City departmental "director," because that legal authority under the City's Charter resides with the Commission.<sup>51</sup> As no evidence exists in the record to demonstrate by a preponderance of the evidence that the Director's decision was untimely filed with the Commission, the Commission finds that the Director's December 2, 2024, decision letter was timely filed.

17. Rule 9.60 requires written appeals from a director's decision to be made within ten (10) working days from the date of the letter of such decision. The Commission finds that Appellant timely filed her appeal from the December 2, 2024, director's decision with the Commission.

18. This Commission does not have authority to decide matters of discrimination. *Dworning v. City of Euclid* (2008), 119 Ohio St. 3d 83, 2008-Ohio-3318 at ¶ 37.

19. The lack of candor is a broader range of conduct that includes not responding fully or truthfully to a matter or creating an impression other than the full information in a matter. *See Ludlum v. Dept. of Justice* (2002), 278 F. 3d 1280, 1283.

20. It is irrelevant if false statements made during an investigation are under oath or not. *LaChance v. Erickson* (1998), 522 U.S. 262.

21. "Our legal system provides methods for challenging the Government's right to ask questions – lying is not one of them. A citizen may decline to answer the question, or answer it honestly, but he cannot with impunity knowingly and willfully answer with a falsehood." *La Chance v. Erickson* (1998), 522 U.S. 262, 265.

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<sup>48</sup> App. Exh. WWW.

<sup>49</sup> R. at City Exh. 53.

<sup>50</sup> Charter § 121.

<sup>51</sup> Charter § 121.

22. "An agency, in ascertaining the truth or falsity of the charge, might take that failure to respond into consideration." *LaChance v. Erickson* (1998), 522 U.S. 262, 263, citing *Baxter v. Palmigiano* 425 U.S. 308, 318.

23. The Commission cannot "rubber-stamp" a referee's conclusions, but must make an independent decision based on the entirety of the record. *Florian v. Highland Loc. Sch. Dist. Bd.* (1983), 24 Ohio App. 3d 41. If the referee fails to address relevant evidence, the Commission must address such evidence. *Routson-Gim-Belluardo v. Jefferson Twp Loc. Sch. Dist. Bd. of Educ.* (Mar. 25, 2016), Montgomery App. No. 26789, 2016-Ohio-1265.

24. The Commission must sufficiently articulate the reasons it rejects the referee's recommendations. *Katz v. Maple Hts. City Sch. Dist. Bd. of Educ.* (1993), 87 Ohio App. 3d 256.

25. The Commission finds that even if authorized by her supervisor to have non-City employees in the City car on the day of the motor vehicle accident at issue in this appeal, Appellant was notified that the City was investigating the accident,<sup>52</sup> did not initially explain the presence of the non-City passengers in the City vehicle,<sup>53</sup> and knew she should have reported the non-City passengers at the time of the accident.<sup>54</sup>

26. One incident of dishonesty may be sufficient evidence for termination of an employee. *City of Sandusky v. Nuesse* (Dec. 16, 2011), Erie App. No. E-10-039, 2011-Ohio-6497. Moreover, the dishonesty is not required to be job related and the appointing authority's testimony is a sufficient basis for termination. *Craddolph v. Ackerman* (1978), 57 Ohio App. 2d 150.

27. Dishonest conduct that reflects badly upon the employer should not be tolerated. *Watson v. Schwenker* (1982), 8 Ohio App. 3d 294.

28. The Commission finds that Appellant was dishonest<sup>55</sup> due to her lack of candor in providing information during the City's investigation<sup>56</sup> of the February 17, 2024, motor vehicle accident. Specifically, Appellant was dishonest, not forthright and lacked

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<sup>52</sup> R. at City Exh. 14

<sup>53</sup> R. at City Exh. 11, 13, 15.

<sup>54</sup> R. at Tr. 6-21-2024 at 176-176 ("...because I don't want anybody to say I didn't tell them about the kids.")

<sup>55</sup> R. at City Exh. 3 (Oath of Office was to "faithfully, honestly, and impartially discharge the duties of Executive Commission of Public Safety Operations...")

<sup>56</sup> R. at City Exh. 14.

candor<sup>57</sup> in not initially explaining (when she knew she should have explained)<sup>58</sup> the presence of four (4) minors<sup>59</sup> with her<sup>60</sup> in the City vehicle that held five (5) passengers at the time of the February 17, 2024, motor vehicle accident. After just being in a motor vehicle accident, Appellant then had the four (4) minors and herself leave the accident scene in her supervisor's City vehicle<sup>61</sup> that only held five (5) passengers in which he was present with his own child in a car seat.<sup>62</sup>

29. The Commission finds Appellant's arguments that she was terminated for the purpose of giving her job to Mr. Phillip McHugh is speculative and not supported by the evidence in the entirety of the record. The record shows that the job offer to Mr. McHugh was made in writing on December 12, 2023,<sup>63</sup> at least two (2) months before Appellant was in the February 17, 2024, motor vehicle accident and the resulting investigation.

30. The Commission agrees with the Referee's Additional Findings that City's Exhibit 49 lacks evidentiary weight in this appeal. However, based upon the above-mentioned facts as to lack of candor and dishonesty, as well as the entirety of the record, the Commission specifically disagrees with the Referee's Report conclusions and finds that the entirety of the evidence supports the City's termination of Appellant in this matter for dishonesty due to lack of candor. *Alexander v. CareSource* (6<sup>th</sup> Cir. Aug. 14, 2009), 576 F. 3d 551 (may come to different conclusions based upon the same facts).

#### COMMISSION RULINGS:

1. Because the record does not contain evidence of when the Director of Public Safety received the Referee's Report under Rule 9.40, and based upon the entirety of the record of this appeal, consisting of the presented evidence, witness testimony, documents, hearing transcripts, and oral arguments of the parties, the Commission finds by a preponderance of the evidence that Director's December 2, 2024, decision letter was timely filed with the Commission.

2. Because the City's Charter and Codified Ordinances do not prohibit the City from using "working titles" different from classified civil service position titles, and based upon the entirety of the record of this appeal, consisting of the presented evidence, witness testimony, documents, hearing transcripts, and oral arguments of the parties,

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<sup>57</sup> R. at City Exh. 3 (Oath of Office was to "faithfully, honestly, and impartially discharge the duties of Executive Commission of Public Safety Operations...)

<sup>58</sup> R. at Tr. 6-21-2024 at p 175-176 ("...because I don't want anybody to say I didn't tell them about the kids.") See also *Routson-Gim-Gelluardo v. Ohio Dept. of Educ.* (2017), 351 Ed. Law Rep. 503, 2017-Ohio-2611.

<sup>59</sup> R. at City Exh. 11, 13, 15.

<sup>60</sup> R. at City Exh. 3, 7, 11, 13, 15, 17, Tr. 6-21-2024 at pp 167-178.

<sup>61</sup> R. at Tr. 6-24-24 at pp 397-398.

<sup>62</sup> R. at Tr. 6-24-24 at p 397.

<sup>63</sup> R. at App. Exh. K.

the Commission finds that Appellant Jakimah Dye was a classified civil service employee of the City of Cleveland, Ohio as an Executive Commissioner with a working title of an Assistant Director of Public Safety. As such, the City's Motion to Dismiss the appeal is denied.

3. Because Appellant was timely notified by the City that the City was conducting an investigation of the February 17, 2024, motor vehicle accident, and because the City continued the proceedings in this matter upon notice of Appellant retaining counsel, and based upon the entirety of the record of this appeal, consisting of the presented evidence, witness testimony, documents, hearing transcripts, and oral arguments of the parties, the Commission finds that Appellant Jakimah Dye was not deprived of her right to counsel as required under CCO § 171.53.

4. Because the record demonstrates that Appellant Jakimah Dye was dishonest due to her lack of candor in providing information during the City's investigation of the February 17, 2024, motor vehicle accident, specifically, Appellant (1) did not initially disclose non-City employees were passengers in the City vehicle, (2) did not disclose the number and identity of the minors who were passengers in the City vehicle when asked, and (3) was not forthright and lacked candor in explaining the presence of four (4) minors with her in the City vehicle that held five (5) passengers at the time of the motor vehicle accident, then had the four (4) minors and herself leave the accident in her supervisor's City vehicle that held five (5) passengers in which he was present with his own child, and based upon the entirety of the record of this appeal, consisting of the presented evidence, witness testimony, documents, hearing transcripts, and oral arguments of the parties, the Commission finds that the City's termination decision was proved and supported by a preponderance of the evidence presented. The Commission further finds Appellant's arguments that she was terminated to give her job to another person is speculative and not supported by the evidence in the entirety of the record. The Commission agrees with the Referee's Additional Findings that the City's Exhibit 49 lacks evidentiary weight in this appeal. However, based upon the above-mentioned facts as to lack of candor and dishonesty, as well as the entirety of the record, the Commission specifically disagrees with the Referee's Report conclusions and finds that the entirety of the evidence supports the City's termination of Appellant in this matter. *Alexander v. CareSource* (6<sup>th</sup> Cir. Aug. 14, 2009), 576 F. 3d 551 (may come to different conclusions based upon the same facts).

5. Based upon all of the above, Appellant Jakimah Dye's appeal from the December 2, 2024, Director of Public Safety's termination decision is denied because the City proved the termination of Appellant was supported by a preponderance of the evidence presented in the entire record.

IT IS SO ORDERED:

*Pastor Gregory E. Jordan, President*

Pastor Gregory E. Jordan, President

CERTIFICATE OF SERVICE:

A true and accurate copy of the above Findings of Facts, Conclusions of Law, and Rulings was served upon counsel for Appellant and the City of Cleveland via email this 8<sup>th</sup> day of August, 2025.