

**DECISION AFFIRMING DISMISSAL**

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IN THE MATTER OF THE APPEAL OF:

**ELENA QUEZADA**, Appellant,

vs.

**DEPARTMENT OF HUMAN SERVICES**,  
and the City and County of Denver, a municipal corporation, Agency.

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**I. INTRODUCTION**

The Appellant, Elena Quezada, appeals her dismissal from employment with the Department of Human Services (Agency) on October 17, 2012, for alleged violations of specified Career Service Rules and Agency regulations. A hearing concerning this appeal was conducted by Bruce A. Plotkin, Hearing Officer, on February 7-8, 2013. Andrea Kershner, Assistant City Attorney, represented the Agency, while Russ Harris, Esq., and Michael O'Malley, Esq. represented Ms. Quezada. Agency exhibits 1-18 were admitted, as were Appellants' exhibits A-5 through A-8, H-4 through H-7, M through AA, BB-5, BB-6, CC-1, DD-4 and DD-5. The following witnesses testified for the Agency: Geraldine Bettis; Michelle Hunter-Diamond; Renee Newton; and Andrea Albo. The Appellant testified on her own behalf during her case-in-chief, and presented the following additional witnesses: Trisha Cordova and Carol Spink. At hearing, the Agency presented a document entitled "DDHS Terms and Acronyms" to assist the Hearing Officer, and any readers of this Decision, to decipher the Agency's terms and acronyms.

**II. ISSUES<sup>1</sup>**

The following issues were presented for appeal:

- A. whether the Appellant violated any of the following Career Service Rules: 16-60 A., B., J., K., or L;
- B. if the Appellant violated any of the aforementioned Career Service Rules, whether the Agency's decision to dismiss her conformed to the purposes of discipline under CSR 16-20.

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<sup>1</sup> Appellant initially claimed her dismissal was imposed in retaliation for her complaint one month earlier. [Appellant's pre-hearing statement; Appellant's amended pre-hearing statement; Appellant's second amended pre-hearing statement;]. She implicitly abandoned that claim by failing to present any evidence of retaliation during hearing and failing to address it in her written closing argument.

### III. FINDINGS

The Appellant, Elena Quezada, was a Case Management Supervisor I in the Denver Department of Human Services. As a Supervisor I, Quezada was responsible for assisting, supervising, and evaluating the work of case workers who interview applicants to determine initial and on-going eligibility for public assistance programs.

A federal lawsuit against the State of Colorado claimed the State was grossly negligent in processing applications for food stamps and other public assistance. 15,000 clients were backlogged up to one year; Colorado hadn't met federally-mandated benchmarks for two years; and more than half of 45,000 documents related to eligibility for benefits weren't matched to case files. [Albo testimony].

A settlement of the lawsuit requires the State to ensure all Colorado counties meet increasing rates of compliance, culminating in 95% timely processing of food stamp applications beginning in September 2012 and to continue at that rate thereafter. [Exhibit 17-5,6]. The settlement is closely monitored by the court. Since the City and County of Denver represents 25% of the assistance for the entire State, the State could meet its benchmarks only if Denver did so. The consequences to the State and to the counties for failure to take corrective actions to catch up with overdue tasks were substantial, including withholding funds and having to re-pay federal funds. [Exhibits 6-2, 6-3; Bettis testimony; Albo testimony].

As a result of the lawsuit, the Agency's top priority was to ensure compliance with the terms of the settlement. The Agency spent considerable human capital in meetings, reorganization, and effort to develop guidelines which would ensure compliance with the directives of the settlement. Director Andrea Albo wrote the recovery plan in January 2011 to address the backlog and to create accountability and transparency in the process. All Agency employees were keenly aware of the urgency of such compliance through Agency-wide meetings, team meetings, one-on-one counseling, and myriad emails. [Bettis testimony; Albo testimony; Exhibit 6-2, 6-3; Exhibit 9]. By May 2011, the Agency had met its benchmarks and improved its backlogged cases from 15,000 to 1,000. Albo appointed Bettis as acting Supervisor II in order to meet the challenge of remedying the remaining 1,000 overdue cases.

On August 3, 2012, Quezada's immediate supervisor, Geri Bettis, sent an email to all supervisors, including Quezada, in which Bettis repeated her earlier-announced vacation from August 6-14. Bettis also convened a meeting with her subordinate supervisors, including Quezada, to discuss how to complete all overdue tasks during her absence. Quezada suggested each of the three supervisors select one of their case workers to form a new team to tackle the overdue cases. Bettis approved Quezada's idea and directed her to take the lead to address a specific portion of the remaining overdue cases, 98 cases that were overdue from March-August 2012, and to complete them by August 17, including, pertinent to Quezada, the requirement to "research" what issues needed to be resolved in those overdue cases, in order to prepare them for processing by her new team during the week Bettis was absent, including a Saturday. Overtime for the entire week was pre-approved for that purpose.

Bettis followed up the August 3 meeting with an email confirming Quezada was to lead the newly-appointed team. Bettis' email provided explicit instructions how to complete the overdue tasks, including step-by-step research instructions explaining how to conduct the research component of the overdue cases during the Bettis' absence.

[Exhibit 4; Exhibit 6]. Bettis followed up her email with a spreadsheet of all overdue tasks to be completed during her absence. [Exhibit 13; Exhibit 3-3]. Bettis also conducted a follow-up meeting to reiterate the division of work: research by supervisors, and processing by subordinates, and to repeat the urgency of completing overdue tasks by August 17. Quezada did not object to Bettis' directives, and did not request any additional resources then or at any point during Bettis' absence.

Bettis returned from vacation on August 15 to find the 98 overdue and coming due (during August) cases she asked to be resolved during her absence had ballooned to 195 during her absence. [Bettis testimony; Exhibit 6]. Quezada had done little research pursuant to Bettis' explicit instruction. Instead, she assigned most of the research to her team members who were unable to do both research and keep up with their processing tasks. Consequently, the Agency missed its August requirement to process 95% of its overdue cases on time. Bettis convened a supervisors meeting to find out what happened. Quezada stated she was refusing to complete her assignment.

Bettis sought advice from her supervisor, Division director Andrea Albo, how to handle Quezada's intransigence and how to complete the assignment. A meeting was convened on August 16 or 17<sup>2</sup> which included Bettis, Albo and Quezada, plus Executive Manager Valerie Brooks and HR representative Michelle Hunter-Diamond, as well as Quezada's co-worker Veronica Serna. Quezada repeated she was unwilling to perform all the work assigned to her. She was hostile and sarcastic to the point that Manager Brooks intervened to express her concern regarding the way Quezada was addressing her supervisors. Quezada replied "I'll give respect where respect is given." Quezada stood up to leave the meeting before it was over and was ordered to remain. Quezada suggested a daily email should be sent to her specifying each task to be accomplished for each day, but Brooks flatly rejected that solution.

Bettis took over Quezada's responsibilities, stayed long hours, and worked with Quezada's staff and other supervisors. She worked through the following weekend to research and process overdue cases which Quezada had neglected or reassigned to subordinates. [Albo testimony; Bettis testimony].

A pre-disciplinary meeting was held on October 5, 2012. Quezada attended with her union representative who read a prepared statement. The Agency terminated Quezada's employment on October 17, 2012. This appeal followed, timely.

## IV. ANALYSIS

### A. Jurisdiction and Review

Jurisdiction is proper under CSR §19- 10A.1.a., as a direct appeal of a dismissal. I am required to conduct a *de novo* review, meaning to consider all the evidence as though no previous action had been taken. Turner v. Rossmiller, 532 P.2d 751 (Colo. App. 1975).

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<sup>2</sup> The notice of discipline, Exhibit 3-3, and some testimony placed the meeting on August 17, while Bettis testified the meeting took place a day earlier. [Bettis testimony]. The difference is inconsequential to this Decision.

## **B. Burden and Standard of Proof**

The Agency retained the burden of persuasion, throughout the case, to prove the Appellant violated one or more cited sections of the Career Service Rules, and to prove its decision to terminate Quezada's employment complied with CSR 16-20. The standard by which the Agency must prove each claim is a preponderance of the evidence.

## **C. Career Service Rule Violations**

### **1. CSR 16-60 A. Neglect of duty.**

Neglect is established when the Agency proves an employee failed to perform a job duty known to her. In re Romero, CSA 01-12, 7 (4/17/12), citing In re Compos, et al, CSA 56-08, 7 (4/17/12). (CSB 6/18/09). During the week of Bettis absence there were 42 tasks already overdue plus 56 becoming due by the end of August for a total of 98 cases that needed to be researched and processed to completion.

Bettis provided explicit notice to all supervisors, including Quezada, that supervisors were responsible for conducting the research on all overdue files during the week of Bettis' absence. "[S]upervisors are to complete the research on all overdue tasks in the workgroups." [Exhibit 4]. In addition, a follow-up email provided step-by-step instructions on how to conduct research. [Exhibit 5]. Those instructions also specified the research tasks were to be completed by supervisors. [Id]. Bettis also created a printout of each overdue case to be researched and worked during her absence. [Exhibit 13].

Quezada failed to make any substantial effort to meet those deadlines and even refused to do so, as she stated during her meeting with Bettis and subsequently with all upper-level supervisors. Quezada said she did the best she could with imposed goals that were impossible to meet. However Bettis completed Quezada's research tasks plus a substantial portion of the processing tasks of Quezada's subordinates during the week after she (Bettis) returned from vacation. Moreover, the Agency communicated from the first days of the stipulation, that it was incumbent to come forward if any employee had difficulty meeting expectations so that accommodations could be made, but Quezada never approached any supervisor for assistance. [Albo testimony]. It was even more critical for Quezada, as lead supervisor of the catch-up project, to ask for assistance if she needed it, but she did not. Also, it is improbable Quezada would have offered to assemble a team to catch up on all overdue cases if she felt it was an impossible task.

Quezada also claimed Bettis treated her unfairly by requiring her to work "all night if you have to" and by requiring ongoing 60-hour work weeks in order to meet the catch-up deadlines. [Quezada opening statement]. The Agency admitted the backlog during the week of Bettis' absence would require more than a 40-hour week, "probably about 50 hours," according to Albo. [Albo testimony]. While Quezada was not required to work more than a 40-hour workweek on an ongoing basis, [Albo testimony], she had ample notice of the need for her, as an exempt [from overtime], supervisory employee to work more than a normal 40-hour week, during the week of Bettis' absence.

Next, Quezada claimed that, since management approved any and all means to accomplish the overdue tasks, that she was free to use the three technicians assigned to

her to complete all overdue tasks, including research. [Quezada opening statement]. This claim misses the mark. Quezada was certainly free to use her team to meet all overdue tasks; however Bettis specifically assigned supervisors to the research tasks for reasons of efficiency and experience, and Quezada was not free to transfer her work to subordinates and then claim it was impossible for her team to complete the assignment when the subordinates were unable to complete Quezada's work plus their own. Moreover, Renee Newton, a supervisor I and colleague of Quezada, testified she was present at the August 3 meeting attended by Quezada and the third supervisor I, Veronica Serna. Newton recalled Bettis specifically tasked the supervisors with conducted research of outstanding cases then they were to send the researched cases to Quezada's specially-assembled team for processing. Newton recalled Quezada came up with the plan, that Bettis approved it, and that Bettis followed up with written instructions detailing exactly how supervisors were to conduct the research component. [Newton testimony; Bettis testimony; Exhibit 4; Exhibit 6]. Quezada's own witnesses, Trisha Cordova and Carol Spink who worked under Quezada for the catch-up project, testified the research component was "very time consuming," [Cordova cross-exam], and that their production was "not great because I had to do research." [Spink testimony].

Lastly, Quezada disputed that she neglected to conduct the research component of overdue cases. Quezada alleged Bettis' instructions were for her entire team to "work" overdue cases and "work" to Quezada included the research component. [Exhibit A-6 @ 8/3/2012 entry]. However, as noted above, Bettis was explicit in her instructions, both in person and in her multiple written communications that only supervisors were charged with conducting research of the overdue cases. [Bettis testimony; Exhibit 4; Exhibit 11; Exhibit 6]. Thus, Quezada's offer of testimony from her subordinates who affirmed they often conduct research in their normal work day was irrelevant, since the issue was not her subordinates' inability to conduct research but a specific directive for Quezada to do so from August 6-14. Since Quezada had notice of her obligation to research overdue cases during the week of Bettis' absence, her intentional failure to conduct all research herself neglected that duty. In addition, by assigning a substantial portion of her research obligation to her subordinates, Quezada neglected her duty of oversight, as the supervisor of the team specifically assembled for that purpose, to ensure her team completed all overdue tasks during Bettis' absence.

## **2. CSR 16-60 B. Carelessness in performance of duties and responsibilities.**

While CSR 16-60 A) and CSR 16-60 B), share similar elements of proof, they are distinguished in that, under 16-60 B., it is the Appellant's acts (performance), rather than her omissions (neglect), which are reviewed. See In re Simpleman, CSA 31-06, 4-5 (10/20/06). Thus, a violation under this rule occurs for performing poorly, rather than neglecting to perform, an important duty. Since the Agency alleged Quezada violated this rule for failing to ask for help, [Albo testimony], her omission is not a violation of this rule. Albo testified that Quezada also violated this rule by failing to monitor her subordinates progress during Bettis' absence. Both these allegations were charges of neglect under CSR 16-60 A., above, and not poor performance under this rule. Thus, no violation was established under CSR 16-60 B.

**3. CSR 16-60 J. Failing to comply with the lawful orders of an authorized supervisor or failing to do assigned work which the employee is capable of performing.**

a. Failure to comply. Both Albo and Bettis recalled that, during the August 17<sup>3</sup> meeting, when Quezada was asked if she was going to work the overdue cases assigned during Bettis' absence, [Exhibits 4, 5; Bettis testimony; Albo testimony], Quezada answered aggressively that she was refusing to perform the work Bettis ordered to be accomplished during her absence. Albo recalled that Quezada repeated her refusal to work "extra time" during the meeting. Rather than answer directly the Agency's claim that she was refusing to perform her assigned work, Quezada stated the task was impossible. [Exhibit 3-4]. She also claimed that, as a single mother, she could not and would not work 60-hour weeks.

First, as to her defense that the workload was impossible, Quezada made several sub-claims. Quezada incongruously pointed to her exchanges with Bettis on August 26-28 which indicated Bettis had highlighted only eight overdue cases. [Exhibit CC-1], suggesting that was all the work that was required. Bettis countered those were only the most critical of the overdue cases. [Bettis testimony]. Moreover, Bettis provided Quezada a spreadsheet of all cases to be worked during her absence. [Exhibit 13].

Quezada also claimed she was singled out for excessive work during the week of Bettis' absence. Albo responded the other supervisors carried the same workloads during the same period and had no problem completing their assignments. [Albo cross-exam]. More importantly, Quezada admitted that she researched only 13 of the 95 overdue cases and reassigned the rest to her subordinates. [Quezada testimony; Exhibit B-1]. Since she shifted most of her overdue case responsibilities to her subordinates, Quezada was not in a strong position to determine whether she could have completed the research for them, or at least made substantial progress.

Regarding the "impossible" task of completing processing of 98 overdue cases, the consensus was that, on average, a caseworker processed 10 cases per day, or 50 per week. [Bettis testimony; Spink testimony; Albo testimony]. Quezada did not refute the inferred arithmetic that the addition of daily overtime during August 6-14, plus an entire Saturday of overtime was sufficient for her, plus her team of three caseworkers, to complete the 95 overdue and coming due cases during Bettis' absence.<sup>4</sup>

Serna testified she understood Bettis' assignment as sharing all aspects of the project with staff, including research; however, because Serna was also disciplined for her own shortcomings during the same week, her credibility was somewhat at issue.

As to Quezada's claim that it was unfair to expect her to log 60-hour weeks, there is no doubt that the competing obligations of being a single parent and work obligations create anguishing choices. Once Quezada accepted the benefits attached to an exempt, supervisory-level position, however, she also accepted the concomitant responsibilities of that position. The responsibilities of an exempt position include the occasional obligation to work more than a presumed [CSR 9-71 A.<sup>5</sup>] 40-hour work week

<sup>3</sup> See N.2.

<sup>4</sup> While neither party presented any arithmetic, it seems evident that, assuming Quezada conducted only research and no processing during Aug 6-14, but her 3 team members averaged 10 cases each then, including the exceptional Saturday of pre-approved overtime, they had a total of 8 work days to catch up on 98 overdue cases. If the average production per worker was 10 cases per day and there were three caseworkers processing cases, then 8 workdays X 10 cases/day X 3 caseworkers = 240 cases processed from Aug 6-14. That output should have been ample to complete 98 overdue and coming due cases, along with team members' normal workload.

<sup>5</sup> CSR 9-71 A. declares "[t]he five (5) day forty (40) hour week shall be the standard work week for employees of the Career Service."

as the need arises. Moreover, the fundamental needs of 98 families awaiting approval for food stamps, coupled with the Agency's obligation to assist the State in meeting the terms of its settlement agreement created an extraordinary need for additional work hours during the month of August 2012.

The Agency acknowledged the entire team would likely be working more than 40 hours during Bettis' absence, but disputed Quezada's claim that she would be required to log ongoing 60-hour weeks in order to complete Bettis' assignment. Quezada did not present evidence at hearing demonstrating the assignment required such an ongoing amount of time. Also, Quezada did not cite any rule or regulation that limits the amount of time she must work to a 40-hour week. She did not present evidence that the expectation of extra work hours was more than temporary; and she did not identify any specific urgency outside of work, such as unexpected child-care issues, family emergency, or other personal need that superseded the Agency's short-term need to meet critical obligations. In addition, Quezada was free to, but did not, approach any supervisor before or during Bettis' absence concerning personal needs she needed to address. Finally, Quezada did not dispute Albo's testimony that she (Albo) would have accommodated such needs.

b. Failure to do assigned work. Quezada argued she substantially complied with Bettis' directive, offering that only four overdue tasks remained at the end of August. [Quezada opening statement; Bettis cross-exam; Quezada testimony]. Quezada's claim improperly credits herself for Bettis' efforts. It took extraordinary effort by Bettis, after her return from vacation, to research overdue cases herself, in order to catch up with the new and old overdue cases, in addition to her other duties. Even if Quezada conducted research after Bettis' return, she failed to perform that task in a meaningful fashion during Bettis' absence, by delegating much of her task to her subordinates without monitoring the result, both of which were failures to do her assigned work.

In conclusion of the evidence, above, Quezada violated CSR 16-60 J. by acknowledging a lawful order from her supervisor to address overdue cases, yet refusing to perform that task. She violated the second portion of this rule by failing to research overdue cases during Bettis' absence, and instead, delegated that task to subordinates causing them to become overwhelmed. Moreover, Quezada was already more familiar with the research process than her subordinates, and had ample resources at her disposal. The Agency proved Quezada violated both sections of CSR 16-60 J.

#### **4. CSR 16-60 K. Failing to meet established standards of performance including either qualitative or quantitative standards...**

This rule covers performance deficiencies that can be measured either by qualitative or quantitative standards, such as those one would find in a performance evaluation. In re Castaneda, CSA 79-03, 12 (12/18/02). The Agency claimed Quezada failed to meet the following standards.

a. Performance Enhancement Plan for 2012.

Section 1- Duties

Leadership and Management

Case Management Supervisor I – Operations.

Description: Ensures that federal reporting deadlines are met...Assists employees with difficult and unusual assignments...Reviews work for accuracy and completeness...

A crucial reporting deadline known to Quezada – 95% compliance for the Agency’s re-determinations in August 2012– was not met by the Agency due to its failure to catch up on overdue cases. The Agency blamed Quezada and Quezada replied she did all she could under the circumstances, and countered that the Agency has been tardy for at least two years. Quezada’s response is misplaced. The issue is not that she was at fault for the Agency’s prior failures. The issue here is that she failed to meet an established standard, 95% compliance for the specific period March to August 2012. Quezada’s justifications, for reasons described above, were unpersuasive. Quezada’s failure to meet the federally-mandated 95% compliance standard for August 2012 violated CSR 16-60 K.

**5. CSR 16-60 L. Failure to observe written departmental or agency regulations, policies or rules.**

The Agency also claimed Quezada violated the following written policies.

a. DHS Employee Handbook p. 8, DHS Vision

Accountability: Being responsible, meeting expectations which are clearly stated, actions can be explained.

It is apparent from the handbook description of this provision as a “vision” that its terms are not enforceable as performance or behavioral standards. Such gossamer supplications stand in marked contrast to specific measures of performance such as those in PEP standards stated immediately above. The difference lies in the degree of notice as to what conduct is prohibited or what performance measures are used. Vision statements are, perforce, idealized, general goals, but little guidance as to what conduct or performance is impermissible. In contrast, conduct statements, such as those in the Career Service Rules, identify with reasonable specificity what conduct is impermissible, and performance standards such as those in a PEP identify what measures will be used to enforce expected performance. This vision statement is unenforceable.

b. DHS Employee Handbook, P.10, Code of Ethics

Communication, Language, and Behavior

Display professionalism by using appropriate and civil language, tone and affect. Likewise, your attitude and non-verbal communication should be business-like, respectful and appropriate.

Use accurate and respectful language in your written and verbal communications to or about clients, customers or co-workers.

Respect

Treat colleagues and clients/customers with respect.

Recognize the value of teamwork, cooperation, and collaboration as a means to provide excellent services to our clients/customers, our community and each other.

In contrast to the vision statement above, this ethics provision, particularly the first part, establishes reasonably clear measures of behavioral expectations and is, therefore, enforceable.

Albo testified that, during the August 17 meeting, she asked Quezada "did you say 'I'm not going to do the work, it's just not going to get done?'" Quezada affirmed "yes, I did say that." [Albo testimony]. When Albo replied that she expected Quezada to complete her work. Quezada became "very defensive, disrespectful, insubordinate, and borderline intimidating." [Albo testimony]. Albo added that Quezada began waving her arms, and acting very aggressively. Quezada admitted she lost her temper, but only due to the impossibility of meeting Bettis' imposed goals and due to the pressure to complete those tasks. Quezada also claimed she was not hostile, only frustrated. [Quezada opening statement]. However, Agency Manager Valerie Brooks, who was present during the meeting, told Quezada "I can't believe how you're speaking to your division director now. I've never seen this display of disrespect in my career." [Albo testimony]. Quezada snapped back to the Agency head "I give respect where respect is due." Quezada did not rebut those assertions, and Albo's recollection was sustained by others who were present, including Bettis and Michelle Hunter-Diamond.

Hunter-Diamond has worked in HR for the City for 22 years. She attended the August 17 meeting. When asked for her observation of Quezada's treatment of her supervisors during the meeting, Hunter-Diamond testified without rebuttal:

I have to say, in the 20-some odd years that I have been in HR, it was probably the greatest display of disrespect to your supervisors I've ever seen, in regards to the posturing, the gestures, the non-verbal gestures, some of the responses from Ms. Quezada to Ms. Albo... like "duh, you didn't know that?" ... [and stating] that she was not going to do what was asked of her.

Albo testified Quezada violated this rule by showing a "complete disregard for this expectation" in two meetings, August 15 and August 17. The majority of the evidence supports Albo's evaluation of Quezada's conduct, particularly her hostile and sarcastic words and gestures which caused Manager Brooks to remark directly to Quezada that she's never witnessed such disrespect in her entire career. Quezada failed to rebut Brooks' observations. The Agency established a violation of this rule.

## **V. DEGREE OF DISCIPLINE**

The purpose of discipline is to correct inappropriate behavior if possible. Appointing authorities are directed by CSR 16-20 to consider the severity of the offense, an employee's past record, and the penalty most likely to achieve compliance with the rules. CSR § 16-20.

A. Severity of the proven offenses. Quezada's refusal to meet deadlines critical to the Agency and its clients, her hostility, and her insubordinate behavior toward her immediate and upper-level supervisors were substantial violations of Career Service and Agency rules of performance and conduct. Even while acknowledging that she became irate with her supervisors, Quezada continued to minimize her actions throughout the case, repeating her assertion during hearing that she owes only as much respect to her supervisors as her perception of their respect to her. This perception misses a core precept of the Career Service Rules: the measure for performance and conduct violations is the Career Service Rules, not the comparative performance or conduct of others. Consequently, Quezada's bad behavior must be judged by the prohibitions and standards stated in Career Service and Agency Rules, and is not diminished by any poor performance or bad behavior by another employee in her

chain of command. In either case, the evidence pointed to the contrary of Quezada's assertions. When faced with Quezada's hostile and provoking behavior, her supervisors maintained restraint and professionalism.

B. Prior record. Albo testified Quezada's prior disciplinary history was not a negative factor in assessing discipline in the present case.

C. Likelihood of reform. The Agency was entitled to rely on Quezada's statement that she would refuse to put in overtime and would refuse to perform required tasks. That attitude is inconsistent with the requirements of a leadership position. In light of her insubordination, substantial performance violations, and the profound impact of Quezada's actions on the Agency's mission, the Agency's choice of dismissal was within the range of reasonable alternatives available to the Agency, and was not arbitrary or capricious. In re Garcia, CSA 175-04, 8 (7/12/05).

## VI. ORDER

The Agency's termination of the Appellant's employment on October 17, 2012, is AFFIRMED.

DONE April 5, 2013.



Bruce A. Plotkin  
Career Service Hearing Officer