



By Order of the Court, Presiding Judge **ROBERTO C. NARAJA**

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E-FILED
CNMI SUPERIOR COURT
E-filed: Jan 08 2025 02:00PM
Clerk Review: Jan 08 2025 02:00PM
Filing ID: 75388171
Case Number: 22-0273-CV
N/A

**IN THE SUPERIOR COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**PAUL T. ACEBEDO, JOSE K. ANGUI,
ALLEN T. CALVO, CAIN C. CASTRO,
ARGERNON A. FLORES, DEREK B.
GERSONDE, SHAWN DLR. KAIPAT,
PHILIP M. KALEN, and ADAM J. SAFER,**

Petitioners,

v.

**JUAN A. PUA, in his official capacity as
Commissioner of the Department of Fire and
Emergency Medical Services, and the CIVIL
SERVICE COMMISSION,**

Respondents.

CIVIL ACTION NO. 22-0273

**ORDER ON PETITION
FOR JUDICIAL REVIEW OF
AGENCY ACTION**

I. INTRODUCTION

BEFORE THIS COURT is the hearing on the merits of the briefing, which was heard on October 8, 2024. Petitioners Paul T. Acebedo, Jose K. Angui, Allen T. Calvo, Cain C. Castro, Argernon A. Flores, Derek B. Gersonde, Shawn DLR. Kaipat, Philip M. Kalen, and Adam J. Safer (collectively, the “Petitioners” or the “Firefighters”) filed a brief in support of their petition for judicial review of an agency action, through their counsel, Attorney Joseph E. Horey, on April 30, 2024. (Pet’rs’ Br., ECF No. 72847708.) Respondent Juan A. Pua, in his official capacity as Commissioner of the Department of Fire and Emergency Medical Services (“DFEMS”), filed a timely opposition on behalf of DFEMS and the Civil Service Commission (“CSC”) (collectively, the “Respondent” or the “Agency”), through its counsel, Assistant Attorney General J. Robert Glass, Jr.,

1 on May 20, 2024. (Resp'ts' Opp'n Br., ECF No. 73101656.) Petitioners submitted their reply brief
2 on June 4, 2024. (Pet'rs' Reply Br., ECF No. 73298085.)

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4 On December 19, 2024, the Court issued a notice to the parties extending the deadline for
5 final judgment due to a "high volume of cases under review and the resulting demands on judicial
6 resources." (Notice of Delay in Issuance of Final Judgment, 2.)

7 Based upon a review of the arguments, filings, and applicable law, the Court hereby
8 **AFFIRMS** the CSC's affirmation of DFEMS's decision to terminate the Firefighters for their failure
9 to comply with the vaccination mandate.
10

11 II. BACKGROUND

12 The Court previously addressed the relevant factual and procedural background in its Order
13 Denying Plaintiffs' Motion to Reconsider Dismissal ("Reconsider Order"), issued on September 13,
14 2024, and its earlier Order Granting in Part and Denying in Part Defendants' Motion to Dismiss
15 ("Dismissal Order"), issued on February 21, 2024. Accordingly, only the facts pertinent to the current
16 petition for judicial review are discussed herein.
17

18 The Firefighters were former civil service employees of DFEMS. (Br. 2.) On February 18,
19 2021, in response to the COVID-19 pandemic, the Governor of the Northern Mariana Islands (the
20 "Commonwealth") issued Executive Directive 2021-002 (the "Directive"), which required all
21 executive branch employees to be vaccinated, unless exempted for medical contradictions or sincerely
22 held religious beliefs. (Br. 2.) Following this Directive, then-Commissioner Dennis Mendiola of
23 DFEMS (the "Commissioner") announced a COVID-19 vaccination requirement (the "Policy") for
24 all DFEMS employees on March 16, 2021. (Br. 2.)
25
26

27 The Firefighters failed to seek exemptions from or comply with the Policy, resulting in the
28 termination of their employment for violations of the Northern Mariana Islands Administrative Code
("NMIAC"), specifically §§ 10-20.2-438(b), "Policy on Employee Conduct," and 10-20.2-440,

1 “Subordination to Authority.” (Br. 2; Reply 5.)¹ On February 21, 2024, the Court issued the Dismissal
2 Order, denying the Firefighters’ claims, including the argument that the Policy violated their privacy
3 and substantive due process rights under the Commonwealth Constitution. The Court later rendered
4 the Reconsider Order on September 13, 2024.
5

6 The remaining issues for the Court’s determination are: (1) whether the Commissioner’s
7 decision to terminate the Firefighters’ employment was supported by “just cause,” such that the
8 termination was exercised within proper discretion; (2) whether reasonable alternatives to termination
9 were considered; and (3) whether the Firefighters’ constitutional challenges should be reconsidered.
10

11 III. LEGAL STANDARD

12 The Court’s jurisdiction to review an agency action arises from Commonwealth Code, Title
13 1, Section 9112.² The procedures governing judicial review of final agency orders or decisions in
14 contested case proceedings under the Administrative Procedures Act (“APA”) are set forth in the
15 Commonwealth Rules of Procedure for Administrative Appeals. *See generally* NMI R. P. Admin.
16 App.; 1 CMC §§ 9101-15. Under the APA, the Court has the authority to review final agency
17 decisions that are properly appealed and shall “decide all relevant questions of law, interpret
18 constitutional and statutory provisions, and determine the meaning or applicability of the terms of an
19 agency action.” 1 CMC § 9112(f).
20
21

22 To invoke judicial review, there must first be an “agency action,” which is a threshold
23 requirement. *See* 1 CMC § 9112(b). The APA defines “agency” as “each authority of the
24 Commonwealth government, whether or not it is within or subject to review by another agency.” 1
25

26
27 ¹ The Court observes that both parties inaccurately identified the section numbers of the NMIAC in their submissions,
28 citing §§ 10-20.2-420(b) (titled “Policy on Employee Conduct”) and 10-20.2-422 (titled “Subordination to Authority”).
Treating these errors as clerical, the Court relies on the cited section titles and corrects the citations to align with the
updated NMIAC, effective September 28, 2023. *See* NMIAC, <https://cnmilaw.org/pdf/admincode/T10/T10-20.2.pdf>
(Commonwealth Law Revision Commission).

² “[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action, is
entitled to judicial review . . . in the Commonwealth Superior Court.” 1 CMC § 9112(b).

1 CMC § 9101(b). “Agency action” is defined to include “the whole or part of an agency rule, order,
2 license, sanction, relief, or the equivalent or denial thereof, or failure to act.” 1 CMC § 9101(c). For
3 agency action to be “final” and subject to judicial review, it must (i) “mark the consummation of the
4 agency’s decision making process” and (ii) be “one by which rights or obligations have been
5 determined, or from which legal consequences will flow.” *Cody v. N. Mar. I. Ret. Fund*, 2011 MP 16
6 ¶ 18. In making this determination, the Court “shall review the whole record or those parts of it cited
7 by a party, and due account shall be taken of the rule of prejudicial error.” 1 CMC § 9112(f)(2)(vi).

8
9 Agency decisions are reviewed under an “arbitrary and capricious” standard. *See Pac. Sec.*
10 *Alarm, Inc. v. Commonwealth Ports Auth.*, 2006 MP 17 ¶ 14 (citing *Wileman Bros. & Elliott, Inc. v.*
11 *Espy*, 58 F.3d 1367, 1374 (9th Cir. 1995)); *see also* 1 CMC § 9112(f)(2)(i). “[T]he scope of review . . .
12 is narrow and [this Court] is not to substitute its judgment for that of the agency.” *Pac. Sec. Alarm,*
13 *Inc.*, 2006 MP 17 ¶ 14 (citing *Motor Vehicle Mfrs. Ass’n v. State Farm Mutual Auto. Ins. Co.*, 463
14 U.S. 29, 43 (1983)). A decision is arbitrary and capricious if it is a “willful and unreasonable action
15 without consideration or in disregard of facts or without determining principle.” *In re Blankenship*, 3
16 NMI 209, 217 (1992), reaffirmed in *Pac. Sec. Alarm, Inc.*, 2006 MP 17 ¶ 14 (citing Black’s Law
17 Dictionary (5th ed. 1979)). It is also deemed arbitrary and capricious if the agency “has entirely failed
18 to consider an important aspect of the problem.” *In re Hafadai Beach Hotel Extension*, 4 NMI 37, 45
19 n.33 (1993), reaffirmed in *J.G. Sablan Rock Quarry, Inc. v. Dep’t of Pub. Lands*, 2012 MP 2 ¶ 45
20 (quoting *Arkansas v. Oklahoma*, 503 U.S. 91, 113 (1992)).

24 IV. DISCUSSION

25 I. “Just Cause” Standard for Termination

26
27 The Firefighters argue that their employment was terminated without a finding of “just cause,”
28 in violation of the NMIAC, and that the termination constituted an abuse of discretion. (Br. 2.) In
response, the Agency contends that the terminations were justified based on allegations of

1 insubordination and violations of employee conduct policies, pursuant to NMIAC § 10-20.2-257(j).
2 (Opp'n 3-4.)

3 It is undisputed that the Agency's termination decision was governed by the NMIAC § 10-
4 20.2-257(j) (the "Regulation"),³ which mandates that civil service employees may only be
5 involuntarily separated for "just cause." The principal issue before the Court is the interpretation and
6 application of the "just cause" standard within this framework.
7

8 **A. Distinction Between "Cause" and "Just Cause"**

9 Black's Law Dictionary defines "just cause" as "[a] legally sufficient reason" that is "often
10 used in employment-termination cases" to determine whether "an employer's disciplinary action or
11 termination of an employee was warranted," implying "a fair and honest reason, regulated by good
12 faith on the part of the party exercising the power," and synonymous with terms such as *good cause*
13 *shown, lawful cause, good cause, and sufficient cause. See Black's Law Dictionary* (11th ed. 2019).⁴
14 While our Supreme Court has not directly addressed the definition of "just cause" in the context of
15 employment termination, the Agency asserts that this Court should rely on *Peter-Palican v.*
16 *Commonwealth* to interpret the term (Reply 5.) Specifically, the Agency points to the *Peter-Palican*
17 Court's conclusion that "cause" requires only a reasonable basis for removal. *See* 2012 MP 7 ¶ 9.
18 (Opp'n 4.) However, the Firefighters contend that "just cause" requires a heightened standard of
19 fairness and good faith. (Reply 5.)
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23 The Court finds the Firefighters' interpretation more compelling. Principles of statutory
24 interpretation dictate that "effect must be given, if possible, to every word, clause and sentence of a
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27 ³ "Appointing authorities may take removal action against an employee for just cause provided all adverse action
procedures are followed." NMIAC § 10-20.2-257(j).

28 ⁴ *Black's Law Dictionary* situates "just cause" within the broader context of "good cause," explaining that "[i]ssues of
'just cause,' or 'good cause,' or simply 'cause' arise when an employee claims breach of the terms of an employment
contract providing that discharge will be only for just cause." The term primarily originates from contract law but is also
widely adopted in statutory and regulatory contexts to impose heightened standards of fairness and accountability. *See*
Mark A. Rothstein et al., *Employment Law* § 9.7, at 539 (1994).

1 statute.” *Borja v. Wesley Goodman & Younis Arts Studio, Inc.*, 1 NMI 225, 265 (1990) (citing
2 SUTHERLAND STAT. CONST. § 22.30 (5th Ed.) (SUTHERLAND)). This principle prevents interpretations
3 that render any part of a statute or regulation inoperative, superfluous, void, or insignificant. *See id.*
4 Applying this standard, the inclusion of the word “just” in the Regulation signals a deliberate
5 elevation of the standard beyond mere “cause.” The term “just cause” incorporates elements of
6 fairness, good faith, and factual support, distinguishing it from the more general and flexible concept
7 of “cause.” To interpret “just cause” as synonymous with “cause” would nullify the added
8 significance of the word “just,” rendering it meaningless.
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11 The Agency’s reliance on *Peter-Palican* fails to account for the unique context of civil service
12 employment, where enhanced procedural protections serve vital public policy goals. That case
13 addressed the removal standard for a Special Assistant to the Governor for Women’s Affairs, an at-
14 will appointee whose position required flexibility due to the inherently political nature of the role.
15 The applicable constitutional standard of “cause” in *Peter-Palican* aligns with the expectations for
16 such positions, where employment decisions are less constrained by procedural protections.⁵ By
17 contrast, the Regulation at issue here governs the termination of permanent civil service employees,
18 including Firefighters, who are entitled to enhanced procedural safeguards. This distinction is
19 particularly salient given that civil service positions, unlike political appointments, require enhanced
20 procedural protections to ensure effective delivery of essential public services. Civil service positions,
21 particularly those involving public safety, like firefighting, require stability and protection from
22 arbitrary dismissal to ensure effective public service delivery. These positions form the backbone of
23 consistent government operations, providing the foundation for reliable and uninterrupted services to
24 the public. Unlike political appointments, which may change with administrations, the rigorous
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⁵ “There is hereby established an Office of Special Assistant to the Governor for Women's Affairs. The governor shall appoint a person, who is qualified by virtue of education and experience, to be the special assistant. The special assistant may be removed only *for cause*.” NMI CONST. ART. III, § 22(a) (emphasis added).

1 protections ensure that terminations are supported by substantial evidence and conducted in good
2 faith, aligning with public policy goals of stability and fairness in civil service employment.

3 This interpretation of “just cause” as a heightened standard finds further support in analogous
4 case law from other jurisdictions. For instance, courts in South Carolina consistently have held that
5 “just cause” requires more than a mere basis for removal; it necessitates fairness and evidence directly
6 related to the employee’s work performance. *See Vaught v. Waites*, 387 S.E.2d 91, 93-94 (S.C. Ct.
7 App. 1989) (“‘Just cause’ generally connotes a cause which is related to the employee’s performance
8 of his work duties, and should be based on some incapacity which renders the employee unfit for
9 further service” (citations omitted)); *cf.* S.C. Code Ann. § 59-25-160 (defining “just cause” for
10 purposes of revocation or suspension of teachers’ certificates); *Mickens v. Southland Exch.-Joint*
11 *Venture*, 406 S.E.2d 363, 365 (S.C. 1991) (“discharge for cause” under the state unemployment law
12 includes a discharge for “the disregard of behavior which an employer can rightfully expect from an
13 employee” (citation omitted)).

14 These interpretations affirm that “just cause” demands fairness, good faith, and evidentiary
15 support beyond the minimal threshold of “cause.” A termination based solely on “cause,” without
16 these additional elements, fails to meet the heightened standard imposed by the Regulation.

17 Accordingly, the Court denies the *Peter-Palican* standard as applicable to interpreting “just
18 cause” in this context.

19 **B. A Persuasive Framework for Adjudication**

20 In the absence of binding precedent, this Court has previously adopted a persuasive definition
21 identified in *Braun v. Alaska Com. Fishing & Agr. Bunk*, 816 P.2d 140, 143 (Alaska, 1991). *See Inos*
22 *v. Tenorio*, Civil Action No. 94-1289 (NMI Sup. Ct., June 14, 1995) (Memorandum Decision and
23 Declaratory Judgment) (adopting *Braun*’s definition to determine whether sufficient cause existed for
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1 the Governor to revoke a delegation of responsibility). Both parties in this case refer to these
2 precedents to support their respective positions. (Br. 3; Opp’n 4.)

3
4 The definition adopted in *Braun*, which traces its origins to *Baldwin v. Sisters of Providence*,
5 provides comprehensive guidance for interpreting “just cause.” As the Firefighters highlight (Reply
6 4-5), the definition captures essential elements of fairness and good faith:

7 “We hold [‘]just cause[’] is a fair and honest cause or reason, regulated by good faith on
8 the part of the party exercising the power. We further hold a discharge for [‘]just cause[’]
9 is one which is not for any arbitrary, capricious, or illegal reason and which is based on
10 facts (1) supported by substantial evidence and (2) reasonably believed by the employer
11 to be true.”

12 *Baldwin v. Sisters of Providence*, 769 P.2d 298, 304 (Wash. 1989). This definition emphasizes that
13 “just cause” must be based on substantial evidence while being exercised in good faith, ensuring that
14 terminations are neither arbitrary nor capricious.

15 Thus, this Court finds the *Baldwin* standards, as adopted in *Braun* and *Inos*, persuasive in
16 ensuring fair employment practices and robust judicial review.

17 **C. Adoption of Related Precedents: *Rolovich* and *In re Taisakan***

18 Although prior decisions of this Court are not binding, they carry persuasive weight under the
19 common law doctrine of precedent. This doctrine promotes consistency and stability in judicial
20 decision-making by attaching specific legal consequences to a detailed set of facts in a decided case
21 or judicial decision, which then serves as a rule for resolving subsequent cases involving identical or
22 similar material facts. The Ninth Circuit in *United States v. Osborne (In re Osborne)*, 76 F.3d 306,
23 309 (9th Cir. 1996), emphasized this principle, citing *Allegheny General Hospital v. NLRB*, 608 F.2d
24 965, 969-970 (3rd Cir. 1979). Chief Justice Marshall similarly underscored the enduring importance
25 of precedent in *Cohens v. Virginia*, 19 U.S. 264, 399-400 (1821).⁶
26
27

28 ⁶ Chief Justice Marshall articulated that the common law doctrine of precedent “is a maxim not to be disregarded, that general expressions, in every opinion, are to be taken in connection with the case in which those expressions are used. If they go beyond the case, they may be respected, but ought not to control the judgment in a subsequent suit when the very point is presented for decision. The reason of this maxim is obvious. The question before the [c]ourt is investigated with

1 Building on this foundation, the Court finds that *Rolovich v. Wash. State Univ.* provides
2 additional guidance, as the United States District Court examined “just cause” in the context of a
3 public official’s refusal to comply with a COVID-19 vaccination mandate. *See* No. 22-CV-0319,
4 2023 U.S. Dist. LEXIS 93926, slip op. at *29 (E.D. Wash. May 30, 2023). The *Rolovich* court
5 reaffirmed the *Baldwin* framework, holding that “just cause” requires termination decisions to be
6 supported by substantial evidence, reasonably believed to be true, and free from arbitrariness or
7 capriciousness. Furthermore, the Court finds *Petitioner v. Villagomez (In re Taisakan)* provides a
8 directly relevant precedent. *See* Civil Action No. 23-0002 (NMI Sup. Ct., Nov. 29, 2023) (Order
9 Affirming Civil Service Commission Decision and Dismissing Petition). In that case, this Court
10 upheld the termination of corrections officers for refusing to comply with a COVID-19 vaccination
11 mandate, concluding that the CSC’s decision was not arbitrary, capricious, an abuse of discretion, or
12 otherwise not in accordance with the law.
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16 The reasoning in *Rolovich* is instructive because it aligns with the *Baldwin* standard adopted
17 in *Inos* and demonstrates how this standard applies to cases involving public employees and policy
18 violations. Similarly, *In re Taisakan* offers a directly comparable scenario involving public employee
19 refusals to vaccinate, further reinforcing the analytical framework needed to resolve the present
20 dispute. Together, these precedents illustrate that the Firefighters’ terminations satisfy the “just
21 cause” standard under the principles articulated in these cases.
22

23 Accordingly, this Court relies on the reasonings *In re Taisakan* and *Rolovich*, as informed by
24 *Baldwin* and applied in *Inos*, to resolve the issues in this case.
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care, and considered in its full extent. Other principles, which may serve to illustrate it, are considered in their relation to the case decided, but their possible bearing on all other cases is seldom completely investigated.”

1 **II. Application of “Just Cause” Standard**

2 **A. Good Faith and Honest Reason: A Component of the “Just Cause” Standard**

3 Under the *Baldwin* framework, “just cause” exists when an employer’s decision is based on
4 reasonable and legitimate grounds, executed in good faith and free from arbitrariness. *See* 769 P.2d
5 at 304. Black’s Law Dictionary defines “good faith” as “a state of mind consisting in honesty in belief
6 or purpose” or “faithfulness to one’s duty or obligation.” *Black’s Law Dictionary* (11th ed. 2019).
7

8 In this case, the Agency’s decision to terminate the Firefighters adheres to this standard. The
9 termination was based on their refusal to comply with the Policy, which explicitly allowed employees
10 to request religious or medical accommodations. Despite sufficient notice and ample time, the
11 Firefighters failed to submit any requests for exemptions or otherwise engage with the procedural
12 avenues provided. This inaction indicates a disregard for the established process and undermines their
13 claim of acting in good faith.
14

15 Even if the Firefighters contend that they were trained to respectfully decline unlawful orders,
16 this argument is unpersuasive. (Br. 6.) There is no evidence suggesting they sought medical advice
17 or relied on religious beliefs to substantiate their refusal. Unlike in *Rolovich*, where allegations that
18 the employee’s refusal to vaccinate was supported by detailed religious reasoning, including
19 consultation with clergy and personal prayer, *see* 2023 U.S. Dist. LEXIS 93926, at *3 (E.D. Wash.
20 May 30, 2023), the Firefighters neither articulated comparable religious objections nor presented
21 medical documentation supporting their refusal. Rather than pursuing available exemption
22 procedures, which would have provided a legitimate avenue for their concerns, their opposition
23 appears rooted in personal preferences, which do not qualify as valid exemptions under the Policy.
24
25

26 The Firefighters’ roles as first responders created heightened obligations under both the
27 Directive and the Policy. According to Agency records, approximately 70 percent of their work
28 involves high-risk EMS roles requiring close contact with vulnerable populations during emergencies.

1 (Opp'n 7-8.) Their non-compliance thus directly compromised not only workplace safety but also
2 their ability to perform essential emergency response functions. Moreover, allowing unvaccinated
3 personnel to continue in these high-risk roles would have exposed both colleagues and the public to
4 unnecessary health risks during emergency responses. This direct connection between their non-
5 compliance and core job functions strongly supports the Agency's good faith determination that
6 termination was necessary.
7

8 The Firefighters' refusal to comply with the Policy and failure to act in good faith parallels
9 this Court's findings in *In re Taisakan*. In that case, the Court upheld the termination of the
10 Department of Corrections employees, who failed to vaccinate, hindering their ability to perform
11 essential duties, such as supervising inmates, working alongside other officers, and engaging with the
12 public—all without jeopardizing public health. *See In re Taisakan*, Civil Action No. 23-0002 (NMI
13 Sup. Ct., Nov. 29, 2023) at 22. Similarly, the Firefighters roles required them to respond to
14 emergencies and interact with the public—responsibilities inherently incompatible with their refusal
15 to adhere to public health measures.
16
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18 Considering the Firefighters' repeated non-compliance and the critical nature of their roles,
19 the Court concludes that the Agency had a fair and honest belief that their refusal to comply derived
20 from insubordination and violations of workplace policies. Termination was an appropriate
21 disciplinary action. Allowing unvaccinated personnel to remain in their positions would have
22 compromised public health and undermined the Agency's broader goal of ensuring a safe
23 environment for employees and the community.
24
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26 Accordingly, the Court finds that the CSC's affirmation of DFEMS's decision to terminate
27 the Firefighters satisfies the "good faith" component of the *Baldwin* framework.

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1 **B. Termination Based on Substantial Evidence and Reasonable Belief**

2 The *Baldwin* framework also requires that termination for “just cause” must not be arbitrary,
3 capricious, or illegal, and must be based on facts that are (1) supported by substantial evidence and (2)
4 reasonably believed by the employer to be true. *See* 769 P.2d at 304. The Court’s analysis focuses on
5 whether the Agency’s actions were arbitrary or capricious under this standard.
6

7 The Agency terminated the Firefighters for violating its policies on employee conduct and
8 insubordination by refusing vaccination without valid exemptions. Despite sufficient notice and time,
9 the Firefighters failed to seek medical or religious accommodations, which were explicitly permitted
10 under the Policy. This refusal constituted a clear violation of workplace expectations. (Opp’n 6.)
11

12 Black’s Law Dictionary defines “reasonable belief” as “[a] sensible belief that accords with
13 or results from using the faculty of reason.” *Black’s Law Dictionary* (11th ed. 2019). Notably, this
14 definition does not require that the belief be actually true. An employer may reasonably believe an
15 employee is capable of complying with an order, even if unforeseen circumstances prevent
16 compliance. This principle ensures that decisions are evaluated based on the information available to
17 the employer at the time, rather than with the benefit of hindsight.
18

19 Here, the Agency’s belief that the Firefighters could comply with the Policy was reasonable.
20 The Firefighters offered no objective evidence of incapacity or valid exemption, leaving the Agency
21 to reasonably conclude that their refusal constituted insubordination. Substantial evidence—including
22 their failure to seek accommodations and their explicit refusal to comply—supports the Agency’s
23 conclusion that termination was warranted.
24

25 The Agency’s actions align with precedents, such as *In re Taisakan*, where terminations were
26 upheld as procedurally sound and not arbitrary, capricious, nor an abuse of discretion when
27 employees failed to provide sufficient information to substantiate exemption requests. *See* Civil
28

1 Action No. 23-0002 (NMI Sup. Ct., Nov. 29, 2023) at 22. By providing notice, time, and procedural
2 avenues for compliance, the Agency ensured its decision to terminate was well-founded.

3
4 Counterarguments that the Firefighters’ refusal was based on valid concerns lack merit. The
5 absence of medical or religious exemptions and their failure to justify non-compliance undermine any
6 claim of justification. Personal objections, however sincere, do not override the Agency’s duty to
7 enforce public health mandates.

8
9 In conclusion, the Agency’s termination of the Firefighters was supported by substantial
10 evidence and a reasonable belief in their violations of policy. The decision was neither arbitrary nor
11 capricious but a reasoned enforcement of workplace standards. Accordingly, the Court finds that the
12 termination of the Firefighters was conducted with “just cause” under the *Baldwin* framework and
13 executed within the Commissioner’s proper discretion.

14
15 **III. Applicability of All Relevant Facts and Circumstances in “Just Cause” Analysis**

16
17 In the absence of a clear definition of “just cause,” the Firefighters argue that the Agency
18 failed to assign proper weight or meaning to the term by neglecting to consider all relevant facts and
19 circumstances, including mitigating and aggravating factors, as well as necessity and fault
20 considerations. (Reply 15.) The Court examines whether it is appropriate to expand its previously
21 adopted *Baldwin* framework to include a broader consideration of all relevant facts and circumstances.

22 **A. Mitigating and Aggravating Factors in “Just Cause” Determinations**

23
24 The Firefighters cite North Carolina jurisprudence to advocate for a broader framework that
25 accounts for mitigating and aggravating factors. (Reply 2-5.) However, this argument misconstrues
26 the scope and purpose of the NMIAC and risks undermining this Court’s commitment to consistency
27 and principled decision-making. By rejecting North Carolina’s approach, the Court reaffirms its
28 adherence to a framework grounded in Commonwealth jurisprudence, thereby ensuring clarity and
stability in its legal interpretation.

1 North Carolina’s approach involves a three-part inquiry that evaluates whether an employee’s
2 conduct constitutes “just cause,” incorporating mitigating and aggravating factors. *See Harris v. N.C.*
3 *Dep’t of Pub. Safety*, 798 S.E.2d 127, 134-35 (N.C. Ct. App. 2017) (quoting *Warren v. N.C. Dep’t*
4 *of Crime Control & Pub. Safety*, 726 S.E.2d 920, 925 (N.C. Ct. App. 2012)). However, this
5 framework applies specifically to cases involving unsatisfactory job performance or unacceptable
6 personal conduct. *See* 25 N.C. Admin. Code 1J.0604(b). These considerations focus on performance
7 accountability, which is not at issue in this case.
8

9 The Firefighters’ alleged conduct—insubordination and policy violations—could
10 theoretically align with North Carolina’s definition of “unacceptable personal conduct,” including the
11 willful violation of work rules under 25 NCAC 1J.0614(8)(d). However, in the Commonwealth, such
12 behavior is governed by § 10-20.2-438(b), which subjects personal and private employee behavior to
13 management authority. Unlike North Carolina’s requirement, Commonwealth law does not require
14 the evaluation of mitigating and aggravating factors in determining “just cause” for insubordination
15 or policy violations.
16

17 Incorporating North Carolina’s broader framework would render the NMIAC’s provisions
18 inoperative, violating principles of statutory or regulatory interpretation that mandate giving effect to
19 every word and clause. *See Borja*, 1 NMI 225 at 265. By contrast, the *Baldwin* framework requires
20 disciplinary decisions to be grounded in “facts (1) supported by substantial evidence and (2)
21 reasonably believed by the employer to be true,” ensuring clarity and objectivity in evaluating “just
22 cause.” *See* 769 P.2d at 304. The *Baldwin* standard strikes an appropriate balance, allowing for
23 context-specific analysis without compromising predictability or fairness.
24

25 Adopting North Carolina’s approach would weigh additional factors, undermining the
26 stability and predictability that the *Baldwin* framework ensures. While North Carolina courts
27 acknowledge the inherent flexibility of the “just cause” standard, such flexibility does not necessitate
28

1 abandoning a clear and reliable framework. *See N.C. Dep't of Env't & Natural Res. v. Carroll*, 599
2 S.E.2d 888, 900 (N.C. 2004). The *Baldwin* standard accommodates contextual analysis while
3 preserving predictability for both employers and employees.
4

5 The Firefighters' reliance on *Niles–Bement–Pond Co. v. Amalgamated Local 405* to expand
6 *Baldwin* is similarly unpersuasive. *See 97 A.2d 898, 900* (Conn. 1953). The cited case neither
7 challenges *Baldwin*'s principles of substantial evidence and reasonable belief nor justifies adopting a
8 broader framework for cases of insubordination.

9 Adopting the Firefighters' proposed framework would fundamentally alter *Baldwin*'s
10 analytical foundation, introducing unnecessary complexity and diminishing its utility. By reaffirming
11 *Baldwin*, the Court upholds a principled and reliable standard consistent with Commonwealth
12 jurisprudence, ensuring clarity and stability in interpreting “just cause.”
13

14 Therefore, the Court finds that the Firefighters' argument for adopting a framework that
15 considers all relevant facts and circumstances is inconsistent with the governing principles of “just
16 cause” under Commonwealth law and accordingly denies the Firefighters' argument on this ground.
17

18 **B. Necessity-Based Analysis in “Just Cause” Determinations**

19 The Firefighters contend that their termination failed to account for the necessity of the
20 sanction in determining “just cause” and argue that their dismissal was disproportionate or
21 unnecessary. (Br. 7-11.) To support their position, the Firefighters rely on cases where courts
22 evaluated whether arbitrators properly applied the “just cause” standard within the context of
23 collective bargaining agreements. *See generally Hartco Flooring Co. v. United Paperworkers of Am.,*
24 *Local 14597*, 192 F. App'x 387 (6th Cir. 2006).⁷ (Br. 7.)
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28 ⁷ The Firefighters mistakenly cite *Hartco Flooring Co. v. United Steelworkers of America*, 2005 WL 2300374 (E.D. Tenn. 2005). However, the decision was subsequently reviewed and affirmed by the United States Court of Appeals for the Sixth Circuit. This Court refers to the Sixth Circuit's decision, as the affirmance represents the controlling authority on the matter.

1 The Firefighters also cite *Clear Channel Outdoor, Inc. v. Int’l Union of Painters & Allied*
2 *Trades, Local 770*, where the Seventh Circuit emphasized the “very limited” role of courts in
3 reviewing labor arbitrators’ decisions. *See* 558 F.3d 670, 675 (7th Cir. 2009) (citing *Major League*
4 *Baseball Players Ass’n v. Garvey*, 532 U.S. 504, 509 (2001) (*per curiam*)). (Br. 7.) In *Clear Channel*,
5 the court reiterated that judicial review is limited to determining whether the arbitrator acted within
6 the powers delegated by the parties’ agreement, not to reassessing the merits of the arbitrator’s
7 decision. *See id.*; *United Paperworkers Int’l Union v. Misco, Inc.*, 484 U.S. 29, 36-38 (1987); *United*
8 *Steelworkers of Am. v. Enterprise Wheel & Car Corp.*, 363 U.S. 593, 596 (1960). While the United
9 States Supreme Court in *Misco* identified criteria for arbitrators in assessing the fairness and
10 reasonableness of termination decisions, *see* 484 U.S. 29 at 34 n.5, such guidance is distinct from the
11 standards applicable to judicial review of agency actions.
12

13
14 The Firefighters argue that these precedents support their position that a necessity-based
15 analysis of “just cause” is required, particularly emphasizing the consideration of mitigating factors.
16 However, the Court finds this argument unpersuasive. The cited cases primarily address judicial
17 review of arbitrators’ decisions within the scope of a collective bargaining agreement, where
18 arbitrators interpreted and applied the “just cause” standard in evaluating employee terminations. By
19 contrast, this case does not involve an arbitrator or the interpretation of a collective bargaining
20 agreement. The fundamental distinction between arbitral and judicial review of agency actions
21 reflects different institutional roles and legal frameworks. While arbitrators operating under collective
22 bargaining agreements may consider broad equitable factors, courts reviewing agency actions must
23 respect the agency’s statutorily granted discretion and expertise in managing its workforce. This
24 distinction is particularly relevant in public safety contexts, where agencies must balance individual
25 employee interests against broader public health and operational considerations. Accordingly, the
26 principles derived from those cases are inapplicable to the present context.
27
28

1 Additionally, the Court declines to adopt a necessity-based analysis for reviewing “just cause”
2 in the judicial review of agency actions. Under Commonwealth law, the “just cause” standard is not
3 assessed through a totality-of-the-circumstances approach, which considers all relevant factors
4 collectively without disproportionately emphasizing the necessity of the termination. *See Linden Bd.*
5 *of Educ. v. Linden Educ. Ass’n ex rel. Mizichko*, 997 A.2d 185, 191 (N.J. 2010) (holding that an
6 arbitrator’s decision based on the totality-of-the-circumstances, including mitigating factors,
7 constituted a fair and reasonable interpretation). Adopting a necessity-based framework would
8 effectively require this Court to apply a totality-of-the-circumstances analysis, which could
9 compromise the consistency and predictability of legal standards, particularly under the provisions of
10 NMIAC that govern agency actions. While the NMIAC does mandate the consideration of mitigating
11 factors in cases involving allegations of substandard job performance to determine appropriate
12 discipline under § 10-20.2-430(b)(3), this case does not fall within that category. Thus, the inclusion
13 of necessity or mitigating factors as determinative elements in the “just cause” analysis is not required
14 in this context. Expanding the framework in such a manner would extend the scope of established
15 legal standards.

16
17 In conclusion, the Firefighters’ arguments that the necessity of their termination was not
18 adequately considered do not align with the applicable legal principles. The Court finds no legal basis
19 to expand the “just cause” analysis to incorporate a necessity-based approach or a broader
20 consideration of mitigating factors and accordingly rejects the Firefighters’ argument on this ground.

21
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23 **C. Fault-Based Analysis in “Just Cause” Determinations**

24 The Firefighters challenge their termination by arguing the Agency lacked “just cause” due to
25 a failure to consider alternatives to termination. (Br. 8-9.) While the Firefighters assert other options
26 existed, the Agency demonstrates that the Commissioner evaluated potential accommodations, but
27 these were unworkable due to the nature of DFEMS operations, in which 70 percent of the work
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1 involves high-risk EMS roles where vaccination is crucial for safety. (Opp'n 7-8.) As such, this
2 operational reality led the Agency to conclude that termination was the only viable response to the
3 Firefighters' insubordination and violation of employee conduct policies.

4
5 The Firefighters contend that fault is an essential element of a "just cause" termination. They
6 rely on *Tzangas, Plakas & Mannos v. Adm'r, Ohio Bureau of Emp't Servs.*, which emphasizes that
7 fault is a critical component of just cause within the meaning of R.C. 4141.29(D)(2)(a) and requires
8 consideration of the unique facts of each case. *See* 653 N.E. 2d 1207, 1211 (Ohio 1995) (citing *Irvine*
9 *v. Unemp. Comp. Bd. Of Review*, 482 N.E. 2d 587, 590 (Ohio 1985)). (Br. 4.) According to *Tzangas*,
10 the existence of fault "cannot be rigidly defined" and must be determined under the totality of
11 circumstances. *See id.* at 698 (citing *Irvine* at 17). This case law holds that evaluating whether an
12 employee's discharge is for "just cause" within the meaning of R.C. 4141.29(D)(2)(a) is a question
13 of fact that hinges on the totality of circumstances. *See Schadek v. Administrator, Ohio Bureau of*
14 *Employment Services*, 1990 Ohio App. LEXIS 2365, *2 (Ohio Ct. App. June 15, 1990); *see also* Ohio
15 Rev. Code Ann. § 4141.29.

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18 However, the Court finds the Firefighters' reliance on Ohio jurisprudence unpersuasive in this
19 context. The legal framework in Ohio is predicated on R.C. 4141.29(D)(2)(a), which defines "just
20 cause" in statutory terms. In contrast, Commonwealth law does not provide an explicit statutory
21 definition for "just cause." Instead, "just cause" under Commonwealth law is evaluated under the
22 applicable provisions of NMIAC, which establish specific parameters for agency actions. While
23 NMIAC § 10-20.2-430(b)(3) mandates the consideration of mitigating factors in cases of substandard
24 performance to determine appropriate discipline, this provision does not govern terminations based
25 on insubordination or policy violations, as is the case here.

26
27
28 The *Baldwin* standard, which defines "just cause" as "a fair and honest cause or reason,
regulated by good faith on the part of the party exercising the power," provides a more appropriate

1 framework for evaluating the Firefighters’ claims. *See Baldwin* at 304. This standard emphasizes the
2 employer’s good faith and substantial evidence supporting its decision. The Firefighters did not object
3 to this definition, which already incorporates principles of fairness and good faith.

4
5 Furthermore, the principle in the *Tzangas* framework allowing courts to reverse decisions
6 deemed “unlawful, unreasonable, or against the manifest weight of the evidence” is already
7 encompassed within the *Baldwin* standard. Importing a fault-based framework into the *Baldwin*
8 analysis would unnecessarily complicate its application and undermine its purpose of ensuring
9 consistency and predictability in “just cause” determinations.

10
11 By reaffirming the *Baldwin* framework, the Court ensures alignment with NMIAC regulations
12 and Commonwealth jurisprudence. Expanding the “just cause” standard to include fault-based
13 considerations is unnecessary and unwarranted under the circumstances of this case. Accordingly, the
14 Court denies the Firefighters’ argument and upholds the Agency’s application of the *Baldwin* standard.

15
16 Even if the Court does not apply the *Baldwin* standard, the termination satisfies the “just
17 cause” standard under Ohio jurisprudence’s fault-based framework. In *Greenville Fed. v. Obringer*,
18 the court established that employees must adhere to established workplace policies absent compelling
19 justification, upholding termination even in a case involving merely administrative requirements,
20 such as submitting doctor’s notes for an unscheduled absence. *See* 2013 Ohio App. LEXIS 3360
21 (Ohio Ct. App. 2013); *see also* Ohio Rev. Code Ann. § 4141.29. The more recent and directly relevant
22 *Cyriaque v. Director* specifically addressed workplace vaccination policies during the COVID-19
23 pandemic, holding that an employee’s refusal to comply with such policies constitutes fault-based
24 grounds for termination, particularly given the significant health risks involved. *See* 2023 Ohio Misc.
25 LEXIS 2129, at *12 (Ct. Com. Pl. June 12, 2023).

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27
28 The present case presents even stronger justification for termination than these precedents.
The Firefighters violated a clearly communicated Policy that offered reasonable accommodations

1 through religious or medical exemptions. Rather than pursue these available exemptions or comply
2 with vaccination, the Firefighters refused to do so based on personal preferences, violating NMIAC
3 §§ 10-20.2-438(b) and 10-20.2-440. Their refusal posed particular risks due to their extensive public
4 contact in emergency situations.
5

6 The Agency's termination decision is further strengthened by the significant operational
7 burden that accommodating unvaccinated employees would create. Given the emergency response
8 nature of DFEMS work and the high percentage of high-risk EMS duties, maintaining unvaccinated
9 personnel would substantially impair the DFEMS's ability to fulfill its public safety mission. This
10 operational impact, combined with the public health risks, clearly establishes the undue hardship that
11 would result from accommodation.
12

13 Applying the fault-based analysis from *Greenville* and *Cyriaque*, the Firefighters' knowing
14 refusal to comply with a reasonable workplace safety policy, without pursuing available exemptions
15 or providing legally recognized justifications, constitutes fault-based grounds for termination. The
16 Agency's decision is particularly justified given the undue hardship that accommodating such refusal
17 would impose on essential emergency response operations.
18

19 Thus, the Agency's decision to terminate the Firefighters' employment was supported by just
20 cause, particularly in light of the undue hardship such noncompliance would cause to the DFEMS's
21 operations.
22

23 **IV. Reconsideration of Constitutional Challenges to the Policy**

24 The Firefighters contend that the Court should reconsider the Reconsider Order on the grounds
25 that their constitutionally protected liberty interest in refusing unwanted medical treatment has been
26 violated. (Br. 5-7.) Characterizing this as a new constitutional argument, the Agency argues that the
27 Firefighters are merely reasserting their constitutional arguments by asking the Court to consider a
28

1 new justification for deeming the actions unconstitutional or to revisit the Court’s previous denial of
2 their claims. (Opp’n 3-5.)

3 Under Rule 54(b) of the Commonwealth Rules of Civil Procedure, which mirrors Federal
4 Rules of Civil Procedure 54(b), courts retain discretion to reconsider interlocutory orders before the
5 entry of a final judgment. N. Mar. I. R. Civ. P. 54(b). This discretion allows courts to address
6 substantially different evidence, a change in controlling law, or any clear error to prevent manifest
7 injustice that arise during litigation. *See Camacho v. Demapan*, 2010 MP 3 ¶ 19 n.12; *Carlson v.*
8 *Boston Sci. Corp.*, 856 F.3d 320, 326 (4th Cir. 2017). However, this flexibility is limited by the “law
9 of the case” doctrine, which requires courts to adhere to prior rulings unless new evidence, a change
10 in law, or clear error resulting in manifest injustice justifies deviation. *See Carlson*, 856 F.3d at 325;
11 *see also TFWS, Inc. v. Franchot*, 572 F.3d 186, 191 (4th Cir. 2009). The interplay between these
12 principles ensures that courts can address genuine developments in litigation while maintaining
13 judicial consistency and efficiency.

14 Reconsideration remains an extraordinary remedy reserved for exceptional circumstances.
15 Courts generally decline to disturb prior rulings unless there is newly discovered evidence, an
16 intervening change in controlling law, or a need to correct clear error or prevent manifest injustice.
17 *See Hydranautics v. FilmTec Corp.*, 306 F. Supp. 2d 958, 968 (S.D. Cal. 2003); *Kona Enters., Inc. v.*
18 *Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). Arguments that merely repeat previously raised
19 issues are insufficient to warrant reconsideration. *See Wargnier v. Nat’l City Mortg. Inc.*, 2013 U.S.
20 Dist. LEXIS 102376, at *2 (S.D. Cal. July 22, 2013).

21 Here, the Firefighters fail to meet the high threshold for reconsideration. They do not present
22 new evidence, identify a change in controlling law, or establish that the Court’s previous ruling
23 involved clear error or resulted in manifest injustice. Instead, they rely on arguments, facts, and case
24 law that the Court has already considered and denied. (Br. 5-7; *see also* Reconsider Order.)

1 Reiteration of previously addressed issues cannot justify altering the Court’s ruling. See Wargnier,
2 2013 U.S. Dist. LEXIS 102376, at *2.

3 The Firefighters attempt to reframe their argument by asserting that the Commonwealth’s dual
4 role as vaccine provider and employer creates constitutional concerns. (Reply 13-14.) However, this
5 argument is unconvincing. Their reliance on *Valdez v. Grisham* is misplaced. In *Valdez*, the court
6 emphasized that vaccination requirements implemented by employers or healthcare providers were
7 valid so long as informed consent was ensured by medical professionals administering the vaccines.
8 *See* 559 F. Supp. 3d 1161, 1172 (D.N.M. 2021). Similarly, in this case, the DFEMS required
9 vaccination as a condition of employment but did not directly administer the vaccines, leaving
10 individuals, including the Firefighters, free to consult their medical providers. This distinction
11 undermines the Firefighters’ assertion of unconstitutional coercion.

12 Moreover, the Firefighters’ argument fails to address recent United States Supreme Court
13 rulings that underscore the balance between public health mandates and individual rights. In *Biden v.*
14 *Missouri*, 595 U.S. 87, 89 (2022), the Court upheld a federal vaccine mandate for healthcare workers
15 in federally funded facilities, emphasizing the necessity of such measures to safeguard public health.
16 Conversely, in *Nat’l Fed’n of Indep. Bus. v. DOL, OSHA*, 595 U.S. 109, 112 (2022), the Court struck
17 down a broader OSHA mandate, finding that it exceeded statutory authority. These rulings highlight
18 the need for statutory authority and proportionality in implementing vaccine mandates—
19 considerations this Court addressed in its prior decisions.

20 The Court's original order meticulously balanced compelling interests, recognizing both the
21 need to protect emergency responders and the public they serve, while also acknowledging the limited
22 nature of the intrusion on personal autonomy. This careful balancing remains sound, and the
23 Firefighters have presented no compelling reason to disturb it. Their constitutional challenges, even
24 when restated, fail to provide a basis for the Court to revisit its earlier ruling. In the absence of new

1 evidence, intervening changes in law, or any clear error demonstrating manifest injustice that would
2 warrant revisiting these settled issues, the Court reaffirms its previous reasoning and conclusions.
3 Accordingly, the Firefighters’ constitutional challenges are denied.
4

5 V. CONCLUSION

6 Based on the foregoing analysis and the applicable law, the Court concludes that the CSC’s
7 affirmation of DFEMS’s decision to terminate the Firefighters was neither arbitrary nor capricious
8 and was supported by substantial evidence that constitutes “just cause” under the NMIAC.
9

10 The Court determines that “just cause” under the NMIAC imposes a rigorous standard beyond
11 mere “cause,” incorporating elements of fairness and good faith. The Agency’s decision-making
12 process satisfied this standard through its thorough evaluation of alternatives and clear
13 communication of the Policy. Under the *Baldwin* framework, the Court finds the terminations were
14 supported by substantial evidence based on the Agency’s reasonable belief that the Firefighters’
15 refusal to comply with the Policy constituted insubordination and violated workplace policies. The
16 Court’s finding is reinforced by the Firefighters’ failure to pursue available exemptions or provide
17 legally recognized justifications for their non-compliance.
18

19 The Court explicitly rejects the Firefighters’ arguments for expanding the “just cause”
20 analysis to include broader considerations of mitigating factors, necessity-based analysis, or a fault-
21 based framework beyond the established *Baldwin* standard. These frameworks, while potentially
22 relevant in other contexts, are not required elements of the “just cause” analysis under Commonwealth
23 law, particularly in cases involving insubordination and policy violations rather than performance-
24 based terminations. The Court’s review is confined to the established legal framework and does not
25 extend to policy judgments or equitable relief.
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1 The Court also finds no basis to reconsider its previous rulings on the Firefighters’
2 constitutional challenges, as they have not presented any new evidence, changes in controlling law,
3 or extraordinary circumstances that would warrant departing from the law of the case.
4

5 The Agency’s decision to terminate the Firefighters was rendered during an unprecedented
6 public health crisis that demanded extraordinary measures to protect both first responders and the
7 public they serve. The COVID-19 pandemic created unique operational challenges for emergency
8 response operations, where the potential for rapid virus transmission could severely compromise
9 DFEMS’s ability to provide essential emergency services. Under these extraordinary circumstances,
10 the Firefighters’ refusal to comply with the Policy directly impeded their ability to safely perform
11 their duties and created undue hardship for DFEMS in accommodating unvaccinated personnel in
12 high-risk roles. In light of the Commissioner’s proper discretion in managing personnel decisions
13 during this crisis, these extraordinary circumstances further justify the Agency’s decision to terminate
14 their employment.
15
16

17 The Court acknowledges the Firefighters’ years of commendable service and their dedication
18 to protecting the Commonwealth community. Their commitment to public safety and willingness to
19 place themselves in harm’s way to protect others exemplify the highest ideals of public service. The
20 Court recognizes that this outcome impacts not only the individual Firefighters but also their families,
21 who have supported their service to the community. However, as a court of law, the Court must apply
22 the legal standards as written, even when doing so results in difficult outcomes for dedicated public
23 servants.
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25 Accordingly, the Court hereby **AFFIRMS** the Agency’s final decision to terminate the
26 Firefighters’ employment.
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IT IS HEREBY ORDERED this 8th day of January, 2025.

/s/
Roberto C. Naraja, Presiding Judge