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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0304**

In the Matter of Mark E. Riley,
Relator,

vs.

Hennepin County,
Respondent.

**Filed October 12, 2026
Affirmed
Harris, Judge**

Court of Administrative Hearings
File No. CAH 22-6220-40689

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Considered and decided by Bratvold, Presiding Judge; Schmidt, Judge; and Harris, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

On certiorari appeal from a decision by an administrative-law judge (ALJ) affirming respondent's decision to terminate relator's employment, relator challenges the ALJ's determination that (1) the respondent had just cause to terminate his employment, (2) no extenuating circumstances justified lesser discipline, (3) the respondent properly engaged

in the interactive process, and (4) the respondent properly investigated relator's discrimination complaint. Because the ALJ's decision is supported by substantial record evidence, we affirm.

FACTS

The following summarizes the ALJ's written factual findings along with the record evidence relevant to the issues on review.

Relator Mark E. Riley was employed by respondent Hennepin County (the County) for approximately 35 years. Riley worked as an Intermediate Administrative Assistant (IAA) in the Internal Services division of the Human Services and Public Health (HSPH) Department for ten and a half years. Within Internal Services, Riley worked in Talent Management and Employee Engagement (TM/EE), a team that was supervised by an administrative manager (the manager) and a professional services supervisor (the supervisor). TM/EE administers, among other things, employee onboarding and training, leadership development programs, and diversity, equity, and inclusion (DEI) trainings for approximately 3,900 employees across HSPH.

Within the TM/EE team, employees generally work on multiple projects with different deadlines. Projects on the team are delegated either by the supervisors or from other service areas in HSPH. Before the manager and the supervisor distribute tasks, they assess the employee's skills, experience, and capacity.

2018 Performance and PIP

Between 2018 and 2022, the manager was concerned about Riley's job performance. On July 27, 2018, Riley was placed on a performance-improvement plan

(PIP). And on December 19, 2018, Riley was issued an oral reprimand for failing to meet performance expectations. A memorandum detailing the oral reprimand informed Riley that he failed to meet the performance expectations as outlined in his July 2018 PIP. More specifically, Riley failed to complete a project by its deadline and failed to “[i]mplement a peer relationship plan to address employee engagement concerns with a co-worker.” The manager testified that “[t]here were concerns around relationships with co-workers, about meeting deadlines, training delivery, and . . . following project management practices.”

In January 2020, HSPH hired a new Director of Internal Services (the director). The director sought to increase employee accountability to ensure that employees were working at capacity and resources were being used appropriately.

In February 2022, Riley was hospitalized for four days. Two months later, he was diagnosed with cancer. Riley notified the manager of the diagnosis. The manager and the supervisor informed Riley that he could take time off under the Family and Medical Leave Act (FMLA) if he needed. After the diagnosis, Riley began treatment.

In the fall of 2022, Riley was hospitalized again and took three days off work. In early January 2023, Riley started a new treatment. Around that time, Riley informed the supervisor that he had not been feeling well, was tired, and had fallen behind on work assignments. He asked if other coworkers could assist with his work. The supervisor agreed, asked Riley for his assignments, and subsequently reduced his workload by delegating his work to other coworkers.

2023 Performance

On January 27, 2023, Riley received his annual performance review, in which he was rated a “valued performer.”¹ The review also reflected the supervisor’s concerns about Riley’s performance, namely that he lacked “project management discipline,” committed to work but did not follow through to completion, and “fail[ed] to communicate when work would not be delivered on time.” The review included goals for the following evaluation period, such as completing assignments on time, communicating when he was unable to complete assignments on time, and notifying his supervisors if he needed help completing assignments. After the review, Riley met with the manager and the supervisor on a monthly basis to discuss his workload and any concerns he had.

In March and April 2023, Riley was hospitalized for a severe bout of COVID-19 that resulted in an absence of work for approximately six weeks. During his absence, the supervisor reminded him that FMLA leave was available and sent him FMLA paperwork if he wished to pursue that option.

Riley returned to work in April 2023. The manager and the supervisor eased their expectations of Riley and gave him time to reacclimate to his work. Still, Riley struggled to keep up with conversations in meetings, completing assignments, and remembering members in his work groups. These concerns continued into the spring and summer of 2023. The supervisor testified that “it became pretty quickly apparent that the troubling

¹ The County uses a three-tiered rating scale to evaluate an employee’s performance. The ratings include (1) strategic performer, (2) valued performer, and (3) performance needs improvement. “Valued performer” is a rating used for an employee who meets expectations.

behavior that we had been struggling with was still present. I began hearing the same complaints and concerns from his teammates.”

The supervisor recounted three examples illustrating Riley’s performance issues. In late spring of 2023, Riley was part of the DEI coordinator group, which was responsible for maintaining schedules, updating the agenda and content for facilitator meetings, and addressing “customer requests.” The supervisor received complaints from other group members that Riley was not completing assignments on time, nor was he communicating when assignments would be completed. His group members were also unsure what Riley was responsible for because “[Riley] was saying he was so busy working on things but couldn’t explain what those things were.” The supervisor testified that one group member had grown so frustrated that “she was on the verge of requesting being removed from the group altogether.” Another group member told the supervisor that “if she had to partner with [Riley] on that work, that she would want to be removed . . . because she knew all the work would land on her and [Riley] would take the credit.”

On another occasion, Riley was assigned to prepare a PowerPoint and deliver a presentation to senior management. He did not follow through with the PowerPoint and, on the day of the presentation, informed his coworkers that “he didn’t think it was important for him to be there.” Riley stated that he “had other things to do” and informed his coworkers that he would not attend the meeting. As a result, his coworkers had to adjust their approach at the last minute.

Riley was also the coordinator of HSPH’s youth-internship program. While Riley was on leave for COVID-19 in March and April 2023—when internship work ramped up—

another staff member was brought in to assist. That staff member struggled in that role because Riley had not completed the necessary tasks before he left. The staff member found that the work left behind was disorganized, there was conflicting budgeting information, and other work was not up to date. So, she attempted to organize and update the work. But when Riley returned from leave, he resisted the staff member's organization and updated methods. The supervisor eventually instructed the staff member to "just do it, just get it done." Later on, the supervisor learned that the staff member "had taken on all of the work and [Riley] was quite content to just let her do the work." As a result, and after consulting with the County's senior department administrator (the administrator),² Riley was removed from the youth-internship-coordinator role.

August 2023 PIP

On August 31, 2023, the supervisor placed Riley on a PIP, which was set to expire on October 30, 2023 (60 days). In drafting the PIP, the supervisor received input from the director, the manager, the administrator, and a human resources (HR) business partner. The PIP was meant to address certain expectations of Riley, such as completing work on time, communicating when work would not be completed on time, and handling more than one project at a time. When asked why she waited until August 2023 to issue the PIP, the supervisor testified that she wanted to give Riley a chance to improve his performance and reacclimate after being on leave. Per the PIP, the manager and the supervisor continued to

² The administrator was frequently involved in the decisions surrounding performance management and recommendations for supporting next steps, termination, or release.

meet with Riley to address his progress, any questions or concerns, and his capacity for assignments.

On September 25, 2023, Riley requested an accommodation due to “brain fog.” He specifically requested that he not be assigned to complete projects on his own—with the exception of projects that he was currently on—and that he not be assigned to work in groups consisting of three or more people.³ The County did not approve this accommodation request. The manager testified that it is a “standard expectation” that employees work on “independent projects at any given point in time.” She also testified that “[m]ost of our teamwork is in the four-to-six [person] range. By creating smaller work groups for [Riley], it would increase everybody’s workload because more things would need to be divided up amongst more people.” And at that time, Riley’s accommodation request “would have a negative impact on [the] business outcomes.” The County told Riley that his request would cause an undue burden. The County also reminded him that taking a consecutive leave of absence was an alternative accommodation option.

On October 30, 2023, Riley failed to meet performance expectations pursuant to the August 2023 PIP. According to the August 2023 PIP report, when Riley encountered challenges on his primary projects, “he chose to delay starting and/or pause[d] them for extended periods of time, and elected to work on non-priority, self-selected items.” Riley’s

³ He explained that he had difficulty completing projects on his own because he had “a difficult time coming up with new ideas, multitasking, learning new concepts or processes, and prioritizing tasks.” He added, “It is also hard for me to keep track of what is going on in work meetings of more than 4 people without asking lots of questions and asking people to repeat themselves several time[s] to be clear on what they are asking.”

work was also “substandard” and “incomplete,” and he missed deadlines without notifying the manager and the supervisor. For example, one of Riley’s primary projects was human-services-supervisor onboarding. Riley was tasked with researching “phase 1” of the onboarding process and determining whether there were gaps in the curriculum or training for supervisors. The supervisor testified that, although Riley eventually completed the assignment, “it was quite late” because he put the project on hold and “instead spent time cleaning out his email.” This resulted in a delay for the team’s larger project. Also, as part of the August 2023 PIP, Riley was expected to complete professional development training. Although he had 60 days to complete the trainings, Riley said he “forgot about it.”

On October 30, 2023, Riley filed a request for medical leave, which the County approved. Riley was on leave from November 27, 2023, through December 4, 2023. On November 27, 2023, the supervisor issued a written reprimand to Riley for failing to meet performance expectations under the August 2023 PIP.

Riley Files Complaint with the County

On December 14, 2023, Riley filed a complaint with the County’s Non-Discrimination and Respectful Workplace Team (NDRW).⁴ Riley explained that he was having “job performance issue[s] due to cognitive difficulties from cancer treatment and a severe covid/pneumonia infection.” He claimed that the supervisor took “adverse actions” against him by placing him on the August 2023 PIP and by issuing him a written reprimand

⁴ The NDRW is a team within Hennepin County’s HR department that investigates alleged policy violations relating to workplace discrimination and harassment.

for failing to meet the PIP's requirements. He also complained that the supervisor (1) removed him from valued assignments "without warning or reason," (2) refused to acknowledge his disability and how it impacts his job performance, (3) assigned him to complete consecutive independent projects to "test [his] abilities," and (4) removed him from committees.

On December 27, 2023, after interviewing Riley, the NDRW investigators closed the case because Riley's complaints were outside the scope of NDRW's work. Investigators determined that Riley's complaints were better suited for the HR department.

2024 Performance Review

On January 26, 2024, the supervisor completed Riley's annual performance review. For "manager rating," the supervisor wrote, "Performance Needs Improvement."⁵ The supervisor wrote about Riley's areas of improvement, such as taking on projects proactively and following them through to completion, providing notice when projects would not be completed on time, preparing for meetings, and being open to others' perspectives. The supervisor also noted that Riley's "trust extended by peers and leadership has been damaged" and that "[t]roubling patterns of feedback . . . have been received from [Riley's] coworkers to the point where the resulting stress and frustration caused them to not want to work with him and led to his removal from assignments."

⁵ According to the County's three-tiered rating scale, "performance needs improvement" is a rating given to an employee who fails to meet expectations or demonstrates a concerning pattern of behavior.

March 2024 PIP

In March 2024, the supervisor placed Riley on a third PIP. The supervisor testified that leadership's ongoing concerns with Riley "continued with no signs of any type of improvement or action taken by [Riley] to mitigate them." She explained that leadership chose to give him another chance by placing him on another 60-day PIP. In contrast to the August 2023 PIP, the supervisor "pare[d] down the areas for improvement to the absolute most critical to try to help [Riley] really focus in on the areas that he needed to show improvement on." The performance concerns included timely communication with coworkers if projects would not be completed on time, reaching out with questions and clarifications outside of meetings, not delaying progress on certain projects, and consulting with his supervisor to evaluate high-priority tasks rather than self-selecting what to work on.

In the March 2024 PIP, Riley was tasked with completing four main projects. Also, similar to his August 2023 PIP, the manager and the supervisor had weekly "check-in" meetings with Riley to discuss any concerns. In one meeting with the administrator and the supervisor, Riley indicated that he completed occupational therapy and "was completely fine working at 100 percent."

On May 2, 2024, Riley emailed the administrator, stating that the supervisor refused to take his disability into account and that the adverse actions taken against him created a hostile working environment. He described the adverse actions as "bullying behaviors."

On May 5, 2024, Riley failed to meet the requirements of the March 2024 PIP. The supervisor testified that Riley's "patterns of behavior continued with no signs of

improvement” and that he “failed in all of the areas outlined in the PIP.” Approximately two weeks later, the supervisor placed Riley on a five-day suspension for failing to meet performance expectations.

June 2024 PIP

On June 24, 2024, the supervisor placed Riley on a fourth PIP to address the same concerns raised in his last two PIPs. On September 10, 2024, the supervisor extended the PIP to give Riley another opportunity to improve his performance.

On September 24, 2024, Riley requested medical leave due to brain fog from October 4, 2024, through December 15, 2024. Riley’s PIP was paused while he was on medical leave.

On September 25, 2024, Riley submitted an accommodation request. Riley specifically requested that he be transferred to a vacant IAA position in the Community Engagement area of HSPH. That job posting was open from September 27, 2024, through October 4, 2024. However, Riley did not provide the supporting medical documentation required for his accommodation request in a timely manner. When Riley did provide supporting documentation, the job posting had closed. The supporting document from his physician limited Riley’s working conditions as follows: (1) “avoid[ing] work group meetings of more than 3-4 people,” (2) “limit[ing] new individual projects at this time, no complex multitasking,” and (3) that Riley “[m]ay perform sequential and repetitive tasks when possible.” The County did not approve Riley’s accommodation request to transfer to the Community Engagement team because of the restrictions outlined in his supporting documentation. The County’s Americans with Disabilities Act (ADA) coordinator

explained that employees within the TM/EE team were “expected to complete task assignments with multiple steps when working in small group projects and require execution of all necessary tasks to meet deadlines.”

From mid-September through mid-December 2024, Riley and the ADA coordinator exchanged emails regarding Riley’s return to work from medical leave and potential reassignment options.

On November 1, 2024, Riley emailed the ADA coordinator stating what he desired in a working environment upon his return to work. He stated, “The bottom line is that my work area cannot accommodate me while simultaneously trying to force me to meet the requirements of [PIPs] . . . that were created to address the performance issues that were caused by my disability.”

On December 2, 2024, Riley provided an update from his physician, who removed the restrictions relating to his long COVID-19 symptoms. Riley also indicated that his physician agreed with his therapist’s recommendation of reassignment in the same job class. On December 11, 2024, the County denied Riley’s accommodation request. The County explained that, because Riley’s physician had lifted his work restrictions, Riley was capable of performing the essential functions of his current position and “d[id] not qualify for reassignment under the ADA.” Riley returned from medical leave in December 2024, and the PIP was reinstated.

Riley’s Therapist’s Recommendations

On December 19, 2024, Riley’s therapist sent a letter to the ADA coordinator stating that he suffered from symptoms of depression and anxiety related to the County’s efforts

to manage Riley's performance. The therapist stated that, "although [Riley's] cognitive functioning has improved through occupational therapy, demoralization and high anxiety related to excessive scrutiny at work continue to cause significant distress." The therapist also explained that Riley's mental health "substantially limits his major life activities, including concentrating, planning, prioritizing, remembering, and communicating when aggravated by high stress." Because of Riley's "diagnosed impairment," he "sometimes has difficulty with concentrating, planning, prioritizing, following conversations during meetups, and needs an accommodation." Riley did not submit another accommodation request in connection with the therapist's letter.

On January 13, 2025, the ADA coordinator emailed Riley regarding the therapist's letter. She explained that his condition "d[id] not prevent or limit [him] from performing essential job functions." The ADA coordinator stated that the County would accommodate Riley's need for ongoing therapy sessions through intermittent FMLA. Riley responded that it was "the responsibility of [his] psychologist to determine whether [his] conditions limit[ed] [his] ability to do [his] job." He also stated that he "would be perfectly satisfied with remaining in [his] current position" provided that his "ability to work productively isn't constantly undermined by micromanaging and too frequent interactions with an unsupportive supervisor." The ADA coordinator replied that the therapist's recommendations were not reasonable accommodations. She added that "management has the discretion to determine how often you are required to meet to discuss projects and reassign duties as necessary to ensure work requirements are met."

The County Terminates Riley's Employment

On January 21, 2025, Riley failed to meet the requirements of the June 2024 PIP because “the same areas for improvement . . . remained unchanged.” The supervisor then recommended to the director and the administrator that Riley’s employment with the County be terminated. On February 4, 2025, the County informed Riley of its intent to terminate his employment. The “Notice of Intent to Dismiss” indicated that the reason for dismissal was “[f]ailure to meet performance expectations required in your position.” It cited the County’s HR Rule 16.3g, which states, in part, “No employee shall conduct himself/herself in any manner which shall reflect negatively on the County.”

Riley appealed the County’s decision to terminate his employment, and a *Loudermill* hearing⁶ was held on February 12, 2025. Riley submitted a written statement detailing his allegations of disability discrimination and retaliation since he started treatment in January 2023. The director upheld Riley’s termination, concluding there was just cause to dismiss Riley from his position as an IAA.

After Riley’s termination, the NDRW investigated his allegations of discrimination shared during the February 12, 2025, hearing. An investigator from the NDRW testified that she was assigned to investigate the allegations following Riley’s *Loudermill* hearing.

⁶ A *Loudermill* hearing is a pretermination hearing afforded to public employees under due-process requirements of the Fourteenth Amendment. *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 545-46 (1985); *see also Deli v. Univ. of Minn.*, 511 N.W.2d 46, 50 (Minn. 1994), *rev. denied* (Minn. Mar. 23, 1994). *Loudermill* hearings allow a public employee to respond to the allegations before in impartial board or tribunal. *Id.*

The NDRW concluded that Riley’s allegations of disability discrimination were unsubstantiated.

Riley appealed his dismissal under Minnesota Statutes section 383B.38 (2024). An evidentiary hearing was held on September 23 and 24, 2025. On January 22, 2026, an ALJ affirmed Riley’s termination, finding that the County had just cause to terminate employment and that no extenuating circumstances justified reinstatement or a lesser disciplinary action.

Riley appeals.

DECISION

Under Minnesota Statutes section 383B.38, subdivision 1, “[n]o permanent employee in the classified service shall be suspended, demoted, or discharged except for just cause.” As used in the statute, just cause “must be restricted to something of a substantial nature directly affecting the rights and interests of the public.” *Leininger v. City of Bloomington*, 299 N.W.2d 723, 726 (Minn. 1980) (quotation omitted). The cause must relate to the employee’s qualifications or execution of his job duties demonstrating that he is unfit or unsuitable for the position. *Id.* (quotation omitted).

An administrative agency’s decision in a contested case is reviewed under the Minnesota Administrative Procedure Act (MAPA). Minn. Stat. §§ 14.01-.69 (2024); Minn. Stat. § 383B.38 subd. 1a(e); *see also In re Admin. Ord. Issued to Wazwaz*, 943 N.W.2d 212, 216 (Minn. App. 2020), *rev. denied* (Minn. June 30, 2020). An administrative agency’s decision “enjoy[s] a presumption of correctness.” *In re Cities of Annandale & Maple Lake NPDES/SDS Permit Issuance*, 731 N.W.2d 502, 513 (Minn. 2007). Under

Minnesota Statutes section 14.69, we may affirm, reverse, or modify the agency's decision if its findings of fact or conclusions are unsupported by substantial evidence, arbitrary or capricious, or affected by an error of law. Notably, Minnesota Statutes section 14.69(e) requires this court to consider all evidence in the record, not just the evidence relied on by the ALJ. *Webster v. Hennepin County*, 910 N.W.2d 420, 430 (Minn. 2018).

Riley raises four principal challenges to the ALJ's decision. First, he argues that the ALJ erred in concluding that the County had just cause to terminate his employment because substantial evidence in the record suggests that the County's stated performance-based reasons for discharge were pretextual and retaliatory. Second, he argues that, even if just cause existed, the ALJ failed to adequately consider extenuating circumstances, including his significant health conditions, lengthy tenure and work history, and the availability of lesser disciplinary measures, that warranted a reduced sanction. Third, Riley argues that the ALJ erred as a matter of law in concluding that the County satisfied its obligations under the ADA and MHRA to engage in the interactive reasonable-accommodation process and provide reasonable accommodations, including in response to his September 2023, September 2024, and December 2024 accommodation requests. Finally, Riley argues that the ALJ erred by concluding that the County properly investigated his disability-discrimination complaint, contending that the NDRW's decision to close its investigation constituted unlawful procedure that prejudiced his substantial rights. We address each argument in turn.

I. There is substantial evidence to support the ALJ's determination that the County had just cause to terminate Riley's employment.

Riley first argues that the ALJ abused its discretion in determining there was just cause to affirm the County's discharge. Riley claims there is substantial record evidence suggesting that the County's purported reason for terminating his employment was pretextual and retaliatory from his discrimination complaint. He contends that the County "did not resort to excessive PIPs or termination when it identified performance deficiencies in prior years." His arguments are unavailing.

As a permanent-status employee with the County, Riley could be discharged only for just cause under Minnesota Statutes section 383B.38, subdivision 1. Just cause requires that the reason for dismissal relates to the manner in which the employee performs duties and must demonstrate that the employee is not a fit or proper person to hold the position. *Leininger*, 299 N.W.2d at 726.

An agency's factual findings must be affirmed when there is substantial evidence in the record to support its findings. *In re Wazwaz*, 943 N.W.2d at 216. "Substantial evidence is defined as (1) such relevant evidence as a reasonable mind might accept as adequate to support a conclusion; (2) more than a scintilla of evidence; (3) more than some evidence; (4) more than any evidence; or (5) the evidence considered in its entirety." *Id.* at 216-17 (quotation omitted). In determining whether an agency's decision is supported by substantial evidence, we consider whether "the agency has adequately explained how it derived its conclusion and whether that conclusion is reasonable on the basis of the record." *In re NorthMet Project Permit to Mine Application*, 959 N.W.2d 731, 749 (Minn. 2021)

(quotation omitted). Finally, “[w]e defer to an agency’s conclusions regarding conflicts in testimony, the weight given to expert testimony and the inferences to be drawn from testimony.” *In re Excess Surplus Status of Blue Cross and Blue Shield of Minn.*, 624 N.W.2d 264, 278 (Minn. 2001).

The ALJ found that the County’s concerns predated Riley’s conditions and persisted despite one-on-one coaching, workload adjustments, and progressive discipline, citing repeated deficiencies in completing work, communicating delays, and contributing to group projects. The record includes four PIPs between 2018 and 2025, an oral and a written reprimand, a suspension, and “Performance Needs Improvement” ratings, alongside weekly coaching and PIP extensions. From this, the ALJ concluded there was substantial evidence to establish just cause to discharge Riley for failure to meet performance expectations directly related to job execution. The ALJ’s findings and conclusions are supported by substantial evidence.

The record reflects that Riley’s performance deficiencies were consistently identified over time by the manager and the supervisor. Each PIP clearly addressed the supervisor’s concerns and detailed how they expected Riley to improve, namely that Riley needed to complete assignments on time, communicate with supervisors when projects would not be completed on time, and improve his working relationships with peers. Notably, these concerns were identified before his cancer diagnosis. His supervisors provided support and resources to help him succeed and met with him on a weekly basis to address any questions or concerns he had in executing his duties. Despite being given 60 days to improve his performance, and despite having his June 2024 PIP extended, Riley

failed each one. Even when Riley returned from a medical leave of absence, the manager and the supervisor eased their expectations for a period of time to allow him to reacclimate. Despite being given seven years to improve his performance, Riley exhibited the same behaviors outlined in his June 2018 PIP.

Based on this record, there was substantial evidence to support the ALJ's determination that the County had just cause to discharge Riley for failure to meet performance expectations.

II. The ALJ's determination that no extenuating circumstances exist is supported by substantial evidence.

Riley next argues that there is substantial record evidence of extenuating circumstances that warrant a modified disciplinary action.

Even when just cause exists for an employee's disciplinary action, an ALJ "may reinstate the employee" or "modify the department head's action by substituting a lesser disciplinary action" if there are extenuating circumstances. Minn. Stat. § 383B.38, subd. 1(e). Upon judicial review under section 14.69(e), we "may reverse an agency decision, in a contested case, where such decisions are unsupported by substantial evidence in view of the entire record as submitted." *In re Disciplinary Action Against Wang*, 441 N.W.2d 488, 492 (Minn. 1989) (quoting Minn. Stat. § 14.69(e)); *see also Wagner v. Minneapolis Pub. Sch., Special Sch. Dist. No. 1*, 569 N.W.2d 529, 531-32 (Minn. 1997) (applying substantial evidence standard to Civil Service Commission's decision that employee's discharge was inappropriate because of extenuating circumstances).

The ALJ determined that Riley failed to show that a lesser disciplinary action was warranted by extenuating circumstances. More specifically, the ALJ found that:

The record well establishes [Riley's] serious health issues between 2022 and 2025. However, as discussed above, [Riley's] years-long pattern of performance deficiencies is not explained by cognitive impairments related to his cancer treatment or COVID-19 infection, medical issues that the County accommodated. Consequently, [Riley's] experience of health challenges during that time does not justify a lesser disciplinary action.

Riley contends there are three “categories of extenuating circumstances that the ALJ failed to adequately weigh.” First, Riley endured three major medical events that directly impaired his cognitive functioning: the cancer diagnosis in April 2022; the COVID-19 diagnosis in March 2023 that required hospitalization and six weeks of absence from work; and subsequent anxiety and depression that necessitated medical leave. Second, Riley's lengthy tenure and history of satisfactory performance with the County warrants a lesser disciplinary action. And third, there were lesser alternative forms of discipline.

First, we are not convinced that Riley's major medical events constitute an extenuating circumstance because Riley's performance deficiencies began *before* his health complications. The manager issued an oral reprimand to Riley in December 2018, four years before his cancer diagnosis in 2022. The memorandum detailing the oral reprimand stated that Riley failed to complete a project by its deadline and failed to “[i]mplement a peer relationship plan.” The manager described the impact of Riley's deficient performance, stating that it led to “inaccurate or incomplete information leading to confusion and errors,” resulting in expending additional resources to identify and

correct. The manager testified that she was concerned with Riley's relationship with coworkers and his inability to meet deadlines and manage projects between 2018 and 2022. Notably, these concerns are consistent with the broader theme of Riley's deficient performance outlined in his 2023 and 2024 PIPs and annual performance evaluations.

Second, it is true that an employee's lengthy tenure with an employer may be considered a circumstance in assessing lesser disciplinary actions. *Minn. Dep't of Corr. v. Knutson*, 981 N.W.2d 773, 781 (Minn. App. 2022), *rev. denied* (Minn. Jan. 25, 2023). But an employee's long tenure and satisfactory performance does not always override the misconduct. *See Wagner*, 569 N.W.2d at 532 (holding that substantial evidence did not support finding of extenuating circumstances despite petitioner having "excellent work record," receiving promotions, and being seen as a good role model). Here, the County placed Riley on four PIPs, all of which he failed. He also received an oral reprimand, a written reprimand, a five-day suspension, and poor ratings on his 2024 and 2025 annual performance evaluations. Yet the County continued to give Riley opportunities to improve his performance. The County eased its expectations when Riley returned from medical leave to allow him to reacclimate to work and even extended one of his PIPs to give him another meaningful opportunity to improve. Even with these additional opportunities, Riley continued to fall short of the County's expectations. Thus, Riley's lengthy tenure with the County is not an extenuating circumstance to justify modification of his disciplinary sanction.

As for the lesser alternative forms of discipline, the record reflects that the County reduced Riley's workload, offered intermittent leave, eased expectations post leave,

provided professional development, and extended his June 2024 PIP to provide additional time to improve performance. Still, Riley showed no improvement.

On this record, substantial evidence supports the ALJ's conclusion that extenuating circumstances did not justify modifying discipline.

III. The ALJ did not err in determining that the County properly engaged in the interactive-accommodation process.

Riley next argues that the ALJ erred as a matter of law by finding that the County did not fail to engage in the interactive-accommodations process or fail to accommodate Riley.

The ADA and the MHRA require regulated public entities, such as the County, to make reasonable accommodations for qualified individuals. 42 U.S.C.A § 12132 (2026); Minn. Stat. § 363A.08, subd. 6(a) (2024). The ADA requires the employer to engage in an informal interactive process to determine the appropriate reasonable accommodation. Minn. Stat. § 363A.08, subd. 6(a); *McBee v. Team Indus., Inc.*, 925 N.W.2d 222, 228 (Minn. 2019) (citing 29 C.F.R. § 1630.2(o)(3) (2018)).

Section 363A.08, subdivision 6(a), provides that “it is an unfair employment practice for an employer . . . not to provide a reasonable accommodation for a job applicant or qualified employee with a disability unless the employer, agency, or organization can demonstrate that the accommodation would impose an undue hardship.” A “qualified person” encompasses “a disabled person who, with reasonable accommodation, can perform the essential functions required of all applicants for the job in question.” Minn. Stat. § 363A.03, subd. 36(1) (2024).

A “[r]easonable accommodation’ means steps which must be taken to accommodate the known physical or mental limitations of a qualified individual with a disability.” Minn. Stat. § 363A.08, subd. 6(a). A reasonable accommodation may include, but is not limited to, “(1) making facilities readily accessible to and usable by individuals with disabilities; and (2) job restructuring, modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.” *Id.* In any event, the employer “must make a good faith effort to assist the employee in finding an accommodation.” *McBee*, 925 N.W.2d at 228 (quotation omitted).

Riley made accommodation requests in September 2023, September 2024, and December 2024. We discuss each accommodation request and how the County responded.

A. September 2023 Accommodation Request

In his September 2023 accommodation request, Riley asked (1) not to be assigned independent projects, and (2) not to be assigned working in groups “consisting of more than 3 people, including [himself].”

The County denied this accommodation request because all employees within the TM/EE team were expected to work independently on assignments that were part of a group of four-to-six members. The manager explained that part of the difficulty with group-work is discerning how an employee is struggling. But by assigning independent projects, the manager could get a better sense of what was happening with Riley’s work and how she could best assist him.

As it relates to his request to work in smaller groups, the supervisor testified that Riley had been working unsuccessfully for several months in small groups as requested in his accommodation. The manager testified that, although his peers liked Riley as a person, many employees “were feeling a lot of stress when working with him.” They were specifically concerned that leadership’s “perception of their own performance would be impacted by [Riley’s] difficulties.” For example, she explained that Riley’s team “created a secret work plan where they assigned tasks that had been assigned to [Riley]. They were anticipating that he would not complete his work, and so they wanted to have their backup plans in place so that they could quickly get things done and caught up.” Critically, approving Riley’s small-group accommodation request would result in Riley working in groups of two or three people *only*. This was not a reasonable accommodation because most working groups consisted of four-to-six members, and granting such an accommodation “would increase everybody’s workload because more things would need to be divided up amongst more people.”

Because Riley continued to struggle under those conditions, the supervisor did not see the benefit in extending the small-group work as requested, and believed that doing so would continue to cause an undue burden.

In short, there was substantial evidence to support the ALJ’s determination that (1) the County could not accommodate Riley’s request without resulting in an undue burden on the rest of the TM/EE team, and (2) the County engaged in the interactive-accommodation request with Riley by offering alternative accommodations through FMLA or a more suitable reassignment.

B. September 2024 Accommodation Request

In his September 2024 accommodation request, Riley requested to transfer to another IAA position in Community Engagement. Riley stated that the specific job functions that he struggled with consisted of “solo projects.” And when asked to describe how the accommodation would help him overcome his limitations, he wrote, “I have former experience with working with people in the community as a Human Services Representative.”

The County denied this request because (1) Riley submitted the required medical documentation after the job posting had closed, and (2) when he did provide supporting documentation, the proposed work restrictions were incompatible with the IAA position.⁷ The ADA coordinator told Riley that employees within the TM/EE team are expected to engage in complex multitasking. Riley and the ADA coordinator discussed two other potential vacancies that he could be reassigned to, but Riley’s “no complex multitasking” restriction still precluded him from being reassigned to those vacancies. However, the ADA coordinator indicated that the TM/EE team would accommodate Riley by (1) avoiding group meetings of more than three or four people, (2) limiting new individual projects at the time, and (3) allowing Riley to perform sequential and repetitive tasks. Riley’s physician later lifted his medical restrictions, and the County closed his September 2024 accommodation request.

⁷ Riley’s physician indicated that Riley could return to work so long as he (1) avoided group meetings of more than three-to-four people, (2) avoided complex multitasking, (3) was assigned limited individual projects, and (4) was assigned “sequential and repetitive tasks when possible.”

Riley argues that “complex multitasking” is not an essential function of the job and cannot be used to justify denying his accommodation request. Citing *McBee*, 925 N.W.2d at 231, he claims that complex multitasking is considered a “marginal function” of the job.

In *McBee*, the supreme court stated that “essential functions are the fundamental job duties of the employment position,” but that does not include “marginal functions.” *Id.* at 230-31 (quotation omitted). To determine whether a function is “essential,” we may consider the following factors:

(1) the employer’s judgment as to which functions are essential; (2) written job descriptions prepared before advertising or interviewing applicants for the job; (3) the amount of time spent on the job performing the function; (4) the consequences of not requiring the incumbent to perform the function; and (5) the current work experience of incumbents in similar jobs.

Id. (quoting *Moritz v. Frontier Airlines, Inc.*, 147 F.3d 784, 787 (8th Cir. 1998)).

Here, the IAA job description included a “distinguishing characteristics” section, which provides that the position “perform[s] comprehensive administrative work of *greater complexity* and performs at a higher level of proficiency than the Administrative Assistant.” The job description identifies nine “essential functions,” each of which requires a certain degree of complex multitasking.

Riley contends, however, that the ADA coordinator’s failure to define “complex multitasking” in her testimony demonstrates that the County failed to conduct a rigorous analysis of what functions were essential. Riley overlooks the portion of the ADA coordinator’s testimony when she explained that “complex multitasking” means

completing multiple complicated tasks at any given time, as well as “juggling multiple tasks, [and] making independent decisions while juggling multiple tasks.”

Riley also argues that complex multitasking cannot be an essential job function because the County modified his work arrangements in the past, specifically for his work on the DEI group. But as the manager and the supervisor testified, the modifications were straining the team’s operations because everyone had to prepare for Riley not completing projects on time, dropping out of critical presentations at the last minute, or leaving all of the work to one or two coworkers.

In short, there was substantial evidence to support the ALJ’s determination that the County engaged in the interactive-accommodation process with Riley to find potential reassignment openings. And that because Riley submitted his supporting medical documentation after the other IAA posting closed, and because the documentation contained a “no complex multitasking” restriction, the County was unable to find a more suitable reassignment.

C. December 2024 Accommodation Request

As for Riley’s final accommodation request from December 2024, his therapist sent the County a letter recommending that (1) the supervisory check-in meetings with Riley be reduced; (2) if he must meet with more than one supervisor, that Riley “bring a support person to balance the power dynamic”; and (3) he not be assigned individual projects. Although Riley did not submit a formal accommodation request, the County denied the request, concluding that his medical condition did not “prevent or limit [him] from performing essential job functions.”

Riley argues that his therapist's letter reinitiated the interactive-accommodation process under the ADA. He claims that the County's "disregard" for his therapist's letter constitutes a violation of the interactive process. We are not convinced.

Riley conceded that he did not submit a formal accommodation request through the County's Leave and Accommodation Management (LAM) office. Regardless, the ADA coordinator informed Riley that the County reviewed his therapist's letter and concluded that his condition did not "prevent or limit" him from performing the essential job functions. She also told Riley that his need to attend regular therapy sessions could be accommodated with intermittent FMLA.

In sum, the record supports the ALJ's conclusion that the County engaged in good faith throughout the interactive-accommodations process and that it did not fail to provide reasonable accommodations.

IV. The County's NDRW team properly investigated Riley's claims of disability discrimination.

Riley next argues that the ALJ erred as a matter of law by finding that the NDRW timely investigated his allegations of disability discrimination. Riley contends that the NDRW failed to investigate his discrimination complaint. He claims that the NDRW's decision to close the investigation because the allegations went beyond the scope of its work constituted "unlawful procedure" that prejudiced his substantial rights.

Under Minnesota Statutes section 14.69(c), we may affirm, reverse, or modify the agency's decision "if the substantial rights of the petitioners may have been prejudiced because the *administrative* finding, inferences, conclusion, or decision[]" is "made upon

unlawful procedure.” (Emphasis added.) Thus, the relevant inquiry is whether the ALJ’s decision was made upon an unlawful procedure under section 14.69(c). *See id.*; *see also Hiawatha Aviation of Rochester, Inc. v. Minn. Dep’t of Health*, 375 N.W.2d 496, 501-02 (Minn. App. 1985) (concluding that commissioner proceeded unlawfully under section 14.69(c) by failing to consider entire hearing record), *aff’d* (Minn. July 11, 1986); *City of Moorhead v. Minn. Pub. Util. Comm’n*, 343 N.W.2d 843, 849-50 (Minn. 1984) (concluding that agency proceeded unlawfully after commissioner “failed to read the record before the hearing examiner”).

Here, Riley makes no argument that the ALJ’s procedure was unlawful. *See Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts only consider “issues that the record shows were presented and considered by the [district] court in deciding the matter before it”). He instead argues that the County engaged in an unlawful procedure when the NDRW investigated his discrimination complaint. Even if we were to consider his argument, we are not convinced that the NDRW failed to investigate his complaint.

Riley filed a discrimination complaint on December 14, 2023. Two weeks later, the NDRW released its investigation report, which is summarized as follows: On December 21, 2023, the NDRW interviewed Riley. Riley told the investigator that the supervisor was bullying and harassing him with respect to his disabilities. The NDRW found that Riley’s struggles were credible, but his allegations against his supervisors were not. The investigation report indicates that Riley “contradicted himself throughout his interview.” For example, Riley told the investigator that “he wanted all his job duties restored and to

work with team members again. However, [Riley] disagreed with his [PIP] and his current assignments that he felt were testing his abilities.” Riley also shared that he wanted the manager and the supervisor to consider his “recovery and need for accommodation,” but “did not specify to the investigator what accommodations were needed, just that he wanted his previous projects back.” Based on this investigation, the NDRW concluded that Riley’s complaint against the supervisor was beyond the scope of NDRW’s work. It determined that complaints about performance, PIPs, work assignments, and disability accommodations “were better suited to Human Resources and the LAM office.”

The NDRW investigator testified that he reviewed the allegations contained in Riley’s discrimination complaint. He testified that generally, complaints about performance are “kind of on the line” regarding whether it is beyond the scope of the NDRW’s work. He explained that when conducting investigations, the NDRW focuses on “whether or not the correct steps were taken to address the situation, rather than be able to second guess a supervisor’s assessment of that individual’s performance.”

In any event, because Riley failed to show that the ALJ proceeded with an unlawful procedure, we affirm the ALJ’s conclusion.

In sum, Riley has failed to establish grounds for reversing or modifying the ALJ’s decision. Substantial evidence supports the ALJ’s determination that the County had just cause to discharge Riley based on his longstanding and repeated performance deficiencies, notwithstanding the coaching, progressive discipline, and additional opportunities the County provided. The record also supports the ALJ’s determination that Riley failed to demonstrate extenuating circumstances warranting a lesser disciplinary action. The ALJ

correctly determined that the County engaged in the interactive-accommodation process in good faith and provided reasonable accommodations in response to Riley's requests. And, Riley has not shown that the ALJ proceeded upon an unlawful procedure in considering his claims of disability discrimination. Accordingly, because the ALJ's findings and conclusions are supported by substantial evidence and are not affected by an error of law or unlawful procedure, we affirm the ALJ's decision.

Affirmed.