

CIVIL SERVICE COMMISSION MINUTES

August 16, 2023

A meeting of the Civil Service Commission was held at 2:30 p.m., in-person in room 402-A at the County Administration Center; 1600 Pacific Hwy.; and via Videoconference/Teleconference.

Present:

P. Kay Coleman
Bryan J. Fletcher
Melissa Johnson
Will Rodriguez-Kennedy
Peter B. Smith

Absent: None

Comprising a quorum of the Commission

Support Staff Present:

Todd Adams, Executive Officer
Morgan Foley, Commission Legal Advisor.

Approved
Civil Service Commission
October 18, 2023

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING GENDA
AUGUST 16, 2023**

- 1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation
- 2:30 p.m. OPEN SESSION: Attend in-person at the County Administration Center, 1600 Pacific Highway, 4th Floor, Room 402A, San Diego, California; or Videoconference/Teleconference.
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Notice pursuant to Government Code Section 54954.2.

**CLOSED SESSION AGENDA
County Administration Center, Room 458**

Members of the public may be present at this location to hear the announcement of the closed session agenda.

- A. Commissioner Johnson: CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION (GOV. CODE SEC. 54956.9(a)) **2023-017**, Administrative Analyst I, Health and Human Services Agency, appealing the Department of Human Resources' determination that she does not meet the minimum qualifications for the classification of Administrative Analyst II.

OPEN SESSION AGENDA

ORDER OF BUSINESS

A. **ROLL CALL**

Present: Coleman, Fletcher, Johnson, Rodriguez-Kennedy, Smith

Absent: None.

B. **WELCOME NEW COMMISSIONER P. KAY COLEMAN**

Commissioner Johnson stated that it is with great pleasure that we warmly welcome our newest member to the Civil Service Commission, P. Kay Coleman. She was nominated last month by Supervisor Tera Lawson-Remer to fill seat number three on the Commission and received

unanimous support from the Board of Supervisors. To learn more about Commissioner Coleman's background please go to our website and read her bio listed with the other Commissioners.

Welcome Commissioner Coleman, we're happy to have you on board and look forward to working with you.

C. **APPROVAL OF MINUTES:** Regular meeting of July 19, 2023.

Motion by Commissioner Rodriguez-Kennedy to approve the minutes of July 19, 2023; seconded by Commissioner Smith.

Motion carried with 4 Commissioners in favor. Commissioner Coleman abstained from the vote.

D. **NON-AGENDA PUBLIC COMMENT:** None.

E. **AGENDA ITEM DISCUSSION:**

Item No. 2 is automatically pulled for discussion.

F. **FORMATION OF CONSENT AGENDA:**

Items No. 1 & 3 formed the Consent Agenda.

Motion by Commissioner Smith to approve the Consent Agenda; seconded by Commissioner Coleman.

Motion carried with all Commissioners in favor.

G. **DISCUSSION ITEMS:**

Item No. 2 was pulled for discussion.

AGENDA ITEMS

CONFIRMATION OF ASSIGNMENT

1. Commissioner Fletcher: **2023-028**, former Equipment Operator, alleging discrimination by the Department of Public Works.

Confirmed.

SELECTION PROCESS

Findings

2. Commissioner Johnson: **2023-017**, Administrative Analyst I, Health and Human Services Agency, appealing the Department of Human Resources' determination that she does not meet the minimum qualifications for the classification of Administrative Analyst II.

FINDINGS AND RECOMMENDATIONS:

Employee 2023-017 appealed the Department of Human Resources' ("Department") determination that she does not meet the minimum qualifications for the classification of Administrative Analyst II ("Analyst II"). The Commission appointed Commissioner Johnson, to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission.

The Employee was hired by the Office of the San Diego County District Attorney ("DA's Office") in a full-time position on December 7, 2018, as a Legal Support Assistant I ("LSA I"). On December 18, 2020, the Employee was promoted to Legal Support Assistant II ("LSA II"). The Employee was assigned to work in the Office's Legislation Unit ("the Unit"). She remained in that position with the Office until she promoted to Administrative Analyst I ("Analyst I") on August 26, 2022. She then transferred to the County's Health and Human Services Agency - Behavioral Health Services, approximately two weeks later.

The Unit is overseen by a Chief Deputy District Attorney, with day-to-day operations handled by a Deputy District Attorney V, a non-attorney Special Assistant, an Administrative Analyst I, and an LSA I, an LSA II or both. The Special Assistant is the primary lobbyist, while the Deputy District Attorney V, and Chief Deputy District Attorney also participate in either lobbying activities or testifying before the Legislature on bills that the Office sponsors, supports, or opposes.

The LSAs are the first two levels in the Legal Support Series in the County's classified services and provide clerical support for the Unit. The difference between the two positions is that LSA I is the entry-level clerical class of the series and LSA II is the journey level clerical class of the series.

LSA II employees are expected to be able to work more independently than the LSA I employees, with only routine review of the employee's work product by the Chief Deputy, the Deputy District Attorney V, and more directly, by the Special Assistant.

At the time of her application for the Analyst II position the Employee possessed a Bachelor of Arts degree in Sociology of Law and Society from the University of California, San Diego, and had a total of three months and 19 days of professional experience as an Analyst I.

The departments within the County, including the DA's Office, commonly allow their employees to use a "working title" to be reflected on the employees' business cards, as well as used in internal and external communications. "Working titles" are not the same as the County's job titles used by the Department in the classification system. The Employee's working title, while in the Unit, was "Legislative Assistant, Administration," even though her job titles under the classification system were either "Legal Support Assistant I," "Legal Support Assistant II," or "Administrative Analyst I." The working titles are not internally consistent within the Unit or the DA's Office. For example, the current Analyst II for the Unit testified that she uses the working title of "Legislative Coordinator," and did so while she held the position of LSA II in the Unit - the same position previously held by the Employee.

The County's classification system does recognize the position of "Legislative Assistant," series I and II. These positions are specifically limited to unclassified positions working exclusively for, are appointed by, and serve at the pleasure of, the County's Board of Supervisors.

The minimum educational and experience qualifications for the Analyst II position is one of two options: Either a bachelor's degree from an accredited U. S. college or university combined with three years of full-time professional level experience; or seven years of full-time professional experience. In both instances, "professional experience" is described as "performing policy and procedures interpretation, special studies and projects, or general administration."

The classification series of Legal Support Assistant applies to clerical staff throughout the DA's Office, as well as the County Sheriff's department. The essential functions are

broken down into 13 General Option functions and four (4) additional functions in the Civil Unit Option. The Civil Unit Option does not apply to those working in the Unit, or the DA's Office, as they are, by definition, only applicable to those in the classification assigned to the Sheriff's department. The DA's Office is organized to include not only prosecutorial functions in the courts, but also functions that are unrelated to criminal or civil litigation, such as the Unit. As the Chief Deputy District Attorney explained, the functions of the LSAs hired in the Unit should be consistent with those hired elsewhere in the DA's Office, by considering "legislative documents" to be a "subset of legal documents." In other words, LSAs in the Unit are dealing with the Legislature, not the courts, and the functions should be interpreted by substituting "legislature" for "court" when reviewing the job duties and responsibilities for the Employee as an LSA in the Unit.

The LSAs in the Unit receive nearly all their instructions and assignments from the Special Assistant in the office. Some also comes from the Deputy District Attorney V and the Chief Deputy District Attorney. Seldom, if ever, are the LSAs given the independence to develop any work product that is not assigned, reviewed, and revised by the Special Assistant, the Deputy District Attorney V, or the Chief Deputy District Attorney. The LSAs are not asked to analyze the need for legislation that might benefit the DA's Office. They are not attorneys, nor paralegals. The recommendations come from professional staff, e.g., deputy district attorneys throughout the DA's Office. Most of the drafting of correspondence intended for the State Legislature to support or oppose a bill comes from prior analyses and efforts from the professional staff within the Office. There is no expectation that the LSA is required to "exercise judgment within guidelines and to independently provide management with the expertise necessary to identify, evaluate, and resolve organization and administrative problems, including recommending changes in policies and procedures and developing methods for implementation."

Being asked to follow a bill through CapitolTrack, an online tracking system for following bills through the legislature, and to report on the status of the bill is not a "moderately complex" assignment, as is expected of an Analyst II. Similarly, an LSA assigned the task of drafting support or opposition letters through the modification of letters that have previously been written and used by the Unit in earlier iterations of bills is not a "moderately complex" assignment.

Nor is asking an LSA to attend a legislative committee meeting through a conference call, then stating their appearance on behalf of the DA's Office and whether the Office supports or opposes the bill under discussion and consideration a "moderately complex" assignment.

The Employee's other examples of work by LSAs offered to support her contention that the position should be considered "professional," and not "clerical," are equally unavailing.

Accordingly, the Employee has failed to produce evidence that LSAs in the Unit exercise the judgment and independence, or attained the professional experience, required of an Analyst II.

The Employee is seeking a finding that the work performed by LSAs in the Unit should be considered "professional," rather than "clerical." By making such a determination the Employee (and other LSAs in the Unit) would meet the educational and/or experience minimum qualifications for advancement to (in this case) Analyst II positions much sooner than the expected progression that the Department has historically applied. In fact, such a decision would allow an LSA I, without any college degree, who might have held that position for seven years, to qualify for consideration as an Analyst II (or four years for Analyst I), having thus met the minimum education and/or experience requirements for an Administrative Analyst position.

Even the additional evidence from the Employee and her witnesses failed to persuade me that there should be a different result than the Department's finding that she does not meet the qualifications for the position.

Based on the foregoing determinations, the Employee was not wrongfully disqualified by the Director of the Department of Human Resources from the employment list for the Analyst II position for which she applied as she does not meet the minimum established pre-employment requirements for examination for the class.

While the conclusion reached in this matter does not change the Department's interpretation of the LSA I and II classifications, there is one change in operations that the DA's Office and the Department *should* reconsider- that is the concept of allowing the use of "working titles," different than the actual titles of the positions held by County

employees. While it might seem less bureaucratic, for example, to allow the Employee to use the title, "Legislative Assistant," on business cards, signature blocks, etc., instead of "Legal Support Assistant I (or II)," it does create confusion and, in this case, a mistaken expectation of the real nature of the job.

Based on the findings and conclusions set forth above, it is hereby recommended that the Employee's appeal of the selection process be denied; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Commissioner Johnson to approve the Findings and Recommendations; seconded by Commissioner Rodriguez-Kennedy.

Discussion:

Commissioner Rodriguez-Kennedy stated the County of San Diego should take under consideration of not allowing staff to use "Working Titles". He stated that in this case the use of "Working Titles" led to miscommunication, the lack of clarity and expectation of the employee's responsibilities and true job function. Commissioner Smith agreed that the use of "Working Titles" can cause several negative issues.

Motion carried with all Commissioners in favor.

3. **2023-029**, Applicant, appealing the Department of Human Resources' removal of his name from the employment lists for Deputy Sheriff Cadet and Deputy Sheriff Cadet-Detention/Court Services.

RECOMMENDATION: Ratify. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2 and their name has been returned to the employment list.

Ratified.

ADJOURNED: 2:56 p.m.

ASSISTANCE FOR THE DISABLED: Agendas and records are available in alternative formats upon request. Contact the Civil Service Commission office at (619)531-5751 with questions or to request a disability-related accommodation. Individuals requiring sign

language interpreters should contact the Americans with Disabilities Coordinator at (619)531-4908. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 24 hours in advance of the meeting so that arrangements may be made. An area in the front of the room is designated for individuals requiring the use of wheelchair or other accessible devices.