

CIVIL SERVICE COMMISSION MINUTES

March 6, 2024

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
Melissa Johnson
Will Rodriguez-Kennedy
Peter B Smith

Absent:

Bryan J. Fletcher

Comprising a quorum of the Commission

Support Staff Present:

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

Approved
Civil Service Commission
May 1, 2024

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING MINUTES
MARCH 6, 2024**

- 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
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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 Fletcher: CONFERENCE WITH LEGAL COUNSEL - PENDING LITIGATION (GOV. CODE SEC. 54956.9(a)) **2023-028**, former Equipment Operator, alleging discrimination by the Department of Public Works.

OPEN SESSION AGENDA

ORDER OF BUSINESS

A. **ROLL CALL**

Present: Coleman, Johnson, Rodriguez-Kennedy, Smith

Absent: Fletcher

B. **APPROVAL OF MINUTES:** Regular meeting of January 3, 2024.

Motion by Commissioner Johnson to approve the minutes of January 3, 2024; seconded by Commissioner Rodriguez-Kennedy.

Motion carried with all Commissioners present in favor.

C. **NON-AGENDA PUBLIC COMMENT:**

None.

D. **AGENDA ITEM DISCUSSION:**

Commissioner Smith requested to pull item no. 11, for discussion.

E. **FORMATION OF CONSENT AGENDA**

Item Nos. 6 & 11 has been pulled for discussion.

Item Nos. 1-5, 7-10, and 12-14 are available for approval on the Consent Agenda.

Motion by Commissioner Coleman to approve the Consent Agenda; seconded by Commissioner Rodriguez-Kennedy.

Motion carried with all Commissioners present in favor.

F. **DISCUSSION ITEMS**

Item Nos. 6 & 11 has been pulled for discussion.

AGENDA ITEMS

CONFIRMATION OF ASSIGNMENT

1. Commissioner Johnson: Bradley M. Fields, Esq., on behalf of **2023-058P**, former Deputy Sheriff, appealing an Order of Termination and Charges from the Sheriff's Department.

Confirmed.

2. Commissioner Rodriguez-Kennedy: **2024-001**, former Residential Care Worker II, appealing a Final Order of Removal and Charges from the Health and Human Services Agency.

Confirmed.

3. Commissioner Fletcher: **2024-002**, Equipment Operator, appealing a Final Order of Suspension and Charges from the Department of Public Works.

Confirmed.

4. Commissioner Smith: **2024-008**, former Protective Services Worker, alleging discrimination by the Health and Human Services Agency.

Confirmed.

5. Commissioner Johnson Rico J. Dominguez, Esq., on behalf of **2024-009P**, Deputy Sheriff, appealing the Citizens' Law Enforcement Review Board's sustained finding.

Confirmed.

DISCRIMINATION

Findings

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

FINDINGS AND RECOMMENDATIONS:

Commissioner, Coleman reported out this item due to Commissioner Fletcher's absence.

The Civil Service Commission appointed Commissioner Bryan J. Fletcher as its member to be the Investigating Officer in the matter of the complaint submitted by Employee 2023-028, a former Equipment Operator, who alleged discrimination based on race by the Department of Public Works. In accordance with the established rules and procedures of the Commission, the matter was concurrently referred to the Office of Ethics and Compliance ("OEC") for investigation.

The OEC concluded the discrimination investigation and has reported its findings to the Commission. The Investigating Officer has received and reviewed OEC's report and has taken into consideration all documentation submitted in this matter. The Investigating Officer concurs with OEC's Report and has concluded that the evidence does not support a finding of probable cause that a violation of discrimination laws occurred.

On behalf of Commissioner Fletcher, it is therefore recommended that Employee 2023-028's Rule VI discrimination complaint be denied; and that the Commission approve and file this report with a finding of no probable cause to believe that the Complainant has been unlawfully discriminated

against.

Motion by Commissioner Coleman (on behalf of Commissioner Fletcher) to approve the Findings and Recommendations; seconded by Commissioner Johnson.

SELECTION PROCESS

Findings

7. **2024-003**, Applicant, appealing the Department of Human Resources' removal of their name from the employment lists for Correctional Deputy Probation Officer I.

8. **2024-004**, Applicant, appealing the Department of Human Resources' removal of their name from the employment lists for Deputy Sheriff-Detentions/Court Services.

9. **2024-010**, Applicant, appealing the Department of Human Resources' removal of their name from the employment lists for Deputy Sheriff Cadet.

10. **2024-011**, Applicant, appealing the Department of Human Resources' removal of their name from the employment lists for Deputy Sheriff Cadet.

RECOMMENDATION: Ratify Item Nos. 7 - 10. Appellants have been successful in the appellate process provided by Civil Service Rule 4.2.2 and their names have been returned to the employment lists.

Item Nos. 7-10 Ratified.

SEAL PERFORMANCE APPRAISAL

Request

11. **2024-005**, Office Assistant, Health and Human Services Agency, requesting the sealing of a performance appraisal covering the period October 21, 2022, to April 21, 2023.

RECOMMENDATION: Grant Request

Employee 2024-004 is requesting that her Senior Office Assistant mid-probation performance appraisal ("PA") covering the period, October 21, 2022, to April 21, 2023, be sealed due to it being issued late and alleges it included information or incidents

outside the rating period. The Health and Human Services Agency ("Department") concedes that the PA was late on two different occasions but denies that it includes information outside the rating period. Nevertheless, the Department does not object to the sealing of the PA.

Motion by Commissioner Johnson to adopt staff's recommendation to grant Employee's request to seal the performance appraisal; seconded by Commissioner Rodriguez-Kennedy.

Discussion

This item was pulled by Commissioner Smith for discussion. Sheri Boose, Sr. DHRO for the Department was available to answer questions regarding this request. Additionally, Jessica Carlson, Sr. Human Resources Analyst, Department of Human Resources, was available to answer questions, generally, about sealing performance appraisals.

Commissioner Smith stated that he is not a big proponent for sealing PAs. He expressed concern regarding the sealing of PA. He stated that this does not benefit the employee or the department.

The Civil Service Commission, alone, has the authority to seal PAs and does not take this authority lightly. Commissioner Smith asked the department to explain the process of sealing a performance appraisal by the departments and has asked the Human Resources staff to explain it.

Sheri Boose, Sr. DHRO, stated that the Department only completes the PR's and then transfers them over to the Department of Human Resources (DHR), who is responsible for sealing the PRs. Jessica Francis-Carlson, Sr. HR Analyst, from DHR, stated the PR is pulled from the electronic system and from the employees' file. The hard copy is then placed in a sealed envelope and then placed in a locked drawer, that only two employees have access to. However, it is never to be opened or accessed again for any reason. There are no notations in the employee's record that they have a sealed PR.

Commission Rodriguez-Kennedy stated that he agrees with the sealing of the performance appraisals that are not done on time. He stated that if we hold the employees accountable for being on time; we should hold the departments and managers accountable as well. Also, in this case, the department and the employee agreed with the sealing of the PR.

Commissioner Johnson stated that she is in favor of having timely PRs, especially in the employee's probation period. If these are late, they do not allow the employee a fair chance to correct any issues that may lead to them being terminated.

After discussion a vote was taken.

Motion by Commissioner Johnson to adopt staff's recommendation to grant Employee's request to seal the performance appraisal; seconded by Commissioner Rodriguez-Kennedy.

**Commissioner Coleman: Yea
Commissioner Johnson: Yea
Commissioner Rodriguez-Kennedy: Yea
Commissioner Smith: Nay**

Motion carried by the Commissioner: vote 3 - 1 in favor.

EXTENSION OF TEMPORARY APPOINTMENTS

12. Department of Human Resources

1 Human Resources Assistant: **2024-006**

Ratified.

13. Auditor & Controller

1 Human Resources Specialist: **2024-007**

Ratified.

INFORMATION

14. David Fujimoto, Esq., on behalf of **2023-033**, former Occupational/Physical Therapist, withdrawal of appeal of an Order of Demotion and Charges to Human Services Specialist from the Health and Human Services Agency. (Commissioner Johnson)

Withdrawn.

ADJOURNED: 3:13 p.m.

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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.