



LORI GLASGOW  
EXECUTIVE OFFICER

# COUNTY OF LOS ANGELES BOARD OF SUPERVISORS

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## MEMBERS OF THE BOARD

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SHEILA KUEHL  
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March 21, 2017

# ADOPTED

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
500 West Temple Street  
Los Angeles, California 90012

15 April 4, 2017

LORI GLASGOW  
EXECUTIVE OFFICER

Dear Supervisors:

## CIVIL SERVICE HEARING PROCESS (ALL DISTRICTS) (3-VOTES)

### SUBJECT

Approve recommendations to improve certain aspects of the County Civil Service Commission (CSC) hearing process based on a review and analysis conducted by County departments as requested by the Board of Supervisors on April 26, 2016.

### IT IS RECOMMENDED THAT THE BOARD:

1. Instruct the Executive Office of the Board of Supervisors, in collaboration with County Counsel, to obtain input from all appropriate stakeholders such as consultants and employee advocates on newly developed updates and enhancements to the CSC Hearing Officers annual mandatory training; and conduct an annual evaluation based on established performance requirements.
2. Authorize an increase to the hourly compensation rate paid for hearing days to CSC Hearing Officers from \$112.50 to \$150.00 with an increase in the maximum daily compensation from \$900 to \$1,200 per day to provide a competitive rate that will attract a larger pool of candidates and authorize the Executive Officer to implement the rates as part of the new contract which will be effective July 26, 2017.
3. Direct the Executive Office of the Board of Supervisors, in collaboration with County Counsel, to obtain input on the newly developed CSC Commissioner training curriculum from all appropriate stakeholders that will include material

related to relevant employment case law updates, evidentiary standards, cultural sensitivity and other pertinent topics.

4. Direct the Executive Office of the Board to work with the Chief Executive Office on a study to determine whether the position of CSC Executive Director (Chief, Civil Service Commission) is compensated appropriately, and to determine whether existing positions are classified at the proper level(s) in order to provide appropriate administrative support to the Commissioners.
5. Instruct the Director of Personnel, in collaboration with County Counsel, to coordinate annual mandatory training for all County advocates that appear before the CSC.

#### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

On April 26, 2016, on motion of Supervisors Ridley-Thomas and Kuehl, the Board directed the Executive Officer of the Board and Director of Personnel, in consultation with County Counsel, to engage a consultant to review, analyze and provide specific recommendations to improve the overall County Civil Service Commission (CSC) hearing process including: 1) an evaluation of the appointment, qualifications, and training of the Civil Service Commissioners; 2) an evaluation of the selection, qualifications, and training of the Hearing Officers, including consideration of developing a panel or panels of subject matter expert Hearing Officers; 3) an evaluation of the duties, roles, responsibilities, hiring, qualifications, and training of the Department advocates; 4) an evaluation of the advantages and disadvantages of decentralized and centralized oversight of the Department advocates within the Department of Human Resources or County Counsel; and 5) input and recommendations received after consulting with all appropriate stakeholder groups. The Board also requested that the Executive Officer and County Counsel review the terms and conditions of future contracts with respect to Hearing Officers and directed that County Counsel study the feasibility of establishing a Civil Service Division and/or cases that can be maintained for in-house representation.

As a result, the Executive Officer of the Board, County Counsel and the Director of Personnel conducted a review and analysis of the hearing process, including consideration of input from various stakeholders gathered through an independent consultant, PSI Services, LLC, utilizing a standardized survey and individual interviews. One third of the respondents to the survey were employee advocates (33%), another third were outside legal counsel (33%) and the remaining respondents were various stakeholders (34%) from the Commission, County departments, Department of Human Resources (DHR), departmental advocates, hearing officers, County Counsel and others. The review also included an analysis of civil service processes for 13 other jurisdictions, while taking the special needs of Los Angeles County into consideration.

On November 4, 2016, in response to the Board motion, the Executive Officer of the Board, County Counsel and the Director of Personnel issued the attached Status Report on the Reform of the Civil Service Hearing Process, which included recommendations to improve certain aspects of the hearing process that have either been implemented or are in the process of being implemented.

### **Recommendation 1 and 3**

- While a training curriculum on case law, evidentiary standards, cultural sensitivity and other pertinent topics for hearing officers and Commissioners has been developed, there still needs to be an opportunity for review and input from stakeholders. The training should be continually updated and administered annually. The Executive Director of the CSC will coordinate the trainings with outside independent consultants and seek input from various stakeholders, including County Counsel, employee organizations, unions, departments, County advocates and employee representatives.
- The Executive Director of the Civil Service Commission will conduct an annual evaluation of hearing officers based on established performance requirements to measure efficiency and ensure hearing officers are meeting the expectations of the contract.

**Findings for Recommendation 1 and 3:** Responses from survey and interview participants indicated that formal, structured training would be beneficial for all participants in the CSC hearing process. The intent of the training is to provide an overview of changes to case law impacting the Civil Service Rules, County Codes, and Countywide policies and guidelines which will assist in preserving the integrity and impartiality of the process, improve the administration of the hearings, reduce delays, and promote fair and efficient management of the hearings. Further, survey feedback suggested periodic performance reviews to determine whether hearing officers are meeting the performance requirements of their contracts. The intent is not to monitor the specific determinations made by each hearing officer, but rather to monitor and assess factors that impact the efficiencies of the process, such as the number of continuances requested, timeliness of documentation, reports submitted in the appropriate format, and completion of required training. Such an assessment will further promote consistent application of established processes and procedures by hearing officers.

Enhancements to the Hearing Officer training that have already been developed as a result of this review include updates in case law, writing findings and procedural rules of the Commission and other pertinent topics to be provided on an on-going basis. The plan is to develop a training curriculum similar to continuing education currently provided to numerous professionals. Continuing education is intended to encourage professionals to expand their foundations of knowledge and stay up-to-date on new developments. For example, judges and attorneys, as well as many other professions,

in several states are required to participate in annual training to enhance the fair, effective, and efficient administration of their duties.

### **Recommendation 2**

- Increase the compensation rate for CSC hearing officers from \$112.50 to \$150.00 per hour for new cases, with an estimated overall annual increase of \$134,199, to attract and retain a sufficient number of hearing officers that meet the new standards and specialty areas included in the current Request for Statement of Qualifications (RFSQ) and to offer a more competitive rate to attract a greater pool of candidates.

**Findings for Recommendation 2:** The independent survey results also indicated that compensation has been an impediment to attracting a broader pool of qualified hearing officers. Further, it has been noted that subsequent to the release of the RFSQ, only a limited number of additional candidates have submitted proposals for consideration. The hourly compensation rate paid to CSC hearing officers is \$112.50, with a maximum of \$900 per day. In addition, the hearing officers are paid between \$900 and \$5,400 for report writing after completion of the evidentiary hearing. The maximum compensation is a set range which is dependent on the number of days of the hearing. As an example, the maximum compensation for a one-day hearing, including completion of the corresponding report, would be \$2,250, with the average case being three days at \$5,850 per case. The hourly rate paid to CSC hearing officers has not been increased in at least 10 years. The rate increase would only be for new cases and would begin with the new contract, effective July 26, 2017.

The recommendation for a rate increase is also supported by the March 25, 2016 report back to the Board in response to a motion directing the Executive Office to review the daily rates for hearing officers presiding over CSC hearings. The Executive Office found that based on a survey of five surrounding jurisdictions, the daily rates for those utilizing hearing officers ranged from \$900 per day to up to \$2,600 per day. Although the volume of cases heard in Los Angeles County lends itself to a greater pool of individuals than found in other jurisdictions, an increase in the hourly rate would appear to have a significant impact on the applicant pool. Therefore, we are recommending to increase the hourly rate to \$150.00, with a maximum of \$1,200 per day, for the time spent in hearings, while maintaining the current rate for the hours compensated for writing the correlating reports. With this change, the maximum compensation for a one-day hearing would be \$2,550 or \$6,750 for a three-day hearing.

### **Recommendation 4**

- Direct the Executive Officer of the Board to work with the Chief Executive Office 1) to determine if a salary rate adjustment is warranted for the CSC Executive Director, and 2) to determine if an existing budgeted position or positions can be reclassified to provide the appropriate level of expertise and corresponding salary range required

to review and analyze the hearing officer's reports and to prepare neutral fact-based materials for scheduled cases.

**Findings for Recommendation 4:** The review of the process identified a need for additional staffing support to provide technical assistance to the Commissioners in preparing for the matters before the Commission. The Commissioners and Commission staff indicated that enhanced administrative support and analysis of agenda material, discretionary issues, including hearing officer reports, would assist the Commissioners and increase the overall efficiency of the hearing process.

#### **Recommendation 5**

- Instruct the Director of Personnel, in collaboration with County Counsel, to coordinate annual mandatory training for all advocates that appear before the CSC.

**Findings for Recommendation 5:** DHR has implemented various training for departmental advocates and is developing a Performance Management Resource Guide and Certification Program, as well as a Performance Management/Advocacy Training Program for County of Los Angeles Arbitrations and Hearings.

#### **Actions Currently in Progress**

- Survey responses indicated a need to revise the selection criteria for hearing officers to include additional expertise in particular service areas. An RFSQ containing higher standards for Hearing Officers including additional experience required to qualify as a CSC Hearing Officer and additional criteria and training requirements for specialty Hearing Officers in the areas of Child Welfare, Health, and Public Safety was issued on September 30, 2016. In addition to the standard bidders list for hearing officers, the RFSQ was also sent to a number of bar associations and legal organizations to increase awareness and recruit additional eligible candidates.
- Because advocacy skills are specialized skills not available in all departments, centralization of responsibility and oversight of Department advocacy would promote standardized practices and procedures, and drive consistency, timeliness of resolution of cases and provide greater opportunity for shared learning Countywide, strengthen in-house expertise, and provide a single point for oversight of and transparency into the appeals process. In order to centralize responsibility and oversight of the advocacy functions, DHR has determined that it can manage all advocacy assignments for non-public safety departments. In addition, County Counsel studied the feasibility of handling select CSC matters, and began keeping some cases in-house, that would have otherwise gone to outside counsel.
- Results of the independent survey and interviews of various stakeholders indicated the majority of respondents were generally satisfied with the overall process, including the belief that it is impartial and not overly complicated. However, some stakeholders noted that a consistent pattern of how decisions were determined could

not be identified making it difficult to determine trends or areas for improvements in the County's discipline process. Process improvements have been implemented to enhance the quality of advocacy countywide by DHR through the implementation of Countywide Discipline Guidelines, review of high level disciplinary letters, countywide advocate meetings, HR Consortium trainings, and development of a countywide Performance Management Tracking System, which provides for centralized oversight and promotes consistent Countywide application of established processes.

- Survey results and interviews of various stakeholders further suggested the need for procedural improvements to create efficiencies in the process, encourage early resolution or settlement in cases when appropriate, and greater collaboration in scheduling of hearings from the various participants to reduce the time to resolution. The Executive Director of the Civil Service Commission is in the process of implementing improvements to internal processes to assist with document management, appeal submission and hearing scheduling, and will continue to review and identify areas to streamline and improve the overall process.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendations are consistent with the principles of County Strategic Plan Goal No. 3, Realize Tomorrow's Government Today, in pursuing development of our workforce. These recommendations will promote workforce excellence through improving the prompt resolution of CSC matters and thus improving the relationships between the County and its employees.

### **FISCAL IMPACT/FINANCING**

The financial impact is dependent on the number of actual cases heard each year. DHR reported that 1,335 disciplinary actions that fall within the CSC's authority were issued between January 1, 2014 and June 30, 2016 by the County departments, including public safety departments, of which the CSC shows approximately 696 (52%) were appealed to the Commission. The Executive Director of the CSC reports a total of approximately 1,040 discretionary and disciplinary matters filed during that same period. Approximately 235 (34%) of the disciplinary cases filed were resolved by settlement or withdrawn by the employee prior to final disposition.

Raising the hearing officer maximum daily rate to \$1,200 will result in a cost increase that is estimated at \$134,199 annually based on a projection of number of hearing days. This increase would be reimbursed by County Departments whose employees have been granted hearings before the Commission. Amounts would be billed based on departmental caseloads.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of these recommendations will improve the overall Civil Service hearing process and attract more individuals having greater experience with highly specialized areas of personnel policies such as those working in child welfare, medical malpractice, and public safety.

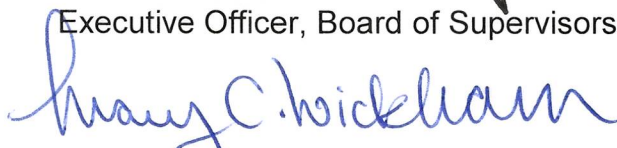
**CONCLUSION**

Upon approval of the recommendations, the Executive Office will amend the RFSQ to include the increase in compensation rate for CSC Hearing Officers.

Respectfully submitted,

  
LORI GLASGOW  
Executive Officer, Board of Supervisors

  
LISA M. GARRETT  
Director of Personnel

  
MARY C. WICKHAM  
County Counsel

LG:LMG:MCW:sg

Attachment

c: Chief Executive Officer



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HILDA L. SOLIS

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SHEILA KUEHL

DON KNABE

MICHAEL D. ANTONOVICH

November 4, 2016

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

Dear Supervisors:

### STATUS REPORT ON THE REFORM OF THE CIVIL SERVICE HEARING PROCESS

On April 26, 2016, the Board of Supervisors (hereinafter "the Board") directed the Executive Officer and the Human Resources Director, in consultation with County Counsel, to engage a consultant to review, analyze and provide specific recommendations to improve the overall County Civil Service Commission (hereinafter "CSC") hearing process including:

- 1) an evaluation of the appointment, qualifications, and training of the Civil Service Commissioners;
- 2) an evaluation of the selection, qualifications, and training of the Hearing Officers, including consideration of developing a panel or panels of subject matter expert Hearing Officers;
- 3) an evaluation of the duties, role, responsibilities, hiring, qualifications, and training of the Department advocates;
- 4) an evaluation of the advantages and disadvantages of decentralized and centralized oversight of the Department advocates within the Department of Human Resources or County Counsel; and
- 5) input and recommendations received after consulting with all appropriate stakeholder groups.

The Board also requested that the Executive Officer and County Counsel review the terms and conditions of future contracts with respect to Hearing Officers and directed that County Counsel study the feasibility of establishing a Civil Service Division and/or cases that can be maintained for in-house representation.

After legal analysis conducted by counsel, research conducted by our Departments and input from stakeholders (collected by Dr. Susan Stang, PSI), we provide the following



and attached information in anticipation of evaluating and implementing the below recommendations.

### **Background Regarding the Civil Service Commission Process**

The Civil Service Commission is a Charter-mandated body charged with acting as the appellate body for employees when issued disciplinary actions such as, discharges, reductions, and suspensions in excess of five days. The CSC also adjudicates discrimination complaints filed by County employees. A review of major disciplinary actions issued by 29 County departments between January 1, 2014 and June 30, 2016 reflects that 984 disciplinary actions that fall within the CSC's authority were issued. As required by law, prior to the issuance of all major disciplinary actions, departments afford employees an opportunity to provide information that may reduce or resolve the disciplinary matter before finalization. Departments use these meetings with employees as an opportunity to ensure that the disciplinary action was warranted and consistent with the expectations of employment for public service. Any resolution of these matters takes into account the best interests of the public service, the workforce and, where possible, the employee.

Of the 984 major disciplinary actions issued, approximately 246 matters (or 25%) were appealed to the CSC. This figure excludes cases resolved by settlement or withdrawn by the employee prior to final disposition. Final disposition before the Commission occurs when the appealed disciplinary action is either upheld or reduced by the Commission. The data reflects that nearly 75% of major disciplinary actions taken within the 2½ year period of review were either not appealed by employees or resolved by settlement or withdrawal by the employee prior to final disposition by the Commission. It should be noted that these figures are subject to further revision based on potential resolution of pending cases prior to final action by the Commission.

### **Input from Stakeholders**

Based on your Board's motion, stakeholders were asked to provide feedback on the Civil Service hearing process and recommendations on how it could be improved. A variety of techniques were used to gather the information including a standardized survey and individual interviews. The survey was prepared and distributed by Dr. Stang to solicit feedback on various aspects of the County's Civil Service hearing process. The survey was sent to 34 stakeholders (both internal and external to the County) who play key roles in the Commission hearing process. Of those invited to participate, 76% of the stakeholders completed the survey in its entirety. One third of the respondents were Employee Advocates (33%), another third were Outside Legal Counsel (33%), and the remaining respondents were a mix of various stakeholders from the Commission, County departments, County Counsel, and various other stakeholders including performance management unit managers, departmental advocates, managers, and others (33%).

Interviews were conducted with key stakeholders including the Commissioners, Department Heads, Commission administrative staff, and outside counsel. In total, 15 individual interviews were completed. The survey topics were presented prior to the interview to set the context, yet the interview itself was unstructured to encourage the stakeholders to offer any and all suggestions on how to improve the hearing process.

Please see the attached Executive Summary of the information collected by PSI during the feedback solicitation process.

### **Actions Taken And Recommendations Moving Forward**

The Departments have worked diligently to meet the requests for action as outlined in the April 2016 Board motion. In reviewing the Civil Service hearing commission process, the Departments reviewed other jurisdictions' civil service processes, including: County of Orange; City and County of San Francisco; County of San Diego; County of Santa Barbara; County of Ventura; County of Kern; County of Alameda; County of Sacramento; County of Fresno; County of San Mateo; County of San Bernardino; and City of Los Angeles, in addition to taking the special needs of Los Angeles County into consideration.

To date, the following activities have been implemented:

- A new RFSQ has been prepared containing higher standards for Hearing Officers including additional experience necessary to qualify as a Hearing Officer;
- An additional criteria for specialty Hearing Officers added in the areas of Child Welfare, Health, and Public Safety, requiring additional training in those fields;
- DHR has reviewed its capacity and has determined that additional advocacy assignments can be handled; and,
- County Counsel has studied the feasibility of handling select CSC matters, and has already begun to keep some cases in-house, that would have ordinarily gone to outside counsel.

The Departments also look forward to implementing the following recommendations with respect to the Civil Service hearing process:

- Review and revise the current training curriculum for Hearing Officers, and institute an annual training and evaluation for Hearing Officers;

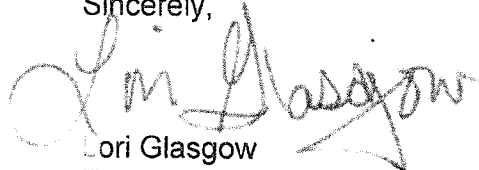
- Review and revise of the current training curriculum for Commissioners;
- Conduct regular training for Hearing Officers, Commissioners and advocates;
- Review the feasibility of referring all non-public safety cases to DHR for handling;
- Review by County Counsel of all Outside Counsel cases for possible in-house attorney handling;
- Evaluate and strengthen the function of the CSC Executive Director;
- Assess the need for additional resources, including the possibility of staff attorneys or paralegals, to evaluate matters and/or vet cases which are not jurisdictional to the CSC process.
- Review and update CSC procedural rules to reflect current practice and increase efficiency;
- Review and revise the rules governing the hearing process to clarify and ensure consistency of application and alignment;
- Evaluate and update the process for scheduling hearing dates including management of continuances; and,
- Evaluate and implement technological efficiencies in the CSC's Executive Office to assist with document management, appeal submission and hearing scheduling.

The Departments propose a phased approach to developing the necessary strategies to address the concerns and recommendations of the key stakeholders of the Civil Service hearing process, and will provide a status update to the Board in 90 days.

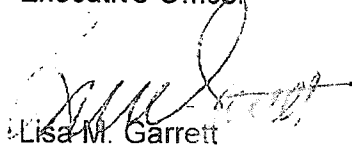
Honorable Board of Supervisors  
November 4, 2016  
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It is the goal our Departments to fulfill their mission in alignment with this Board's goals to service the County workforce and to ensure that the Civil Service process works efficiently and fairly.

Sincerely,



Lori Glasgow  
Executive Officer



Lisa M. Garrett  
Director of Personnel



Mary C. Wickham  
County Counsel

LG:CYT:mr