



County of Los Angeles
CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

March 11, 2011

To: All Department Heads

From: William T Fujioka
Chief Executive Officer

COUNTY EMPLOYEE RESPONSIBILITIES WHEN SUBPOENAED

Recently, the Board of Supervisors requested that the Civil Service Commission (CSC) "appear to advise the Board regarding steps it has taken, or that could be taken by the Commission or the parties before it, to expedite the (civil service) appeals process." On March 1, 2011, CSC issued a memorandum (attached) to the Board responding to the Board's concerns and identifying factors impeding the timeliness of the appeals process. One of the factors highlighted in the report was the lack of compliance by County employees in complying with subpoenas for testimony in civil service hearings.

Departments are reminded that when an employee is subpoenaed either as a witness or ordered to appear as a County representative for a civil service or legal proceeding, **the subpoena or order to appear are considered a primary work assignment and attendance is not optional.** Department managers should immediately take all necessary steps to communicate employee responsibility when served with a subpoena and ensure employee attendance at all future proceedings.

If you have any questions or require further information on this matter, please contact Ellen Sandt, Deputy Chief Executive Officer at (213) 974-1186, or esandt@ceo.lacounty.gov.

WTF: EFS
SAW:ef

Attachment

c: Each Supervisor

03.10.11 employee resp when subpoenaed.docx

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CIVIL SERVICE COMMISSION

COUNTY OF LOS ANGELES

COMMISSIONERS: EVELYN V. MARTINEZ • VANGE FELTON • CAROL FOX • LYNN ADKINS • Z. GREG KAHWAJIAN
LAWRENCE D. CROCKER, EXECUTIVE DIRECTOR • SANDY STIVERS, DEPUTY EXECUTIVE DIRECTOR

March 1, 2011

To: Supervisor Michael D. Antonovich, Mayor
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Don Knabe

From: Lynn Adkins, President

for L.A.

SUBJECT: Board of Supervisors' Motion on Citizen's Economy & Efficiency Commission Recommendations

On January 25, 2011, the Los Angeles County Board of Supervisors ("Board") approved a motion by Supervisor Molina and seconded by Mayor Antonovich that, *inter alia*, requested that the Civil Service Commission ("CSC" or "Commission") appear to advise the Board regarding steps it has taken or that could be taken by the Commission or the parties before it, to expedite the appeals process. With this memorandum we offer our comments on the Citizen's Economy & Efficiency Commission ("CE&EC") report and its recommendations. In addition, we offer an outline of the steps the Commission has already taken and is taking to expedite the appeals process as well as what additional steps could and/or should be taken.

First, it is important to note that the Commission shares many of the frustrations about the lengthy timeframes to resolve disciplinary cases, particularly discharge cases, and has dedicated a great deal of effort to reducing these delays. Commissioners and staff provided the CE&EC complete cooperation, including attendance at several meetings to inform them about the processes that have been put in place over the years to ensure compliance with all the relevant county, state and federal regulations and court rulings.

Several years ago as our caseload doubled and the number of non-disciplinary cases increased, we sought approval from the Executive Officer of the Board and the CEO to increase the size of our staff and improve the quality of its leadership. We thank the Board and the CEO for their past support and the renewed focus on this important area. We also welcome the board's attention and the CE&EC's review. While we may disagree with some of the assessments and comparisons, we fully support efforts to streamline and speed up the process and the efforts to reduce the number of cases filed with the commission. We would also be direct beneficiaries of such efforts.

It is important to note that the Commission's increased caseload comes, primarily, in non-disciplinary matters. In this regard, the Department of Human Resources' (DHR) recent steps to re-structure their appellate review process, such as for examination appeals, is a step in the right direction, and should result in a reduced flow of cases to the Civil Service Commission in the future. Better communication between the employing departments and the employees being rated, and a DHR appeals process that includes meaningful meetings between the employees and the appellate staff to ascertain all relevant facts, and to help employees understand the rationale for their scores if the appeal should be denied, should go a long way to reduce some of the tensions between employees and their managers in examination disputes.

I. Background

The Los Angeles County Civil Service Commission is a Los Angeles County Charter mandated independent commission, which serves as the administrative appellate body for the County's nearly 100,000 classified employees. It is the initial appellate body for employees who have received major discipline, such as discharges, reductions, suspensions in excess of five days, as well as for discrimination complaints. The Commission also hears appeals of scored portions of examinations. Additionally, the Commission also serves as the administrative appellate body for a number of cities that directly contract with the County. Pursuant to Civil Service Rule 4.03, the Commission must grant petitions for hearings in cases of discharge, reduction, or suspension in excess of five (5) days.

For the past several years, the CSC has received over 500 petitions for hearings annually. Typically, 40% of those appeals involve non-disciplinary matters. Hearings for these issues are rarely granted due to the structure of the Civil Service rules and the high threshold a petitioner must meet. The Commission granted hearings in more than 250 appeals each year. The overwhelming majority of the hearings granted were for disciplinary cases where employees are entitled to a hearing per the Los Angeles County Civil Service Rules, adopted by the Board. The following table illustrates the CSC's annual workload from calendar year 2008 through 2010:

CSC Caseload

Calendar Year	2008	2009	2010
Petitions filed	531	525	520
Disciplinary Cases	280	335	328
Hearings Granted	264	306	272 ¹
Non Disciplinary/Discretionary Petitions	251	190	192
Non-Disciplinary Discretionary Hearings Granted	6	4	3

¹ As of 2/8/11, with several discretionary petitions still pending.

In addition to processing these appeals, the Commission's staff responds to hundreds of discovery motions (*Pitchess* motions) filed each year by assistant public defenders and alternate public defenders. In 2010, the staff also responded to over 250 public records act requests and prepared six (6) administrative records for Petitions for Writ of Mandate filed with the Superior Court.

II. Actions Taken by the CSC to Expedite Hearings

Since 2007, the CSC has implemented several actions in an attempt to expedite the appeals process. Following are some of the highlights:

1. In April 2008, the CSC's Executive Director submitted proposed revisions to the CSC's procedural Rules to the CEO's Employee Relations Division to facilitate discussion with the unions representing County employees. The purpose of the proposed revisions were to introduce procedural changes in an effort to expedite the appeals process, correct typographical errors and make other necessary updates;
2. Hearing Officers were notified in May of 2008 that the Commission would strictly enforce the terms of their contracts and they were no longer to be compensated if they granted continuances, other than as expressly provided in the contract.
3. Concurrent with item 2 and at the CSC's request, the Chief Deputy Executive Officer for the Board of Supervisors sent a memorandum to all Department Heads and Chief Deputies that Hearing Officers would be less likely to grant continuance requests going forward and this would require the cooperation of their advocacy staff;
4. Beginning in June 2008, the CSC intensified training for its Hearing Officers making training an annual activity. This training has focused on, among other things, mechanisms to better control the hearing process and staying focused strictly on the matters to be adjudicated. This training has including coaching from a retired Superior Court Judge and comments from advocates for departments and employees, as well as representatives from the Office of the County Counsel;
5. In September 2008, the CSC's Executive Director and the Commission's legal advisor attended a meeting of departmental Chief Deputies to discuss problems caused by department witnesses ignoring subpoenas and/or not attending hearings where their testimony was required. The delays caused by these absences continue to impact timely completion of the process. The Board could be of great assistance in this regard if you would issue clear direction to department heads to compel department witnesses to appear at hearings.
6. New hearings are now scheduled within one (1) week of the selection of the Hearing Officer. In December 2008, the staff of the CSC was divided into an agenda team and a hearing team, both led by Head Board Specialists. The supervisor of the hearing team immediately began scheduling the backlog of cases. Historically, there had been 100 to 150 cases that were ready for scheduling but were not scheduled due to the unavailability of the parties (*i.e.*, backlogged). Staff was directed to immediately begin

scheduling based upon the availability of the Hearing Officers. Within three months, all the backlogged cases were scheduled;

7. On March 25, 2009, the CSC's Executive Director published the proposed changes to the CSC's Procedural Rules and requested comments from all interested parties;
8. After lengthy and open discussions with employee and departmental representatives as well as the Coalition of Unions, at its December 2010 meetings, the CSC discussed and subsequently adopted revisions to the Commission's Procedural Rules which became effective on January 1, 2011; and
9. This month the CSC's Executive Director and Deputy Executive Director developed with the Executive Office of the Board a proposed "Statement of Work" to be used in the solicitation and selection of Hearing Officers. The new language in the upcoming contract should address many concerns about delays and bring about more timely conclusions to the cases before the CSC.

III. Additional Steps and possible Board Actions to Expedite the Appeals Process

Following are actions, which if addressed, will help further expedite the appeals process:

1. Additional Hearing Rooms for Hearing Officers - The Commission requests the Board's assistance through the Executive Office to identify and allocate additional hearing rooms for use by the CSC's Hearing Officers. The CSC currently conducts three to five hearings per day. However, the Commission only has one (1) dedicated hearing room and is forced to dedicate too many resources to negotiate logistics/availability for any other rooms. If additional rooms were made available in or near the Hall of Administration, there would be a proportional increase in the number of hearings scheduled on any given day.
2. Availability of Employee and of Departmental Advocates to Reduce Delays - The Commission requests the Board to urge both employee representatives and departments to adequately staff their advocacy units. Unavailability of advocates lead to hearing dates being continued, unduly extending the length of the appeals process. In 2010, Departmental advocates individually or jointly with opposing counsel requested 126 hearing continuances. Departments drive the examination and disciplinary processes and should staff appropriately. Long delays also impact the availability of witnesses, and can affect the final outcome.

In conclusion, the Commission is committed to quickly resolving all appeals. The Commission will continue to implement whatever changes are within its power to expedite the process. If and when the Board votes to make any of the other changes in the Charter or the Civil Service Rules the CE&EC proposed, the CSC stands ready to implement those changes as well.

Thank you for this opportunity to participate in the process and express our views.