



Legislation Text

File #: CSC 18-0019, **Version:** 1

Consider the scheduling of a Civil Service Commission Hearing on an appeal of disciplinary action allegation of violation of the Civil Service Rules

HUMAN RESOURCES' RECOMMENDATION

The Director of Human Resources/Executive Secretary recommends that the Civil Service Commission schedule a hearing in the matter of the September 24, 2018 appeal of disciplinary action alleging an employee ("Employee E") violated Civil Service Rule IX - 9.02(c) Inefficiency, Civil Service Rule IX - 9.02(e) Inexcusable neglect of duty, and Health & Social Services Department Child Welfare Services Division Protocol Section - Contacts Policy.

The Hearing would be held pursuant to Civil Service Rule Section XIII, Civil Service Commission Hearings (Rules 13.01 - 13.21).

Recommended Commission action is:

1. Schedule the hearing for a special meeting on Wednesday, November 14, 2018 at 7:00 p.m. or following the conclusion of the Commission's regular meeting of this same date, whichever time is later.

SUMMARY

On September 24, 2018, the Human Resources Department received a written request dated September 24, 2018, for a hearing before the Civil Service Commission, appealing disciplinary action.

DISCUSSION

On September 24, 2018, the Director of Human Resources/Executive Secretary received a written appeal requesting a hearing before the Civil Service Commission. The appeal contains the elements identified in Civil Service Rule 13.02.

Civil Service Rule 13.03, Time Within Which Hearing Must Be Commenced, states that a hearing shall commence within twenty days of the receipt of the employee's request. Setting the hearing date (the matter under consideration) meets the requirements of the Civil Service Rules as tonight's meeting is within twenty days of the receipt of the employee's request.

At present, there are two anticipated calendared items that will be presented at the Commission's regular meeting of November 14, 2018. (The anticipated items are the adoption or the amendment to two classification specifications.)

Assuming a November 14, 2018 hearing date:

- By October 31, 2018 - The parties are to meet at least fourteen (14) days before the hearing to pre-mark exhibits and reach agreement as to which exhibits will be admitted without objection and to identify those exhibits as to which objections to admissibility remain.

Sufficient copies of such exhibits, three-hole-punched, must be submitted to the Secretary at the time

the exhibit is introduced so that each Commissioner, Secretary to the Commission, Counsel to the Commission, transcriber (if applicable) and opposing Counsel receive a copy. No additional copies of demonstrative evidence, video evidence or over-sized exhibits need be provided. The parties shall also meet about any facts as to which they are willing to stipulate may be deemed provided without the introduction of admission of evidence.

(Civil Service Rule 13.13, Evidence and Witnesses, paragraph B)

- By November 7, 2018 - No less than seven (7) calendar days before the first date scheduled for the hearing and by 12pm, the parties shall each submit to the Commission Secretary the following:
 - Witness List
 - Joint exhibit list identifying each exhibit by number
 - Party exhibit list identifying each exhibit by number
 - A realistic time estimate of the full length of the hearing
 - A one-page summary of the case setting forth the charge(s), the proposed discipline and any defenses to be raised by the Appellant (employee)
 - A list of facts the parties stipulate may be deemed proved without the introduction or admission of evidence
 - Any pre-trial motions
 - Any trial briefs to be considered by the Commission
- (Civil Service Rule, Evidence and Witnesses, paragraph C)

- By November 8, 2018 - No less than six (6) calendar days before the first date scheduled for the hearing the Commission Secretary shall provide the Commissioners with the following:
 - Request for appeal and Notice of Appeal
 - County documents from which the appeal was taken
 - Witness lists
 - Joint exhibit list and exhibits
 - Party exhibit lists and exhibits
 - Party summaries of the action
 - Stipulation of agreed facts
 - Any trial briefs
- By November 9, 2018 - The Appellant (employee) must notify the Commission Secretary in writing if the hearing will be heard in an open session of the Civil Service Commission. (Government Code section 54957(b)(2))

ALTERNATIVES

The Commission could choose not to approve the staff's recommendations and select a different hearing date. This alternative is not recommended because the Commission has a lighter agenda for the November 2018 meeting and all Commissioners are anticipated to be available, Commissioners previously expressed a request to make the process more efficient, and the complaint has a narrow scope.

OTHER AGENCY INVOLVEMENT

The Director of Human Resources/Executive Secretary worked with the Commission's Counsel in the preparation of this staff report. On September 25, 2018, the Director of Human Resources/Executive Secretary sent to Employee E an acknowledgement of the appeal, Civil Service Rule Section XIII, and a draft

of this staff report.