

CIVIL SERVICE COMMISSION  
REGULAR MONTHLY MEETING  
THURSDAY, MAY 18, 2023

The regular monthly meeting of the City Civil Service Commission was held on Thursday, May 18, 2023 at 1300 Perdido Street, City Council Chambers, New Orleans, LA 70112. Ms. Doddie Smith, Personnel Administrator of the Management Services Division, called the roll. Present were Chairperson Brittney Richardson, Vice-Chairperson John Korn, Commissioner Clifton Moore, Jr., Commissioner Mark Surprenant, and Commissioner Ruth White Davis. Commissioner Richardson convened the meeting at 10:33 a.m. The Commission then proceeded with the docket. At 10:56 a.m. on the motion of Commissioner Davis and the second of Commissioner Moore the Commission voted unanimously to go into executive session. At 11:35 a.m. the Commission completed its executive session and proceeded with the business portion of the meeting.

Item #1 was the minutes for April 17, 2023. Commissioner Moore motioned to approve the minutes. Commissioner Korn seconded the motion, and it was approved unanimously.

Item #2 was the ratification of Public Integrity Bureau (PIB) extension requests. Commissioner Richardson called for public comment. There being none, Commissioner Korn motioned to approve the extensions. The motion was seconded by Commissioner Surprenant and approved unanimously.

Item #3a under Rule Amendments was an introduction of an amendment to Rule I definitions 71 and 72 and Rule VIII Section 2.5 relative to sick leave usage. Director Trepagnier explained that this proposed amendment came about as the result of a request from an employee in the City Planning Department. Under the proposed amendments employees would be able to use sick leave with pay not only for their own illness or injury, but for the illness or injury of an immediate family member when it is not possible to arrange for appointments during non-duty hours. This leave would require approval by the appointing authority. Director Trepagnier stated the staff in the Chief Administrative Office has indicated they would be in favor of an amendment to the rule that mirrors the State of Louisiana's rules relative to sick leave usage. She stated that the Civil Service Rules also define immediate family member.

Emily Painton, Director of the Library, stated this would benefit her staff greatly and she supports the change.

Item #4a under Classification and Compensation Matters was a request from the Chief Administrative Office to create the new classifications of Recruiting Specialist and Recruiting Supervisor. Robert Hagmann, Personnel Administrator, stated these classifications will provide the City with more proactive roles to recruit for vacant positions. These positions will reside in the Chief Administrative Office and possibly Sewerage and Water Board. He noted that we have asked for similar positions to be funded in the Civil Service Department in years past, but they were not funded. Commissioner Surprenant motioned to approve the request. Commissioner Korn seconded the motion, and it was approved unanimously.

Item #4b was a request from the Department of Property Management to create the new classification of Space Planner. Mr. Hagmann stated this new position acts as a project manager for the alteration, construction, and reconfiguration of city spaces. Commissioner Davis moved for approval. The motion was seconded by Commissioner Korn and approved unanimously.

Item #4c was a request from the Office of Community Development for hiring rates for the Code Enforcement Case Specialist job series. Mr. Hagmann stated these positions handle the preparation of cases of municipal code violations for adjudication. The work is somewhat similar to the work performed by our non-exempt analysts, so we are recommending hiring rates to reflect the parity with that job series. Commissioner Surprenant moved for approval. The motion was seconded by Commissioner Davis and approved unanimously.

Item #4d was a request from the Chief Administrative Office for an amendment to the special rate of pay for police retention. Mr. Hagmann explained that currently retention pay is due at the time it is earned. Our process is manual, so this puts an undue burden on departments including our department. This change permits the retention payments to be paid on a quarterly basis. Everyone who was eligible to receive their retention pay on March 11<sup>th</sup> has received their pay. Director Trepagnier noted the City is updating its payroll system to a newer version. That update will be complete next year. Should the City have the ability to automate the payment processing using that system, staff will request that the Commission change the pay policy back. Commissioner Korn moved for approval. The motion was seconded by Commissioner Davis and approved unanimously.

Item #4e was a request from the New Orleans Public Library for an exception to Rule IV Section 2.7 Extraordinary Qualifications Pay due to an administrative error. Director Trepagnier stated the extraordinary qualifications rule requires that

the request be submitted at the time of appointment. In this case the Library Director had always intended to exercise this rule, but the Library Human Resources Department completed the employee's promotion before Library Director Emily Painton's request for the pay could be submitted. Since it is not technically compliant with the Rule, the Library is requesting an exception. Director Painton has documentation that it was her intention to seek extraordinary qualifications pay. Commissioner Davis moved for approval. The motion was seconded by Commissioner Korn and approved unanimously.

Item #5a under Recruitment and Selection Matters was the approval of examination announcements 10847-10876. Director Trepagnier pointed out that the job announcements for Police Recruit and Officer had been closed and reopened because we are now offering a remote testing option for these positions. That option required us to move to a new test. Applicants can now take the test at our office for free, test at home for a \$55 convenience fee, or at a nation-wide testing center near their home for the same \$55 convenience fee. Commissioner Surprenant motioned to accept the announcements. Commissioner Davis seconded the motion, and it was approved unanimously.

Item #5b was a request from the Fire Union to extend the eligible list for Fire Captain. Aaron Mischler, representing the local 632, requested that the Captain's list be extended an additional three months until the new exam is complete in July or August. Director Trepagnier stated that staff and the NOFD administration is not in agreement with the request because the last time the list was extended staff received complaints regarding the extension. Some employees who are not on the old list are now eligible to take the new test. If a person is appointed from the old list, it takes up a permanent position. The list expires on June 1<sup>st</sup>. It has been in existence since 2016. The Civil Service Rules permit the extension of a list by the Commission up to five years, but the list was extended beyond five years due to litigation involving the list. In the interim NOFD can make temporary provisional appointments to Captain.

Commissioner Surprenant noted that the litigation regarding the current list is now over, so the facts that existed when the Commission previously extended the list are not the same. Director Trepagnier stated staff's preference is for everyone to compete for the position. Commissioner Surprenant stated extending it further creates a bad precedent. He moved to deny the request. The motion for denial was seconded by Commissioner Korn. The motion was approved unanimously.

Item #5c was a request from the Fire Union to extend the eligible list for Fire Deputy Chief. Director Trepagnier stated the current list reached five years and expired on March 31, 2023. Fire Deputy Chief is in the 2024 testing rotation to create a new eligible list. Provisional appointments can be granted to fill any vacancies that arise until the new list is established.

District Chief Henry Beba stated he was number six on the previous eligible list. All other eligibles were promoted, but he was skipped. He is asked to perform many different roles at NOFD. We need to revisit the rule. A list should not expire until a new list is established. Director Trepagnier noted the only time the Commission has extended a list beyond the five years is in conjunction with the Fire Captain litigation.

Fire Superintendent Roman Nelson stated he is committed to the timely administration of tests. Eligible lists should not last until every person is promoted, they should last until the time expires. Testing encourages competitiveness and ensures that we promote the best and brightest. Commissioner Surprenant stated from a constancy standpoint it is important to follow the rules absent some extraordinary situation as was the case with the Captain's list litigation. Otherwise, it becomes chaotic. Commissioner Moore stated there should be a set period for the eligible lists. Commissioner Davis moved to deny the request to extend the eligible list. The motion for denial was seconded by Commissioner Korn. The motion was approved unanimously.

Item #6 was a request from the Fire Union to address the Commission regarding the Fire Department's Sick Leave Policy. Aaron Mischler stated that the issue persists with doctors refusing to include the nature of the illness on the department's return to work forms. The problem is that employees are being punished for something that is out of their hands. Commissioner Richardson stated she is finding it hard to understand why a doctor would not release information to their patient. Superintendent Nelson stated that since this issue came before the Commission, the policy was amended to address privacy concerns and to expand the acceptable forms of documentation in lieu of the form. Now the union is trying to get the Commission to rule on something that has been collectively bargained in the past. Nothing in the Department's policy violates Civil Service Rules. We have addressed the previously expressed issues and now it is just a matter of members not wanting to submit the information regarding the nature of the illness. Commissioner Richardson asked why the nature of the illness is needed outside of cases where the validity of the absence is in question. Superintendent Nelson stated the first usage of leave in a quarter does not require any documentation. Commissioner Davis exited the meeting.

Probationary Firefighter Sean Richardson provided an example of NOFD's rejection of his return to work note. Commissioner Surprenant motioned to defer this item to the June meeting. Commissioner Richardson seconded the motion to defer, and it was approved unanimously. Superintendent Nelson noted that the nature of illness requirement is noted in the Civil Service Rules.

Item #7 was a petition from the Police Association of New Orleans (PANO) for investigation and evidentiary hearing into NOPD Captains' and Sergeants' promotional policy and scoring results. Eric Hessler, representing PANO and Lieutenant Daniel Andeson and Police Office Beth Reniff, stated that in 2014 the Great Place to Work initiative dramatically altered how the City conducts promotions. All of the police unions were and remain opposed to this. In August of 2020 the City released memorandum 143R which created a promotional committee outside of the parameters of Civil Service testing in order to form a second half of the test weighted 50% of the final score. Performance evaluations, disciplinary history, and job history were included in the scoring. This is vague and unconstitutional; it is subject to political manipulation. Officer Reniff was number 18 on the Sergeant's list. She was accused of a use of force violation which was used to lower her standing from 18 to 36. NOPD did not proceed with the investigation for two years and she was later exonerated. Mr. Hessler stated he asked Police Superintendent Woodfork to amend Officer Reniff's score and allow her to be promoted. He stated a response was not received. Mr. Hessler stated he wants the Commission to investigate the denial of promotion for these applicants under Rule VI section 6.1. Christina Carroll, Executive Counsel for the Commission, stated this Rule requires that the request be considered by the Personnel Director first and includes a time limit of 90 days. Mr. Hessler stated that it is difficult to bring it within 90 days when it takes NOPD two years to hold the disciplinary committee. Commissioner Surprenant asked if the Rule we have has been followed and asked if the request is timely. Mr. Hessler stated the City Charter allows anyone to petition the Commission to investigate unfair working conditions or proceedings.

Elizabeth Robins, representing the Law Department, stated it is not appropriate for PANO to submit a generalized request to investigate the process. The appointment of other specific individuals in the given timeframe is the opportunity under the Civil Service Rules. Mr. Hessler stated we are talking about mistakes in the process. Ms. Carroll stated that Mr. Hessler could seek an exception to the time limit based on the inability for discovery. Commissioner Surprenant stated we want to make sure the correct procedure is followed.

Theodore Alpaugh, representing the Fraternal Order of Police, stated FOP is opposes the subjective polices that have replaced the objective Civil Service testing protocols created by professional psychometricians. Commissioner Surprenant motioned to defer the request. Commissioner Moore seconded the motion, and it was approved unanimously.

Commissioner Surprenant exited the meeting.

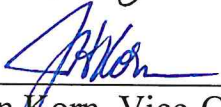
Item #8 was a request from Alisha Brumfield to appeal the denial of longevity and change her start date. Ms. Brumfield stated she has worked for the City for twenty-seven years. She stated she is requesting to retain her longevity under Rule IV section 8.3. She stated that Civil Service staff had advised her that she was not eligible under this rule because she was not reinstated or reemployed. She was rehired. She asked why rehires are not given the same rights. It is an inequality and is causing a hardship.

Director Trepagnier stated the cumulative service rule was adopted to entice employees who separate to return to their previous positions. The cumulative service rule only applies to former employees who are reinstated or reemployed. Reinstatement applies to former regular employees. Regular means classified employees with permanent status. Reinstatement is for former probationary or regular employees. Those two mechanisms are only available to classified employees who have a break in service and return to their pervious positions. Ms. Brumfield was last classified in 2005 and she broke service at that time and has been in the unclassified service ever since. The airport has rehired her into a job classification she has never previously held. She would not be eligible under the Rules. Commissioner Korn motioned to deny the request. The motion to deny was seconded by Commissioner Moore. The motion was approved unanimously.


Item #9 was a staff report on the 2022 Performance Evaluations. Director Trepagnier stated the Commission has been provided with a breakdown of the completion rate and overall ratings by department. Overall, in 2022 there was a 41% completion rate. This is down from last year's completion rate of 48%. In February of 2023 the Council approved the Commission's rule changes that require funding for merit pay based on performance evaluations so in the future this will hopefully increase the participation rate. She noted that 48% of the employees rated exceeded requirements, 52% met requirements and .5% did not meet expectations. Participation by department was mixed. Staff offered help sessions every Friday in January to assist departments. An additional position in the Civil Service Department has been requested to assist departments with performance evaluations.

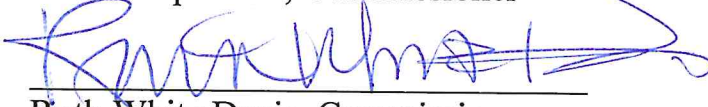
Commissioner Korn moved for adjournment at 1:28 p.m. The motion was seconded by Commissioner Richardson and approved unanimously.

  
Brittney Richardson, Chairperson

  
John Korn, Vice-Chairperson

  
Clifton Moore, Jr., Commissioner

  
Mark Surprenant, Commissioner

  
Ruth White Davis, Commissioner