

CIVIL SERVICE COMMISSION MINUTES

October 5, 2022

A meeting of the Civil Service Commission was held at 2:30 p.m., via Videoconference/Teleconference.

Present via Videoconference:

Bryan J. Fletcher
Melissa Johnson
Will Rodriguez-Kennedy
Peter B. Smith

Absent:

Ira Sharp

Comprising a quorum of the Commission

Support Staff Present:

Todd Adams, Executive Officer
Morgan Foley, Commission Legal Advisor

Approved
Civil Service Commission
November 2, 2022

**SAN DIEGO COUNTY CIVIL SERVICE COMMISSION
REGULAR MEETING AGENDA
OCTOBER 5, 2022**

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Videoconference/Teleconference

Notice pursuant to Government Code Section 54954.2.

**CLOSED SESSION AGENDA
Videoconference - Not open to public**

- A. Commissioner Fletcher: CONSIDERATION OF PUBLIC EMPLOYEE DISCIPLINE (GOV. CODE SEC. 54957(B)) Corey Kniss, Esq., on behalf of **2022-149**, former Recordable Documents Specialist II, appealing a Final Order of Removal and Charges from the Assessor/Recorder/County Clerk.

**OPEN SESSION AGENDA
Videoconference/Teleconference**

ORDER OF BUSINESS

A. **ROLL CALL**

Present: Fletcher, Johnson, Rodriguez-Kennedy, Smith

B. **APPROVAL OF MINUTES:** Regular meeting of September 7, 2022.

Motion by Commissioner Johnson to approve the minutes of September 7, 2022; seconded by Commissioner Rodriguez-Kennedy.

Motion carried with all Commissioners present in favor.

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

None.

D. **AGENDA ITEM DISCUSSION:**

None.

E. FORMATION OF CONSENT AGENDA

Item No. 1 formed the Consent Agenda.

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

Motion carried with all Commissioners present in favor.

F. DISCUSSION ITEMS

Item No. 2 was pulled for discussion.

AGENDA ITEMS

TELECONFERENCED PUBLIC MEETINGS

1. Continuance of Teleconferencing Meeting Option Pursuant to Government Code Section 54953(e).

RECOMMENDATION: Approve motion to find, pursuant to Government Code section 54953(e)(3), the Civil Service Commission has reconsidered the circumstances of the State of Emergency and state and local officials continue to recommend measures to promote social distancing.

Approved.

DISCIPLINE

Findings

2. Commissioner Fletcher: Corey Kniss, Esq., on behalf of **2022-149**, former Recordable Documents Specialist II, appealing a Final Order of Removal and Charges from the Assessor/Recorder/County Clerk.

FINDINGS AND RECOMMENDATIONS:

Employee 2022-149 appealed a Final Order of Removal and Charges removing him from the position of Recordable Documents Specialist II in the Department of the Assessor/Recorder/County Clerk. The Commission appointed Commissioner Bryan J. Fletcher to hear the appeal and submit findings, conclusions, and recommendations to the Civil Service Commission. Thereafter, a hearing was held on August 29, 2022.

The Department's causes of discipline were dishonesty, insubordination, incompetency, and conduct unbecoming an employee of the County.

The Department of the County Assessor/Recorder/Clerk bears a responsibility to the public that licenses it issues and documents it records are authentic and reliable. Through the Department's issuance of marriage licenses only applicants are allowed to make changes to their middle and last names with certain limitations. Once a marriage license is issued by the Department changes to middle or last names may only be accomplished through a court ordered name change.

The process for obtaining a marriage license from the Department is initiated by the public either by filling out an online application or physically visiting one of the Department's offices where they can fill out the application in person. In either case, applicants may only obtain the final license by visiting one of the Department's offices.

The Employee worked as a Recordable Document Specialist II in the Department from August 28, 2020, until his removal from that position on April 1, 2022.

Employee received training materials on the marriage license process, including the Department's Marriage Procedural Training Manual for Acclaim (a computer system used for processing marriage licenses), the Name Equality Act, and other documents necessary for his training in the issuance of marriage licenses.

On or about November 8, 2021, the Employee's co-worker spoke with him about a report that the Employee was adding the word, "danger," to marriage license applications for couples to "catch the error." The coworker explained to the Employee that adding the word "danger" was not allowed as the license is a legal document and one that should not be tampered with. The next day the Employee's supervisor met with him to discuss his performance and addressed his practice of inserting random words when processing a couple's marriage application through Acclaim for them to "catch the error." The supervisor informed Employee that such a practice is not part of the Department's policies or procedures. The Employee promised to stop such a practice.

As a result of the Employee's practice of altering applicants' marriage license information, a week-long refresher training in handling license applications was provided to the Employee. Upon completion of the training the Employee was again allowed to process marriage licenses through Acclaim.

On February 2, 2022, while the Employee was working, an Assistant Division Chief overheard the Employee ask customers applying for a marriage license to "catch the error" on the printout of information submitted for their marriage license. Later, the Employee's supervisor emailed him and reminded him that adding information on a marriage license and "asking a customer to try to find the error," was not a process for issuing the license; reminded him that she discussed this with him in November of 2021; and he "shouldn't do it anymore."

The Employee's response was that he wasn't making any changes like he had before; rather, he was telling the applicants that he had made a change and that they should review the printout carefully to see if they can find any errors, then tell them that he didn't create any errors after their review of the printout.

Thereafter the Department conducted an audit of the Acclaim system to determine if an analysis of the Employee's keystrokes when processing marriage licenses revealed any unauthorized amendments, during the period of November 1, 2021, and February 2, 2022.

The audit revealed that at least 50 changes to marriage licenses were made by the Employee during this period and were primarily used to replace the applicants' middle names, but also replaced witness names, and witness addresses. Of the 50 changes 13 occurred following the Employee's refresher training, one of which was on February 2, 2022. In one transaction, on January 31, 2022, the Employee made three changes to the middle name of one of the applicants, inserting various spellings of the Spanish word "peligrosa." Such conduct supports a finding that Employee was making changes intentionally and not "out of habit."

The records created by data entry by the Employee are official public records of the County, at every stage of creation whether printed out or not and can be tracked through the auditing process.

The Employee's email denying making changes to records when processing marriage applications, was not truthful.

There is no evidence that a final, official, marriage license prepared by the Employee was ever issued. The Employee's actions were limited to changes made to draft printouts prepared for the applicants' final approval, based on the intentionally incorrect data entered by the Employee.

Employee is guilty of dishonesty. The Department has proven that the Employee was dishonest with his supervisor and others in the Department; that he created lies to explain his behavior; and (more importantly) was not honest with applicants for marriage licenses by unilaterally, and without their knowledge and permission, changing the information they provided in their applications, making them believe that the Department endorses a "test" to catch errors that are not of their doing. The Employee also violated state laws applicable to the right of persons to change their middle or last names, or both, at the time of the issuance of a marriage license. Such a right is allowed only to the applicants, not the Employee. It makes no difference that there was no proof that any of his alterations ever resulted in a completed and final marriage license containing his planted errors; his conduct in making unauthorized changes to the data presented by the applicants remains a violation of California law and Departmental policies.

Employee is guilty of insubordination. After being told that making unilateral changes in the names and other information provided by applicants for marriage licenses, and after promising his supervisor that he would not repeat such conduct, the Employee chose to repeatedly break that promise. Further, when confronted with the news that he had been overheard making the statement to "catch the error," the Employee concocted an explanation that was ultimately proven false with the Acclaim audit.

Employee is guilty of incompetency. The Employee's unauthorized alteration of official public records, even if temporarily, is unsuitable for the purpose of processing the applications and, therefore, displayed incompetency. It can be inferred that his treatment of applicants by having to take the time to "catch the error" caused undue worry and delays for persons wanting to obtain a marriage license in a helpful, prompt, and efficient manner.

Employee is guilty of conduct unbecoming. The Employee's unauthorized process where he artificially creates tension by changing information provided by the public, simply to try to get them to carefully examine the proposed license, is unbecoming of the standards expected by the Department. Further, the Employee has created an environment of mistrust when he does not comply with direction given to him in the conduct of the County's business, and when he lies about his conduct by fabricating an explanation of his conduct.

The Employee has no history of discipline in the short time he was with the Department. However, termination is appropriate because Employee's misconduct was serious, and progressive discipline is very unlikely to change his behavior, particularly when counseling regarding his transgressions had no effect on his misbehavior, and his unwillingness to be honest about his actions. It seems that the Employee believes that it is appropriate to make up stories until he is caught, and then he provides an excuse to explain away the situation.

He also displays an unwillingness to follow directions by believing that he has a better approach to conduct the public's business rather than following established procedures. Making up his own procedure by intentionally and unilaterally altering the information provided by applicants for marriage licenses is not part of his training (or refresher training), creates unnecessary tension, and has the potential for creating mistakes. Further, it violates the laws and policies he is expected to know and follow.

Based on the findings and conclusions set forth above, it is hereby recommended that the Final Order of Removal and Charges be affirmed; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Commissioner Fletcher to approve the Findings and Recommendations; seconded by Commissioner Rodriguez-Kennedy.

Motion carried with all Commissioners in favor.

ADJOURNED: 2:56 p.m.

ASSISTANCE FOR THE DISABLED:

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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.