

November 4, 2015

Judy Von Kalinowski, Director
City of San Diego – Human Resources Department
1200 Third Avenue, Suite 1300
San Diego, CA 92101

Dear Ms. Von Kalinowski:

Subject: Citizens' Equal Opportunity Commission Response to Correspondence
dated October 8, 2015

It has been brought to our attention through newspaper reports, discussions with colleagues about newspaper reports and public testimony that Mr. Gakunga, the previous Director of Purchasing and Contracts was terminated. Additionally, these reports included information about the purported reasons for his termination along with that of an un-named employee that he managed. The information reported about Mr. Gakunga was negative and would under any employment circumstance be considered confidential. The CEOC Commissioners, including myself, are very concerned that this negative and confidential information was leaked to the press. Public testimony provided at a recent Commission Meeting also brought forward the concern that this newspaper report could severely damage Mr. Gakunga's professional reputation and future employment opportunities. I am sure you too as the Director of Human Resources must be very concerned that this information was reported in the newspaper.

We on the CEOC Commission have no access to confidential employment information of the City and no information about how this confidential information could have made its way into a newspaper report. At our last Commission meeting on October 7, 2015, I took a poll of all Commissioners to verify and clarify this fact.

It is our obligation under the City of San Diego, Municipal Code to take up matters such as these in coordination with the Civil Service Commission - specific to understanding existing policies and making policy recommendations that can protect employees from this kind of detrimental treatment and the penalties to employees that violate the confidentiality of other employees.

More specifically, this letter is in response to a letter that you submitted to the CEOC Commission on October 8, 2015. Your letter was in response to questions that I asked through

the EOCP Division staff. The requested information as note in my email to the EOCP Division staff on September 23, 2015 was as follows:

*“Labor Relations Office - **Policy request:***

- *What kind of information can the City release to the public or the press about the terms of an at-will employee's termination?*
- *If information about an at-will employee's termination is released and it is against policy to do so what can that employee do about it?”*

Additionally, we would like to know what the policies are, if any exist, that define what the consequences are for employees who release confidential employee information to those other than those authorized to have access to it.

The first part of your response to my request states that the CEOC commission does not have the authority to request a response to the questions that were posed as noted above. In reviewing the Municipal Code, Chapter 2, section 26.16, section C, items 2-5 state several times that the CEOC is to coordinate with the Civil Service Commission and appropriate authority within the City to: 1) make recommendations regarding the program, 2) submit reports to evaluate the City's progress, and 3) assist in the recruitment of “competent minorities, women and handicapped” to compete for available City positions. For the CEOC Commission to effectively fulfill this obligation we need to be able to coordinate with you and your office from time-to-time to understand the policies that govern employment with the City.

You state that you cannot “justify breaking confidential protocols put in place to protect the integrity of the City's confidential personnel decisions and our employee's right to privacy”. I want to be perfectly clear that at no time have I or would I ever request confidential information about any City employee. The questions that myself and the Commissioners posed, as noted above, are requests for information about employment policy **only** (see copy in red above).

We respectfully request that you provide the relevant policies if they exist related to the questions that we have posed.

We look forward to your response.

Sincerely,

Laura Warner, Chair
Citizens Equal Opportunity Commission

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Judy Von Kalinowski, Human Resources Director
November 4, 2015

- Enclosures:
1. San Diego Municipal Code §26.16 – Citizens Equal Opportunity Commission
 2. Memorandum – Questions on Recruitment and Termination Process for At-Will Employees (dated October 8, 2015)
 3. Duties of Civil Service Commission as noted on City website

- (d) City of San Diego Foundation. The Endowment Board shall work toward the establishment of a nonprofit, tax exempt, charitable foundation, recognized by the State of California and the Federal government. The foundation would receive gifts, invest funds, accept applications for funds, review requests for funds, and distribute funds, and be of sufficiently broad purpose to be able to receive designated funds and disburse funds encompassing a wide area of activity. Upon the establishment of the foundation, with the recommended name of “City of San Diego Foundation,” members of the Endowment Board will become trustees of the foundation.

(“Endowment Board” added 2-27-1975 by O-11498 N.S.)

§26.16 Citizens Equal Opportunity Commission

- (a) Purpose and Intent.

It is the purpose and intent of the City Council to establish a Citizens Equal Opportunity Commission to advise on a continuing basis, the Mayor, City Council, Manager, Civil Service Commission and other agencies of City government of the progress being made in the Equal Opportunity Program adopted by the Council.

- (b) Citizens Equal Opportunity Commission Established

There is hereby established a Citizens Equal Opportunity Commission which shall consist of eleven (11) members who shall serve without compensation. The Board shall include one (1) representative from each of the following minority groups: Latino, African-American, Filipino, American Indian, Asian/Pacific Islander, Disabled, and Lesbian/Gay/Bisexual/Transgender. The remaining four (4) members shall be appointed from the City at large. The members shall be appointed by the Mayor and confirmed by the Council. The members shall serve two (2) year terms and each member shall serve until his successor is duly appointed and qualified. The members shall be appointed in such manner that the terms of not more than six (6) members shall expire in any year. The expiration date of all terms shall be January 1. During January of each year, the Mayor may designate one (1) member as Chairman; however, in the absence of such designation, the Board shall on or after February 15 select a Chairman from among its members. Any vacancy shall be filled for the unexpired term of the member whose place becomes vacant. The Board shall adopt such rules, regulations and organizational structure for the conduct of its business as it may deem necessary.

(c) Duties and Functions

The Board shall:

- (1) Monitor and/or evaluate the Equal Opportunity Program of the City as it exists and as it may be amended from time to time by the City Council.
- (2) Advise on a continuing basis and make recommendations regarding the Program, as are deemed appropriate and/or necessary, to the Mayor, City Council, Civil Service Commission, Manager and other agencies and appropriate authority of City government.
- (3) Submit written quarterly reports which evaluate the progress of the City and its agencies for review and acceptance by the Committee on Budget and Government Efficiency and Council. Submittal should coincide with quarterly submittals by the City Manager, Civil Service Commission, non-managerial departments and agencies.
- (4) In coordination with City Manager, Civil Service Commission, non-managerial departments and agencies, assist in the recruitment of competent minorities, women and handicapped to compete for available City positions, particularly in specific classes and occupations which reflect underrepresentation.
- (5) Promote the City of San Diego as an Equal Opportunity Employer of individuals and firms desiring to contract with the City in order to build confidence and goodwill between the City and all citizens.
- (6) Meet regularly with the staff of the City and its agencies to carry out its responsibilities.

(Amended 1-26-2004 by O-19255 N.S.)

(Amended 11-28-2013 by O-20316 N.S.; effective 11-28-2013.)



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: October 8, 2015

TO: Citizens Equal Opportunity Commission (CEOC)

FROM: Judy von Kalinowski, Human Resources Director

SUBJECT: Questions on Recruitment and Termination Process for At-Will Employees

This memorandum is in response to questions directed to this office. The City does not comment on personnel matters. Additionally, the questions presented concern matters beyond the scope of the CEOC's authority, as defined in San Diego Municipal Code Chapter 2, § 26.16, subsection (c). Because your purpose for the requested information does not align with CEOC's purpose or authority, the Human Resources Department cannot justify breaking confidential protocols put in place to protect the integrity of the City's confidential personnel decisions and our employees' rights to privacy.

As such, it would be inappropriate for the Human Resources Department to provide the information as requested by the CEOC.

Please contact me if you wish to discuss this request further.

Thank you.

A handwritten signature in black ink that reads "Judy von Kalinowski".

Judy von Kalinowski
Human Resources Director

cc: Jan I. Goldsmith, City Attorney
Scott Chadwick, Chief Operating Officer
Stacey LoMedico, Assistant Chief Operating Officer
Ronald H. Villa, Deputy Chief Operating Officer
Andrea Tevlin, Independent Budget Analyst
Greg Halsey, Deputy City Attorney



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City Boards and Commissions

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Civil Service Commission

- [Civil Service Commission Website](#)
- [Civil Service Commission Members](#) (PDF)
- [Conflict of Interest Code](#) (PDF)

Duties

The [Civil Service Commission](#) appoints Personnel Director. Recommends Civil Service Rules to City Council, generally supervises City Civil Service System as provided by Charter and Civil Service Rules. Adopts, amends Civil Services Rules for government, supervision and control of classified service. Annually recommends to the Council, classifications of employees which merit special salary consideration because of recruitment or retention problems or other special factors.

Appointment

Appointed by Mayor and confirmed by Council. Whenever the Mayor does not appoint a member within 45 days after vacancy occurs, the Council shall make such appointment.

Term

Five (5) year staggered terms and until their successors have been appointed and qualified. The expiration date of all terms shall be January 9. Vacancies shall be filled by the Mayor, with consent of the Council. Appointments to fill vacancies shall be for the unexpired term of office being filled. Appointments shall be made so that no more than one term of office shall expire in any year. Members shall not hold any other office in City government. Commissioners are limited to two full consecutive terms, with one term intervening before becoming eligible for reappointment. The Council may remove a member for cause by vote of two-thirds (2/3) of the members; however, before the Council may remove the member, written charges shall be made and a public hearing before the Council of such charges shall be afforded.

Composition

Composed of five (5) members, of which not more than three (3) members shall be of the same sex. Each member is prohibited from engaging in any activity which could result in conflict of interest.

Governed By

Resolution [R-219096](#) (PDF) 8-17-1977. Municipal Code Section [23.1601](#) (PDF) amended 4-14-59, Ord. O-8092. City Charter [Section 115](#) (PDF)

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