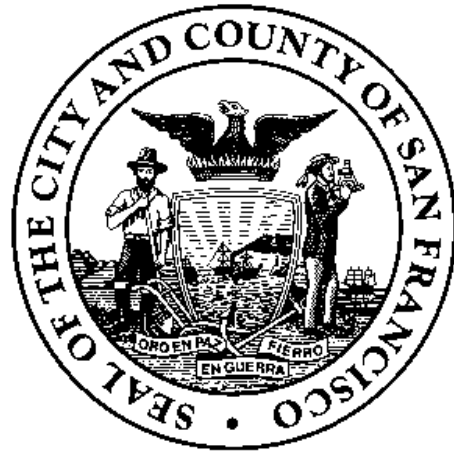




# APPEALS & STAFF REPORTS




MICHAEL BROWN, EXECUTIVE OFFICER  
CIVIL SERVICE COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO

# Role of the Commission

To serve as a check and balance mechanism in monitoring the status of the merit system by hearing appeals and resolving merit system issues in a public forum



# Purpose of the Procedures for Appeals



To provide a consistent and uniform framework to process appeals and requests for hearing before the Civil Service Commission



# General Instructions



# Appeal

A request to the Civil Service Commission to reconsider the decision made on a merit system issue by the:

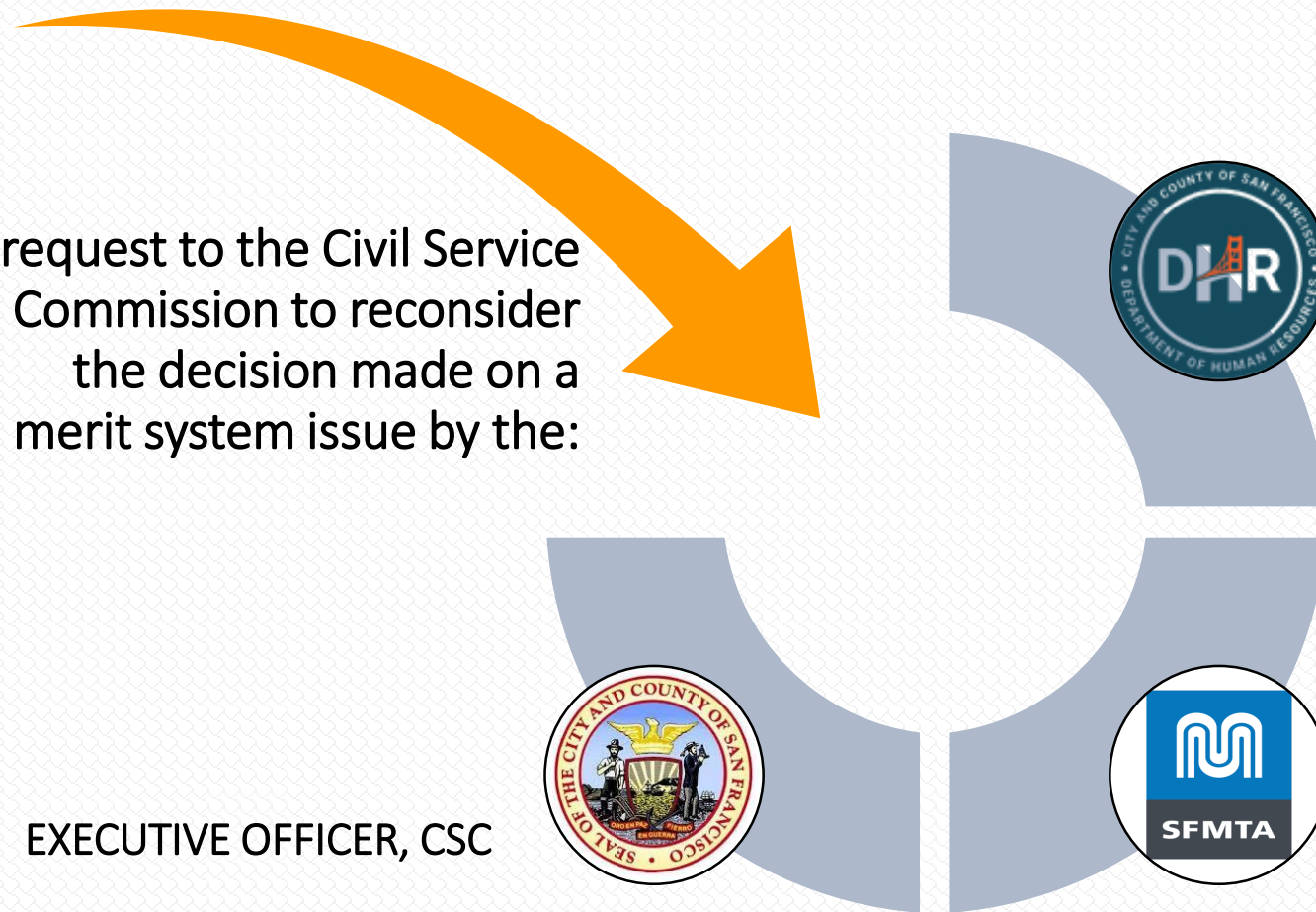
EXECUTIVE OFFICER, CSC



HUMAN RESOURCES DIRECTOR, DHR



DIRECTOR OF TRANSPORTATION, MTA



# Request for Hearing

A request to hear future employment restrictions following separation from the City made by the:

APPOINTING AUTHORITY/  
DEPARTMENT HEAD



HUMAN RESOURCES DIRECTOR, DHR



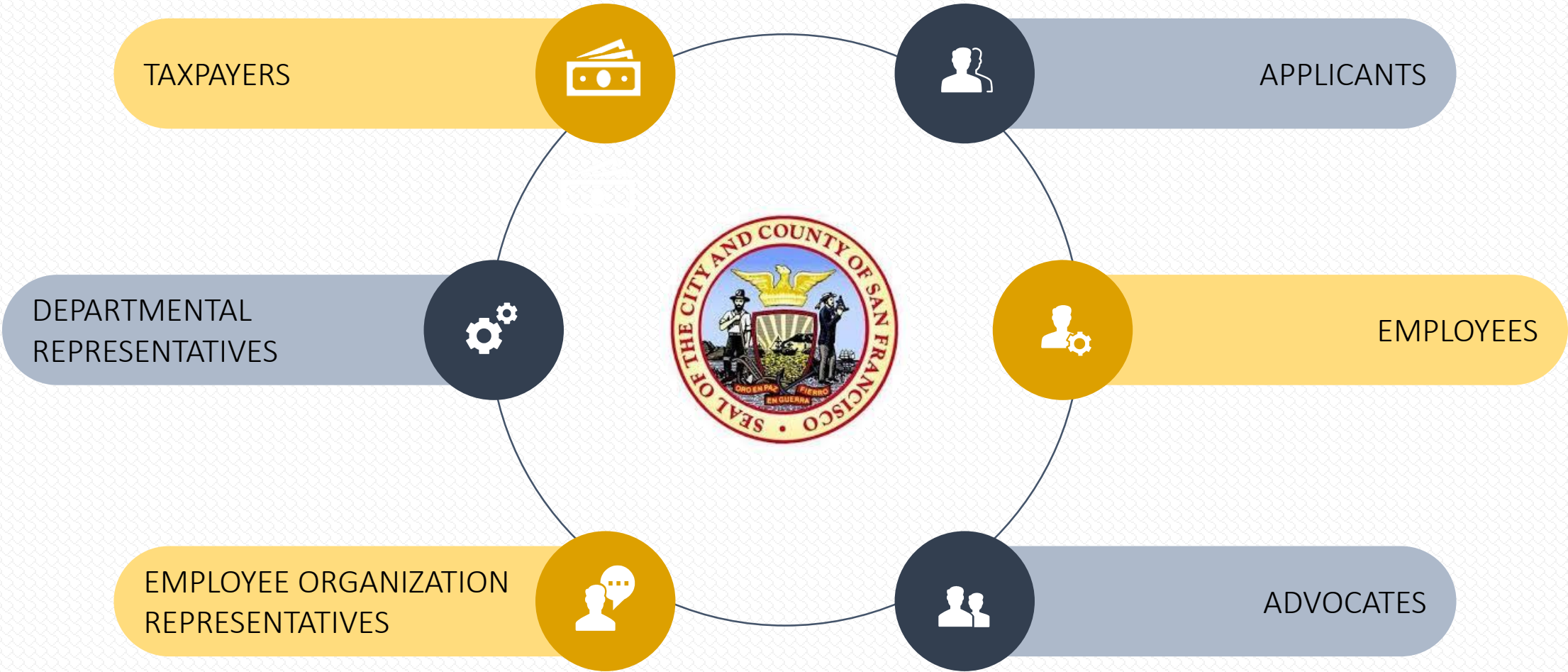
DIRECTOR OF TRANSPORTATION, MTA

# Appealable Matters

Unless the CSC Rules specify that the decisions of the Human Resources Director or Director of Transportation are final, matters under the jurisdiction of the CSC may be appealed to the Commission



# Who can file an Appeal?



OR ANY INTERESTED PARTY



# Appeals are distinguished from:

- A **protest** – is a complaint, filed on a posted/proposed action or examination matter, or a request for the first level of review. An administrative action/decision, may be appealed to the CSC.

- A **grievance** – is a mechanism to resolve issues covered by a collective bargaining agreement on “*non-merit system*” matters.

# Notice Requirements:

Instructions on how to file an Appeal/Request for Hearing and deadlines for filing must be included:

1

On public postings

2

In any correspondence to an affected individual, and when applicable, to their representative or advocate



# Deadline Calculation

## Calendar days vs. work days

1


When the Rules are silent, base the count on calendar days; the count starts from the day after postmarked mailing date (or email date)

2

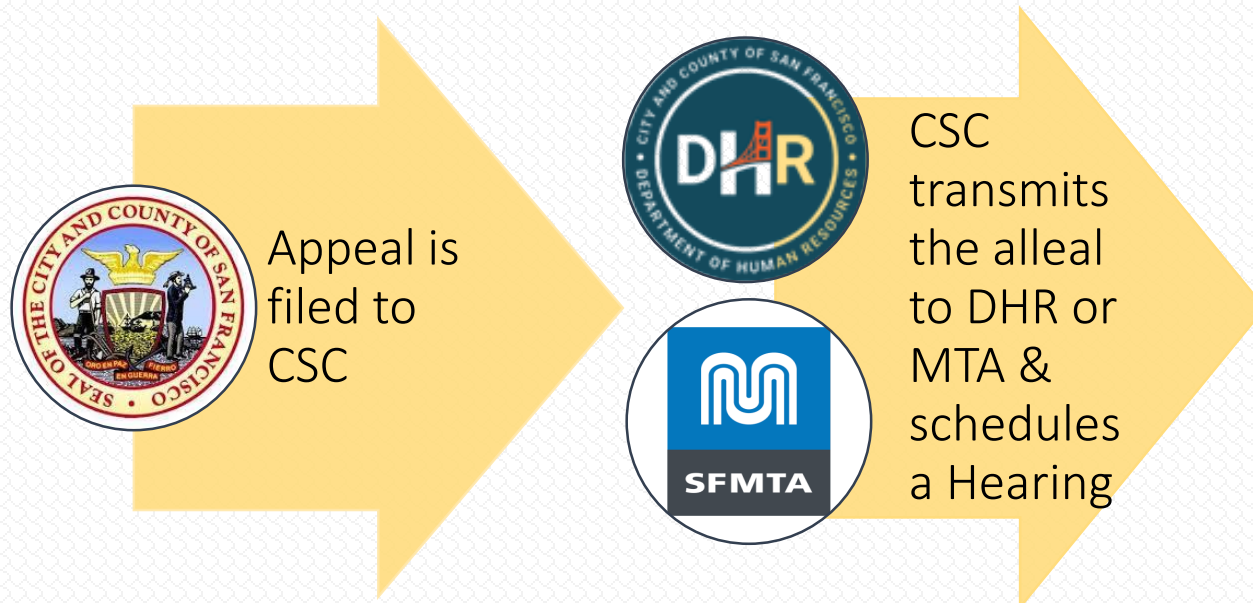
Work days: do not count weekends or holidays or any other day when the office is closed

3

In the event the final date for filing an appeal falls on a non-business day, the deadline is automatically extended to close of business on the first business day



# Appeal in progress



1. If it is untimely, warrants granting or changing an action taken, the case is closed
2. If it is timely and subject to the jurisdiction of CSC, a Staff Report is prepared & must be received by 11:00 am (2) two Thursdays before the Hearing

Examination, classification or hiring activities should not stop because an appeal is filed. It is expected that appeals be investigated & resolved within 60 days.

# Types of Appeals



EXAMINATION  
MATTERS



PERSONAL  
SERVICES  
CONTRACTS



CLASSIFICATION  
MATTERS



DISCRIMINATION  
COMPLAINTS



SEPARATION  
HEARINGS



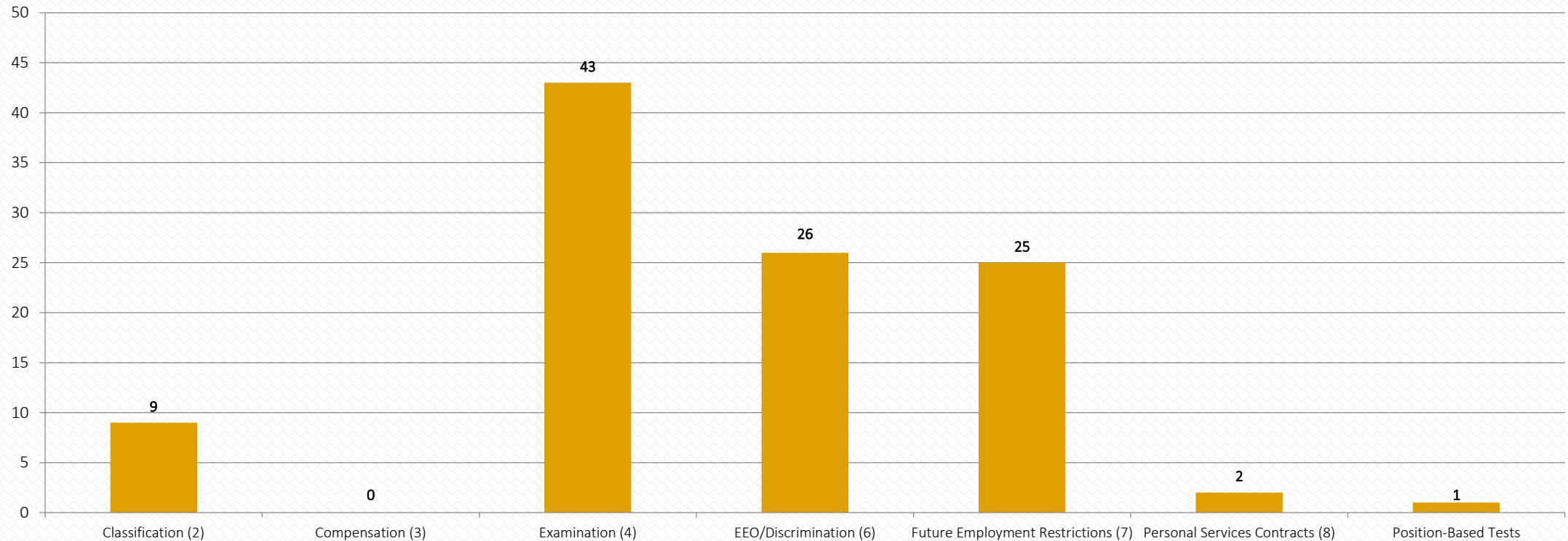
COMPENSATION  
MATTERS



OTHER  
MATTERS

# The Commission resolved **72 out 106** pending appeals before it in **FY 2017-2018**

Fiscal Year 2017-18  
Types of Appeals Received





EXAMINATION  
MATTERS

# Examination Matters

- ❖ Rejection of application or non-selection based on background investigation including criminal history may be appealed
- ❖ Appeals must be filed by close of business on the fifth (5<sup>th</sup>) business day (excluding Saturday, Sunday and holidays) following the postmarked mailing date of the notice; extension of five (5) days when notice sent exclusively by certified mail – return receipt requested



# Position-Based Testing (Volume I only)

Appeals must  
be filed  
within five (5)  
business days  
and may be  
filed:

1

After examination is announced

2

After examination is administered  
and prior to the posting of  
examination score report

3

After merging of the eligible lists  
in different classes



Civil Service Commission  
Regular Meeting  
February 4, 2019



PERSONAL  
SERVICES  
CONTRACTS

# Personal Services Contracts

CSC determines if the scope of work should be contracted out

PSC's not appealed during the posting period are placed on the CSC Ratification Agenda

PSC's under \$100,000 or a modification for less than 50% of original approved contract may be approved by DHR



Must be posted for seven (7) days.

Appeals to the CSC may be filed during the posting period

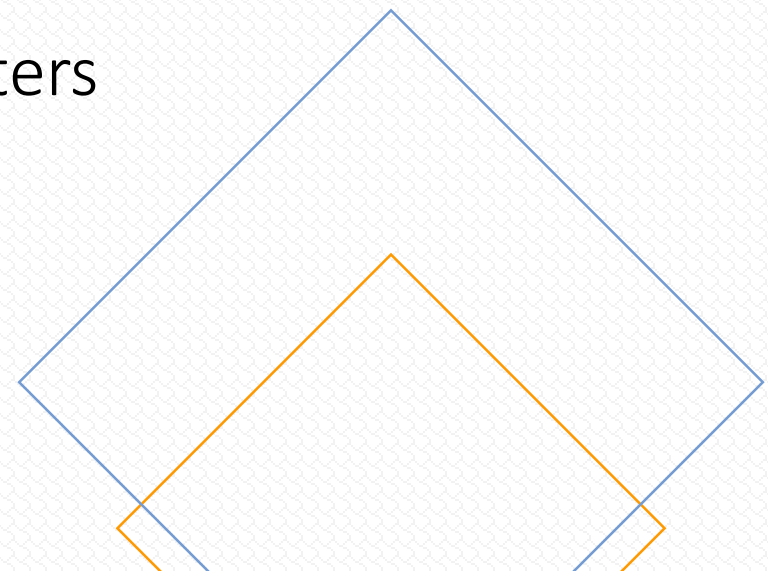
Union notification is generally thirty (30) days. SEIU Local 1021 is sixty (60) days. (Check the CBA for additional posting and notification requirements.)



CLASSIFICATION  
MATTERS

# Classification Matters

- ❖ Proposed classification actions are posted
- ❖ Protests filed are processed in accordance with CSC Rule Series 09 Position Classification and Related Matters (7 days)
- ❖ Appeals filed under CSC Rule Series 05-Other Matters (30 days)

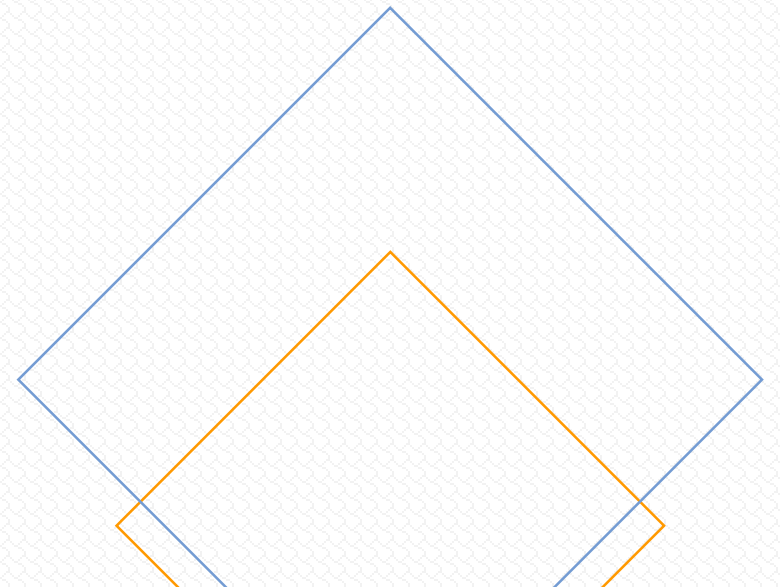




## DISCRIMINATION COMPLAINTS

# Discrimination Complaints

- ❖ Appeals may be filed in the Civil Service Commission office within thirty (30) calendar days of the postmarked mailing date of notification of the decision of the Human Resources Director to the complaining party



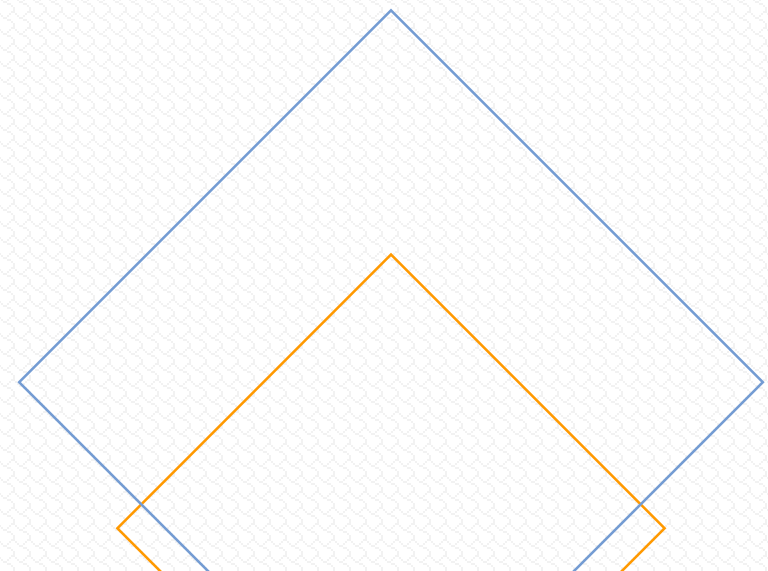




SEPARATION  
HEARINGS

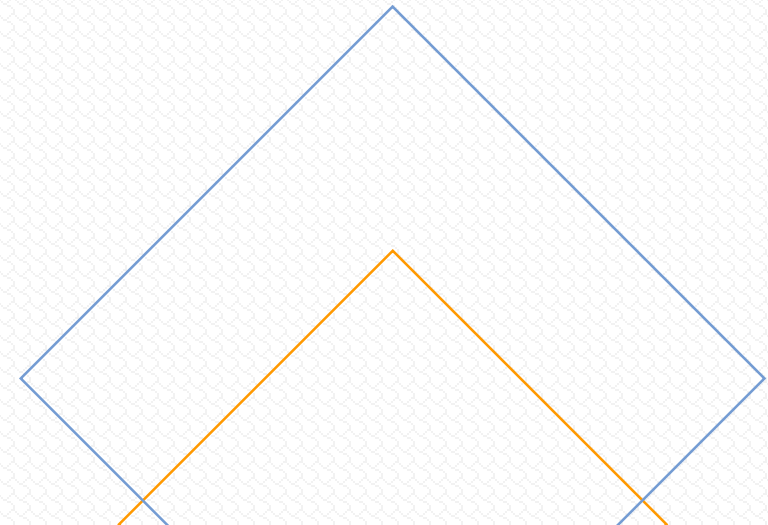
# Separation Hearings

- ❖ With some exceptions, limited to a determination of future employment with the City and County of San Francisco
- ❖ When no appeal filed, the DHR prepares a Notice of Final Administrative Action and enters the information into the PeopleSoft system on Employment Restrictions



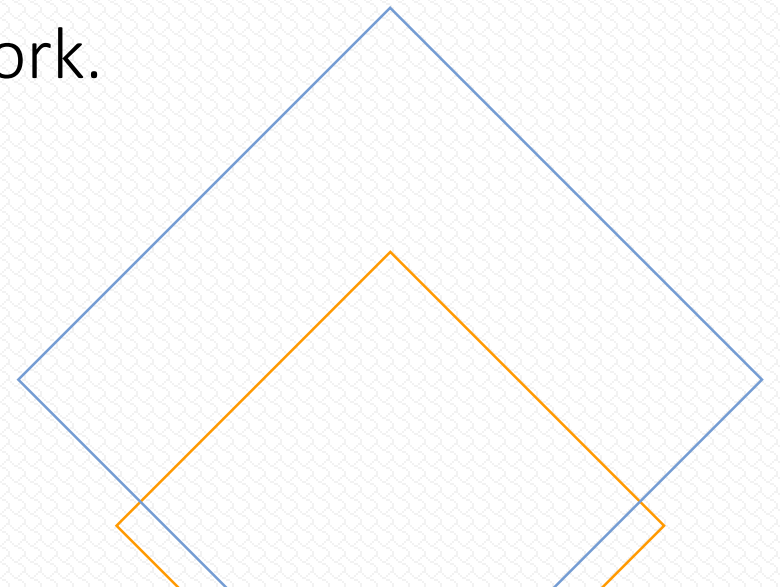
# Release/Termination/Dismissal

- ❖ Appeals may be filed within twenty (20) calendar days of the Notice on recommendations on future employment
- ❖ Generally applies to recommendations on future employment on disciplinary Release from Probationary Period, Termination from Temporary Civil Service appointment and dismissal or discharge from permanent civil service appointment



# Automatic Resignation

- ❖ CSC considers recommendations on future employment with the City and County when AR is covered under Collective Bargaining Agreement.
- ❖ CSC has full authority, if CBA is silent and the AR is covered under the Rules. CSC may return an appellant back to work.



# Automatic Resignation

- ❖ Absence from duty without proper authorization (AWOL) in excess of five (5) continuous working days.
- ❖ Notice of Intent and opportunity to respond must precede the filing of an automatic resignation.
- ❖ Appeal must be filed within fifteen (15) days of the Final Notice or mailing date of Notice of Termination, whichever is later.

# Resignation Services Unsatisfactory

- CSC only considers recommendations on future employment with the City and County; must be filed within 20 days

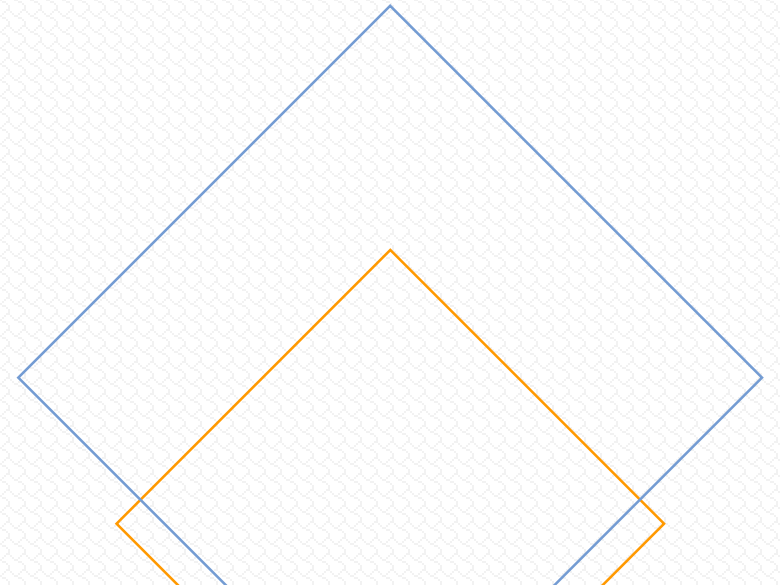
- Relative language may also be included in a Collective Bargaining Agreement (please check)



## COMPENSATION MATTERS

# Compensation Matters

- ❖ VERY LIMITED APPLICATION – i.e. creating and establishing a new classification compensation salary and range
- ❖ Appeals must be filed by close of business on the seventh (7th) business day following the postmarked mailing date of the notice to the appellant





# Final Action

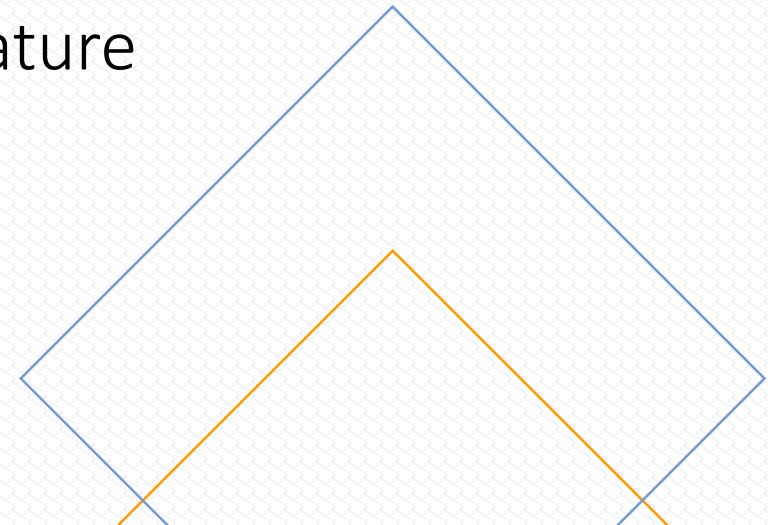


When no appeal is filed, the recommendation as approved by the Human Resources Director or Director of Transportation becomes final

Notice of Final Administrative Action is prepared and the information is entered into PeopleSoft \*

# Appeal Filed

- ❖ All appeals or requests for hearing must be filed in writing and signed by the appellant or authorized representative
- ❖ Must be received in the Civil Service Office within the deadline
- ❖ FAX appeal must be followed with an original signature
- ❖ Appeals may not be filed by Email



# Additional Information



# Appeal Received

- ❖ Recorded on the CSC Register of Communication
- ❖ Acknowledgment sent to the appellant
- ❖ Notice of receipt of appeal and tentative hearing date transmitted to the Human Resources Director or Director of Transportation
- ❖ Hearing target: **60 days** for all appeals

# Position-Based Testing Appeal Received

- ❖ Recorded on the CSC Register of Correspondence/Appeals
- ❖ Assigned to the next CSC Meeting
- ❖ Notice of Receipt of Appeal and Hearing Date emailed to the Human Resources Director/Director of Transportation and emailed/mailed to the appellant
- ❖ No rescheduling of hearings except due to extraordinary circumstances

# Action Request

Appeal or Request for Hearing is untimely

Appeal is granted, including administratively resolving the Appeal

Use CSC Form 13 to notify CSC Executive Officer that:

The matter is not within the CSC jurisdiction

There are other factors to be considered



# Executive Officer Action

Reviews request  
and attached documentation

May request additional information  
or take other action  
as deemed appropriate

CSC Executive Officer

Takes requested action,  
*if appropriate:*

- ✓ Close case
- ✓ Notify appellants
- ✓ Reschedule hearing
- ✓ Other

The CSC has final authority  
on Position-Based Testing appeals



# Pending Appeals Log (P.A.L.)

- ❖ Assists in the monitoring of processing appeals
- ❖ Reviewed by the CSC quarterly
- ❖ Issued within the first five working day of each month
- ❖ Includes a list of all active outstanding appeals and requests for hearing as of the last day of the previous month



# Requirements and Additional Information

- ❖ All matters coming before the Civil Service Commission shall be supported by a written staff report, except appeals on Position-Based Testing (although a report is highly recommended)
- ❖ Must be filed in the CSC office according to established deadlines
- ❖ The Commission will only review documents submitted by the deadlines

# Requirements and Additional Information

## The Sunshine Ordinance requires:

- agenda topics be written in clear, non-technical language - no abbreviations or acronyms
- and must be understandable to an average citizen

## Background rejections will not be accepted or calendared if:

- an appellant is automatically rejected under the terms of an announcement or
- when an applicant has not passed a psychological/medical examination

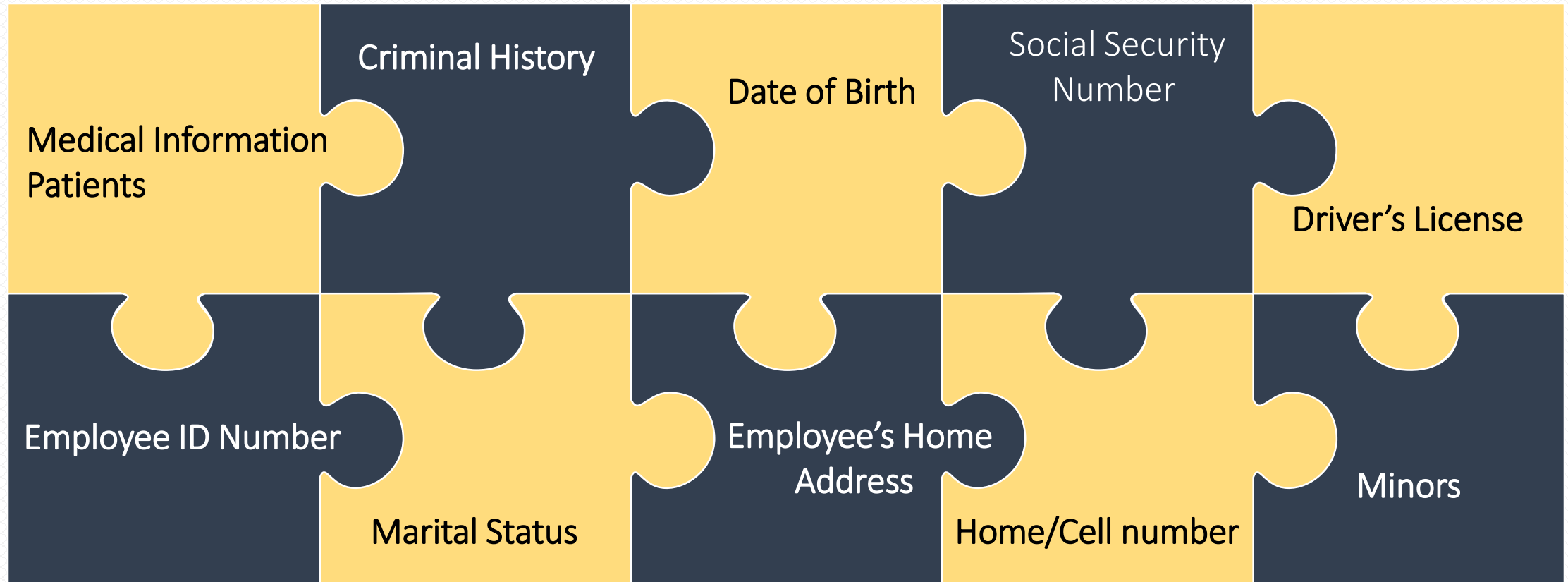
# Requirements and Additional Information

- Materials submitted to the CSC are subject to Brown Act and Sunshine Ordinance provisions

- Reports to the CSC are public and subject to public inspection and copying

# Redact Confidential Information

Questions should be directed to the City Attorney's Office



# Report Format

- CSC Form 22 must be completed and attached to a Staff Report

CSC Report  
Transmittal Form  
(CSC Form – 22)



- Contacts - Include names and addresses of all who must be aware of the CSC hearing on an attachment

List the persons  
to be notified



- Must be on letter size, white paper with hole punched on the left side for insertion in a 3-ring binder
- Do not staple

Staff Report



# Report Format

## ATTACHMENTS

- ❖ Number each page consecutively at the bottom center
- ❖ In chronological order with the oldest date on the bottom and the most recent on top
- ❖ Or, follow the order stated in the report
- ❖ Should include all letters to the appellant including the actual letter of appeal and other materials submitted by the appellant as well as relevant documents such as examination announcements when applicable

# Report Format



Submit the original and nine (9) copies  
with the transmittal to the HRD



The Executive Officer will add  
any material by the appellant  
in response to a Staff Report



Submit the original and nine (9)  
copies  
with the transmittal to the CSC

# Components of a Staff Report

All written reports must include proposed findings and a recommended action based on those findings

**1** Background

**2** Issue(s)

**3** Authority/Standards

**4** Findings

**5** Discussion/Analysis

**6** Conclusion

**7** Recommendation



# Components of a Staff Report

<b>1</b>	Background
<b>2</b>	Issue(s)
<b>3</b>	Authority/Standards
<b>4</b>	Findings
<b>5</b>	Discussion/Analysis
<b>6</b>	Conclusion
<b>7</b>	Recommendation

# Background

- ❖ One or two paragraphs – prepare a synopsis, stating why the action is before the CSC, and identifying the important issues
- ❖ Example: JWQ is appealing the examination announcement of the position of Painter (7346); JWQ claims that it is not reasonable to require four (4) years of experience for this position, when previously only three (3) years of experience had been required

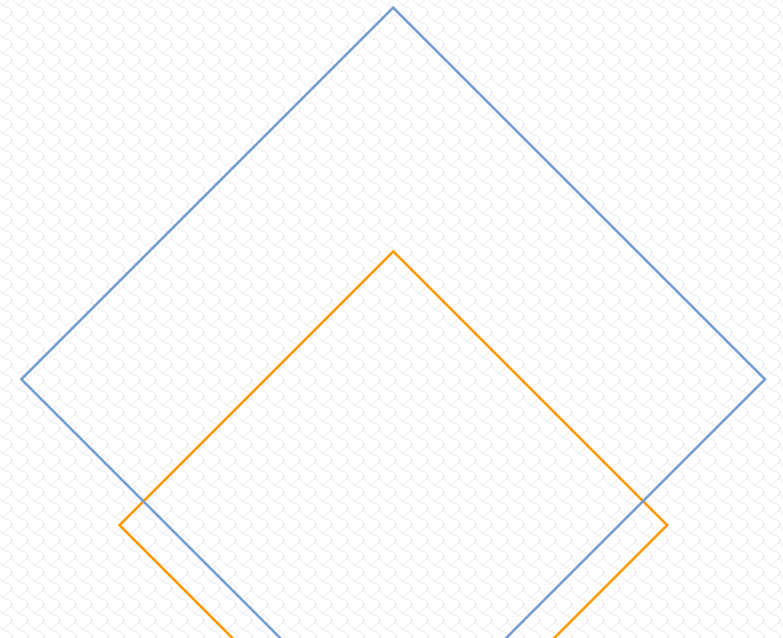


# Components of a Staff Report

1	Background
2	Issue(s)
3	Authority/Standards
4	Findings
5	Discussion/Analysis
6	Conclusion
7	Recommendation

# Issue(s)

- ❖ Identify an issue or issues to be addressed
- ❖ Example: Is it reasonable to require that a Painter (Job Code 7346) have four (4) years of experience?



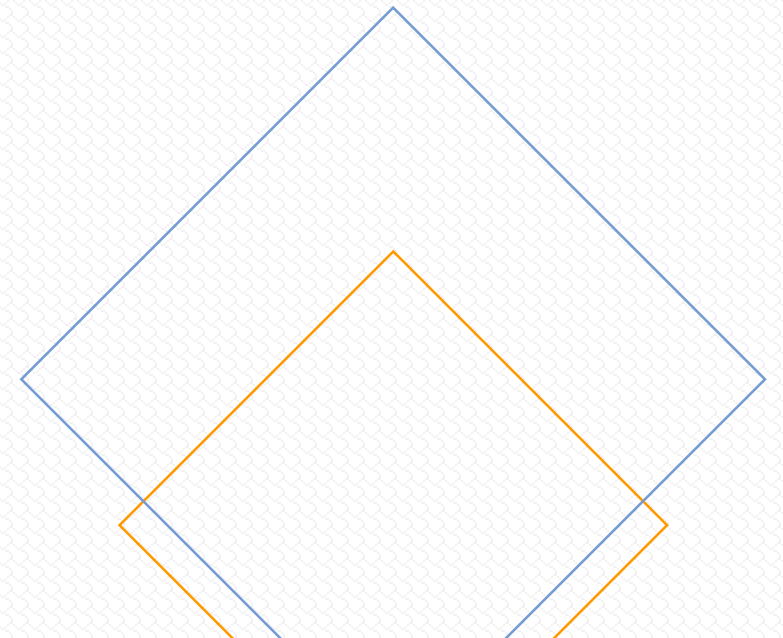
# Components of a Staff Report

1	Background
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<b>3</b>	Authority/Standards
4	Findings
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# Authority/Standards

Identify an appropriate standard or authority

- ❖ CSC Rule, Charter, San Francisco Administrative Code, Campaign and Government Code
- ❖ Federal or State Law
- ❖ City or Department Policy and/or Procedure
- ❖ Advice of the Experts
- ❖ Marketplace standards
- ❖ Other



# Components of a Staff Report

1	Background
2	Issue(s)
3	Authority/Standards
<b>4</b>	<b>Findings</b>
5	Discussion/Analysis
6	Conclusion
7	Recommendation

# Findings

- ❖ Bring together the facts of a case
- ❖ Example: The union contends that it is unfair to require four (4) years of experience for this position, because we have only required three (3) years in the past, and there is no reason for the change; the department contends that the work, being performed by these individuals, has become increasingly complex due to changes and upgrades in the City technology



# Components of a Staff Report

1	Background
2	Issue(s)
3	Authority/Standards
4	Findings
<b>5</b>	<b>Discussion/Analysis</b>
6	Conclusion
7	Recommendation

# Discussion/Analysis

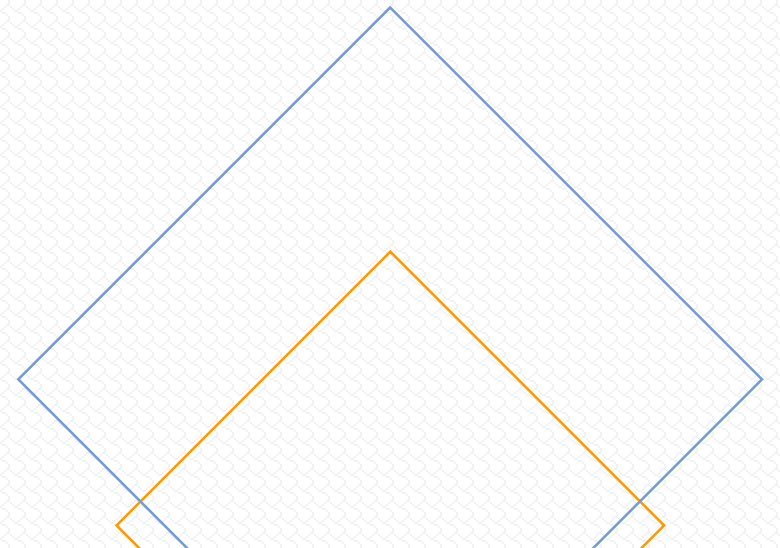
- ❖ Explain or discuss the findings, the standards leading to your conclusion and recommendation
- ❖ Example: Is the appeal timely? From 1968 to 1982, the City required that employees in this classification must have two (2) years of experience; this requirement changed because of changes in the law, technology and the marketplace; the City's requirements are job related and necessary to maintain a safe work environment

# Components of a Staff Report

1	Background
2	Issue(s)
3	Authority/Standards
4	Findings
5	Discussion/Analysis
6	Conclusion
7	Recommendation

# Conclusion

- ❖ Generally one or two paragraphs
- ❖ Ties the elements of a Report together
- ❖ Provides a bridge to your recommendation to the Civil Service Commission

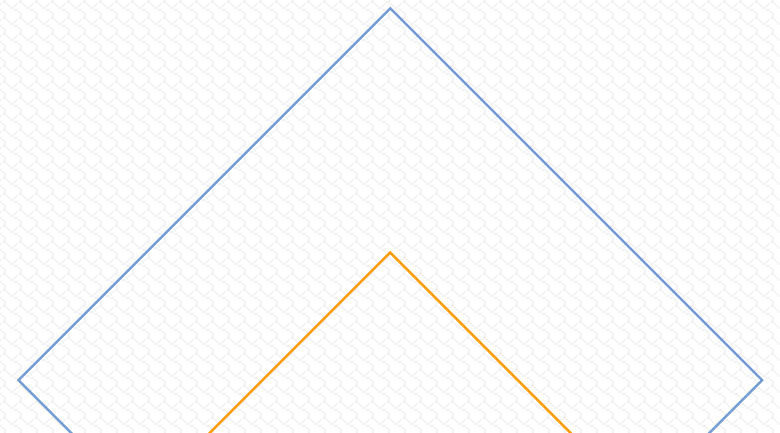


# Components of a Staff Report

1	Background
2	Issue(s)
3	Authority/Standards
4	Findings
5	Discussion/Analysis
6	Conclusion
7	Recommendation

# Recommendation

- ❖ Must reflect the action, staff is requesting of the Civil Service Commission
- ❖ Used by the Commission staff in preparing the Agenda
- ❖ Example: Uphold the Human Resources Director's decision; deny the appeal of JWQ



# Operation of the Civil Service Commission Meeting

- ❖ Robert's Rules of Order
- ❖ Quorum: 3 votes to prevail
- ❖ Requirement to Vote: Tie Vote
- ❖ Role of President, Vice-President, Commissioners, Executive Officer, Human Resources Director, Legal Counsel

# Commission Meeting Order

- ❖ Roll Call
- ❖ Public Comment on Matters not on the Agenda
- ❖ Approval of Minutes/Announcements
- ❖ Reports from the Human Resources Director and Executive Officer
- ❖ Ratification Agenda
- ❖ Consent Calendar – 5 minutes each side
- ❖ Regular Calendar – 5 minutes each side
- ❖ Separations Hearings – 10 minutes each side
- ❖ Commissioner Announcements and Requests
- ❖ Adjournment





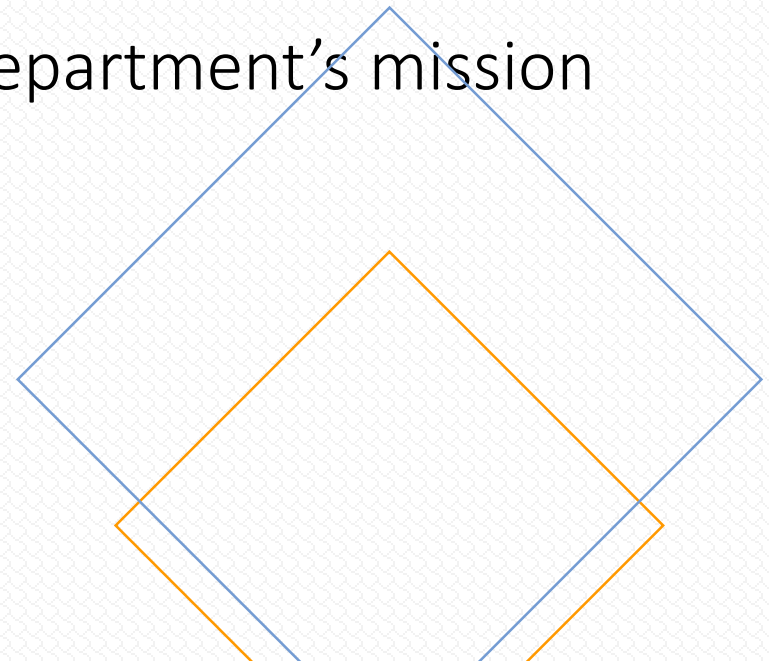
# Presentation

- ❖ State and spell your name
- ❖ Identify your position and the department you are representing
- ❖ Dress in normal business attire; Uniformed Ranks of Police and Fire should be in uniform
- ❖ State the reason why you are coming before the Civil Service Commission
- ❖ In clear and concise terms articulate the important background points of an Appeal in your response



# Presentation

- ❖ Present key elements for the decision
- ❖ Presentation should Respond to the appellants' concerns
- ❖ When relevant, tie your response to the department's mission
- ❖ Be prepared to respond to CSC questions



# Strategy

- ❖ Know your role as the advocate
- ❖ Be aware if a full Commission is not present
- ❖ Know when to compromise
- ❖ When a motion is in process refrain from additional comments
- ❖ Other Considerations?





# The Action of the Commission

- ❖ CSC may uphold, modify or reject the recommendation on a Staff Report
- ❖ Notice of Action mailed and Minutes posted on the Web
- ❖ Future Employment Restrictions recorded
- ❖ The decision of the CSC is final and has the force and effect of law

# THANK YOU



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WEBSITE: [WWW.SFGOV.ORG/CIVILSERVICE/ABOUT-US](http://WWW.SFGOV.ORG/CIVILSERVICE/ABOUT-US)

