

MINUTES

METROPOLITAN CIVIL SERVICE COMMISSION

PUBLIC HEARING FOR CONSIDERATION OF CIVIL SERVICE RULE CHANGE

DECEMBER 9, 2014

The Metropolitan Civil Service Commission met for a Public Hearing on December 9, 2014 in the Howard Office Building – Sonny West Room, Nashville, Tennessee, at approximately 8:50 a.m.

Commission Members present: Chairman William H. Farmer, Vice-Chairman R. Steve Corbitt, C. Michael Allen, D. Billye Sanders and Jo Ann North

Other Members present: Ms. Veronica T. Frazier, Director of Human Resources – Secretary to the Commission and Ms. Nicki Eke, Metro Legal Department – Attorney to the Commission

Chairman Farmer began the meeting by stating the proposed Civil Service Rule change was open for discussion. Mr. Stephen Cain and Ms. Jamie Summers were present before the Commission to review and discuss changes to the rules. Mr. Cain began by giving an overview of those revisions introduced at the last Civil Service regular meeting.

RULE CHANGE – 4.8 – In Line of Duty Injury Leave

Section 4 - (D) “Period of Compensation”

Current

If, after exhausting all six (6) months of compensation, an employee has returned to work, and in a calendar year subsequent to the year the employee exhausted his six (6) months of compensation, the employee requires surgery for the same or recurring injury, the employee shall receive up to six (6) weeks additional compensation per calendar year for the purpose of having surgery performed and recovery from surgery. This additional leave/light duty shall be available in any subsequent calendar year following the year the initial six (6) months of compensation was exhausted, so long as the employee is actively at work for the Metropolitan Government.

Proposed

If after exhausting all six (6) months of compensation, an employee has returned to work, and the physician approves surgery for the same injury, the employee shall receive up to six (6) weeks additional compensation per calendar year for the purpose of having surgery performed and rehabilitation from this surgery. This additional leave/light duty shall be available so long as the employee is actively at work for the Metropolitan Government.

Mr. Cain explained the following:

The proposed rule change to the Injury On Duty pay, after the initial two weeks at one hundred percent, would be raised from seventy-five percent to ninety percent and removing the catastrophic pay option.

In October 2013, the Commission approved the IOD rule change where employees who were receiving one hundred percent Injury On Duty pay for the first two weeks would see a reduction to seventy-five percent if the catastrophic committee deemed the injury non-catastrophic. If it was considered catastrophic, then the employee would receive 100% pay.

Prior to the 2013 IOD program rule changes and after reviewing and discussing the IOD program with several departments, it was recognized that employees were receiving IOD pay at 100% with no federal income tax deduction, therefore creating a situation where the employee's net pay was greater while on injury leave. Departments agreed that there lacked an incentive to encourage employees to return to work.

After the 2013 rule changes, there was a noticeable change in the IOD program statistics. Injury rates dropped, the number of IOD days used per injury were cut in half and the IOD pay was cut in half. However, some employees found themselves with significant net pay decreases, which jeopardized their ability to pay home and family bills.

The intent now is to move the seventy-five percent up to ninety percent pay. So, the first two weeks would remain at one hundred percent, then after the initial two week period, the percentage would only drop to ninety percent pay, without an option for Catastrophic pay

RULE CHANGE – 4.8 – In Line of Duty Injury Leave

Section 5 - (E) "Compensation Received"

Current

For the first two weeks that an employee cannot return to regular duty due to an approved injury on duty, he shall be entitled to receive 100% of his pay. He will continue at 100% until a determination has been reached by the Catastrophic Injury Committee that said injury is not catastrophic. Upon determining that the injury is not catastrophic, the employee shall be entitled to receive 75% of his pay thereafter as established by the Pay Plan during the remainder of his IOD leave, subject to all other provisions as set out herein.

If the Catastrophic Injury Committee determines that an injury is catastrophic, the employee shall continue to receive 100% of his pay for IOD until he recovers sufficiently to perform light duty or goes out on a disability pension.

Employees working light duty shall receive 100% of their pay.

Section 4.8 (i) Living Wage

In no event will injury leave reduce an employee's compensation below the established living wage.

Current**Section 4.8 (ii) Catastrophic Injury Committee Review**

All injuries on duty that require or are expected to require leave for more than two (2) weeks shall be reviewed by the Catastrophic Injury Committee no later than one (1) month after occurrence, unless the employee has returned to work sooner or begun pension. The Occupational Safety Administrator for the Human Resources Department will regularly schedule and convene meetings of the Catastrophic Injury Committee.

The Committee shall notify the employee in writing of its determination within five (5) calendar days of its review. A copy of the determination shall be provided to the Human Resources Director.

Mr. Cain said another recommended change is to allow departments to cease IOD pay if an employee refuses an offer of light duty. Currently, in some situations, employees that are capable of performing light duty, as documented by the employee's physician, have refused light duty offers by their department. In the absence of a rule to allow the operating department to bring an employee back to work in such situations, the employee who is capable of light duty work could choose to remain off work and continue to receiving IOD pay.

Current**Section 4.8 (iii) Appeals**

If an employee disagrees with the decision of the Catastrophic Injury Committee, the employee or his representative shall have five (5) calendar days after the Committee's determination to appeal directly to the Human Resources Director. The Human Resources Director's decision shall be based on a review of the record. The Human Resources Director will notify the employee of her decision in writing within five (5) calendar days.

If the employee is not satisfied with the Human Resources Director's decision, the employee or his representative may file an appeal. The appeal must be in writing to the Human Resources Director within ten (10) calendar days following receipt of the HR Director's decision. The Civil Service Commission shall review the appeal de novo at its regularly scheduled monthly meeting.

An appeal of the Catastrophic Injury Committee's decision to either the Human Resources Director or the Civil Service Commission shall not stay the imposition of the reduced salary in accordance with Civil Service Policy 4.8 – Catastrophic . If the employee prevails on appeal, back pay will be awarded accordingly.

Proposed

For the first two weeks that an employee cannot return to regular duty due to an approved injury on duty, shall be entitled to receive 100% of his pay. After exhausting two weeks of IOD pay, the employee shall be entitled to receive 90% of his pay thereafter as established by the Pay Plan during the remainder of his IOD leave, subject to all other provisions as set out herein.

Employees working light duty shall receive 100% of their pay.

If the employee is released by the physician to perform light duty work and the employee refuses an offer of light duty by his department, the department shall cease paid IOD leave. If no light duty work is offered by the department, the employee will continue to receive paid IOD leave in accordance to Civil Service Rule 4.8.

In no event will injury leave reduce an employee's compensation below the established living wage

RULE CHANGE – 4.10 – Administrative Leave with Pay

Current

Absence with pay for administrative purposes may be granted by the Appointing Authority only when other paid leave is not appropriate. This leave will not exceed five working days per calendar year unless approved by the Civil Service Commission. The five working day limit can be extended by the Appointing Authority to ten (10) working days when the employee is on Administrative Leave with Pay pending a disciplinary hearing.

Proposed

Absence with pay for administrative purposes may be granted by the Appointing Authority only when other paid leave is not appropriate. This leave will not exceed five working days per calendar year unless approved by the Civil Service Commission. The five working day limit can be extended by the Appointing Authority to 20 working days when the employee is on Administrative Leave with pay pending a disciplinary action. If the time limit reaches 20 days the appointing authority can request to the Human Resources Director for approval of up to an additional 25 days to complete the process. This request must contain justification for the additional time. Any time needed over the 45 day limit must seek approval from the Civil Service Commission.

Ms. Summers said if an employee is under investigation or disciplined the department has ten (10) days to investigate the issue while the employee is on administrative leave. It has been found that a proper investigation cannot always be done within the ten (10) day period. The change would be to increase the days up to twenty (20) days at the discretion of the Department Head. If there is a need for additional days, then it would have to go before the Director of Human Resources for approval. Anything over forty-five days would have to come before the Commission for approval.

Section 5.7 Special Pay Provisions

(D) Work Hours / Overtime and / or Compensatory Time

Current

Computation of overtime and/or compensatory time shall be based on time worked in excess of 40 hours in a designated work period. Computation of overtime and/or compensatory time shall be based on time worked in excess of 171 hours in a continuous twenty-eight day period or a corresponding amount of time as stated in the FLSA regulations for security personnel in correctional institutions. Time scheduled as vacation, holiday, jury duty, and injured in line-of-duty during a designated work period shall be construed for purposes of calculating overtime or compensatory time as time actually worked.

Proposed

Computation of overtime and or compensatory time shall be based on time worked in excess of 40 hours in a designated work period, unless otherwise specified in these Civil Service Rules. Time scheduled as vacation, holiday, jury duty, and injured in line-of-duty during a designated work period shall be construed for purposes of calculating overtime or compensatory time as time actually worked.

Section 7.9 – Work Schedule (4.1)

Current

The standard work schedule for sworn officers is based on 170 hours in a continuous twenty-eight (28) day period or a corresponding amount of time as stated in the FLSA regulations.

Proposed

The standard work schedule for non-exempt police employees engaged in law enforcement activities, as those positions are defined under the FLSA, is based on 170 hours in a continuous twenty-eight (28) day period or a corresponding amount of time as stated in the FLSA regulations. Overtime is paid for all hours worked (as the Civil Service Rules define time worked) in excess of the total number of hours in the standard work schedule.

Section 8.10 – Work Schedule (4.1)

Current

The standard work schedule for those Fire Suppression Employees who are on a 24-48 hour shift shall be based on a maximum of two-hundred and four (204) non-overtime hours worked in a twenty-seven day work period or a corresponding amount of time as stated in the FLSA regulations.

Proposed – Work Schedule and Overtime (4.1 & 5.7)

*The standard work schedule for non-exempt Fire Department employees engaged in firefighting, as those positions are defined under FLSA, who are on a 24-to 48 hour shift shall be based on a maximum of 204 hours worked in a 27 day work period or a corresponding amount of time as stated in the FLSA regulations. Overtime is paid for all hours worked (as the Civil Service Rules define time worked) in excess of the total number of hours in the standard work schedule.
To include a section on overtime in the Sheriff's chapter of the Civil Service rules.*

Proposed – Section 9.6 - Work Schedule and Overtime (4.1& 5.7)

The standard work schedule for non-exempt Sheriff's office employees responsible for controlling and maintaining custody of inmates or supervising those functions, as those positions are defined under the FLSA, is based on 171 hours in a continuous twenty-eight (28) day period or a corresponding amount of time as stated in the FLSA regulations. Overtime is paid for all hours worked (as the Civil Service Rules define time worked) in excess of the total number of hours in the standard work schedule.

Ms. Summers said the changes in these sections are to clarify the overtime provisions set under Civil Service rule 5.7; 7.9; 8.10 and to add the provision of overtime under section 9.6. This is for clean up and clarification.

The Public Hearing proposals were properly posted within Metro. Employees and Unions were at the meeting to hear the proposals and to make comments.

The following people came before the commission to speak on the proposed revisions to the rule.

- Mark Young, Union Rep. for Nashville Firefighters Assoc. - iaff140

With no additional questions raised by the Commission or comments from the public, the meeting adjourned at 9:39a.m.

ATTEST:

APPROVED:

***Ms. Veronica T. Frazier, Director
Human Resources Department
Secretary to Civil Service Commission***

***William H. Farmer, Chairman
Civil Service Commission***