

Article 2: Administrative Code

Division 10: Personnel

§22.1001 Acting Officers

Whenever any office or position in the administrative service under his control is vacant, or whenever the incumbent of any such office or position is unable to perform the duties thereof, by reason of absence or disability, the City Manager, except as otherwise provided by ordinance, may designate some other officer or employee to perform the duties thereof in an acting capacity. But when such designation is made by reason of a vacancy in the Classified Service, it shall be subject to the same time limitation as applies to temporary appointments.

(“Acting Officers” added 6-28-1933 by O-258 N.S.)

§22.1002 Acting Officers — Additional Compensation

A person temporarily performing the duties of an office or position in an acting capacity may receive additional compensation beyond that received in the position regularly held by such person, at a rate not less than the minimum, nor more than the maximum, which a regularly appointed incumbent is entitled to receive. Payment of such additional compensation to classified personnel must be approved by the Civil Service Commission.

(Amended 12-18-1969 by O-10202 N.S.)

§22.1003 Titles

Whenever in the ordinances of the City it is provided that anything shall be done or may be done by an officer designated by a title which no longer exists as used therein, the authority or duty to do such thing shall rest upon such officer as may be designated by ordinance, or by order of the City Manager as successor in such duty or authority of the officer originally referred to.

(“Titles” added 6-28-1933 by O-258 N.S.)

§22.1004 Performance by Deputies

Whenever in this code it is made the duty of any officer of the City to do any certain thing, the doing of such thing under his direction or supervision or with his authority by a deputy or other subordinate shall be deemed to be the doing of such thing by him, except in such matters as by law or by the nature of the duty must be done by such officer in person; provided that this section shall not be construed to bind the City in any transaction involving the payment or receipt of moneys or of physical properties, unless the transaction in relation thereto by any subordinate was within the express authorization given to such subordinate.

(“Performance by Deputies” added 6-28-1933 by O-258 N.S.)

§22.1005 Divided Service

In case the services of any officer or employee are divided among activities of the City which are carried on from separate funds or separate appropriation accounts, the salary or compensation of such officer or employee shall be prorated and charged to such several funds and accounts on the basis of time chargeable to each several activities, or on such other basis as may be fixed by ordinance or appropriation.

(“Divided Service” added 6-28-1933 by O-258 N.S.)

§22.1006 Leaves of Absence — Unclassified Service

Employees and officers of the Unclassified Service of the City of San Diego shall have the same rights and benefits relative to leaves of absence as are provided for the Classified Service under the provisions of Chapter 2, Article 3, Division 11 of this Code, except that, effective May 23, 2010, unrepresented employees in the Unclassified Service and, effective July 1, 2011, employees represented by the Deputy City Attorneys Association shall not be eligible for terminal annual leave upon termination of City employment for any reason.

(“Leave of Absence — Unclassified Service” added 1-13-1959 by O-8039 N.S.)

(Amended 4-23-2010 by O-19945 N.S.; effective 5-23-2010.)

(Amended 6-2-2011 by O-20057 N.S.; effective 7-2-2011.)

§22.1007 Purpose and Intent

The purpose of amending Division 10, Article 2, Chapter 2 of the San Diego Municipal Code is to provide for increased efficiency of governmental operation in the City of San Diego by establishing a Suggestion Awards Program. The City has as its objective the constant stimulation of imaginative and inventive thinking throughout all City departments so as to discover all possible areas for improvement in all aspects of municipal activities and to generate and implement practical suggestions and solutions from as many employees as possible.

(“Purpose and Intent” added 11-27-1962 by O-8758 N.S.)

§22.1008 Suggestion Awards Program Established

There is hereby established a Suggestion Awards Program for officers and employees of the City. This Suggestion Awards Program shall be administered in accordance with the provisions of this ordinance.

(“Suggestion Awards Program Established” added 11-27-1962 by O-8758 N.S.)

§22.1009 Definitions

Whenever in this ordinance the following terms are used, they shall have the meaning respectively ascribed to them in this section unless otherwise apparent in the context.

- (a) “Committee” means the Suggestion Awards Committee.
- (b) “Council” means the Council of The City of San Diego.
- (c) “Net Increase in Revenue” means the estimated first year net increase in revenue production from a specific source resulting from the adoption and placing into effect of a suggestion, determined as provided herein and approved by the Council. In estimating the net increase in revenue, the cost of placing the suggestion in effect shall be amortized over a reasonable period of time.
- (d) “Net Saving” means the estimated first year net cost reduction resulting from the adoption and placing into effect of a suggestion, determined as provided herein and approved by the Council. In computing net cost reduction, the cost of placing the suggestion in effect shall be amortized over a reasonable period of time.

- (e) “Suggestion” means a written proposal by an employee of the City that clearly suggests to the administration of the City a device or method to do any job, system, or procedure better, quicker, easier, safer and/or at less cost; to handle additional workload with the same staff and/or equipment, or to produce a more efficient operation with better control.
- (f) “Coordinator” means Suggestion Awards Coordinator.
(“Definitions” added 11-27-1962 by O-8758 N.S.)

§22.1010 Suggestion Awards Committee

There is hereby established a Suggestion Awards Committee to be composed of nine (9) members selected and appointed as follows:

- (a) The City Manager or his alternate.
- (b) Four (4) department directors or their alternates appointed by the City Manager.
- (c) One representative each of AFL-CIO Local 145 — International Fire Fighters Association, AFL-CIO Local 127 — American Federation of State, County and Municipal Employees, San Diego Police Officers Association, and Municipal Employees Association.

(Amended 8-2-1982 by O-15788 N.S.)

§22.1011 Term of Office

The term of office for Committee members other than the City Manager, or his/her alternate, shall not exceed one year; provided, however, that such member may serve for more than one term.

(Amended 8-2-1982 by O-15788 N.S.)

§22.1012 Suggestion Awards Coordinator

There shall be a full-time executive secretary to the Committee known as the Suggestion Awards Coordinator, appointed by the City Manager, who shall be subject to the policy direction of the Committee and to the daily administrative supervision of the appointing authority.

(Amended 8-2-1982 by O-15788 N.S.)

§22.1013 Quorum

Any five (5) members of the Committee shall constitute a quorum.
(Amended 8-2-1982 by O-15788 N.S.)

§22.1014 Committee Voting

Each member of the Committee shall have one vote, and at least five (5) affirmative votes of the Committee shall be necessary to pass any matter requiring Committee action.

(Amended 8-2-1982 by O-15788 N.S.)

§22.1015 Conduct of Business

The Committee shall adopt rules governing the conduct of the Committee's business, provided such rules are not in conflict with this Ordinance, the City Charter, or other Ordinances of this City.

("Conduct of Business" added 11-27-1962 by O-8758 N.S.)

§22.1016 Suggestions Eligible for Awards

All suggestions must either be submitted prior to implementation or within sixty (60) days after implementation date.

All suggestions submitted by employees of the City are eligible for an award with the following exceptions:

- (a) Suggestions concerning items contained in a Memorandum of Understanding.
- (b) Suggestions concerning compensation and benefits.
- (c) Requests for standard items.
- (d) Solutions to problems that fall within the specific scope of an officially assigned task or responsibility.
- (e) Ideas which duplicate previous suggestions.
- (f) Ideas that were already under active and continuous consideration prior to the receipt of the suggestion.
- (g) Increases in fees or charges.
- (h) Ideas that are the result of a problem-solving group formed by management.

Any eligible employee submitting a suggestion which is not placed into effect shall retain award eligibility for three years from the date of Committee action. Once the three-year period has elapsed, no obligation exists to award the suggestion, unless the eligible employee resubmits the suggestion in accordance with Committee rules.

Any eligible employee submitting a suggestion which is placed into effect shall not lose his or her eligibility for an award by reason of termination of employment or by becoming ineligible subsequent to submission of the suggestion.

(Amended 12-5-1983 by O-16087 N.S.)

§22.1017 Awards

Upon a finding by the Committee that a net savings or net increase in revenue will accrue to the City through adopting and placing the suggestion into operation, the Committee may recommend to the Council that an award be made appropriate to the category of eligibility of the suggester. Three categories of eligibility are established, as follows:

- (a) Category I: Employees who are expected to develop cost savings ideas in all areas of City operations as a natural extension of their normal job duties. Category I employees shall be eligible for a recognition award.
- (b) Category II: Employees who are expected to develop cost savings ideas within their area of professional expertise and career development. Category II employees shall be eligible for an award not to exceed \$1,000 or ten percent (10%) of the estimated first year's net savings or net increase in revenue, whichever is less.
- (c) Category III: Employees who are not normally expected to develop cost savings ideas outside the area of their specific job assignment. Category III employees shall be eligible for an award not to exceed \$5,000 or thirty percent (30%) of the estimated first year's net savings or net increase in revenue, whichever is less.

The City Manager shall determine the Category of Eligibility for each job classification, and shall publish and distribute this information for guidance of all employees.

Where the Committee finds that it is impracticable or uneconomical to estimate the amount of such savings or increase in revenue, the Committee may nevertheless recommend that the Category I suggester receive a recognition award, the Category II suggester be paid a monetary award not to exceed \$50, and the Category III suggester be paid a monetary award not to exceed \$500 for any one suggestion.

Where the Committee finds that the suggestion cannot be adopted or placed in operation but that the suggestion has led directly to the adoption of improvement or changes that result in a savings or increase in revenue to the City, the Committee may recommend to the Council that the Category I suggester receive a recognition award, the Category II suggester be paid a monetary award not to exceed \$50, and the Category III suggester be paid a monetary award not to exceed \$500 for any one suggestion.

At the end of the first twelve (12) months following the granting of any monetary award of less than \$5,000 to a Category III employee, or any monetary award of less than \$1,000 to a Category II employee, the Committee shall reinvestigate such suggestion and shall determine or estimate the extent to which said suggestion has resulted in a net savings or a net increase in revenue to the City.

For a Category III employee, if the Committee concludes that a net savings or net increase in revenue for such twelve– month period has been realized and that the previous award was less than thirty percent (30%) of such savings, then the Committee may recommend that the suggester be paid an additional award not to exceed thirty percent (30%) of the difference between the original award and the reevaluated first year’s net savings or net increase in revenue. For a Category II employee, if the Committee concludes that a net savings or net increase in revenue for such twelve–month period has been realized and that the value of the previous award was less than ten percent (10%) of such savings, then the Committee may recommend that the suggester be paid an additional award not to exceed ten percent (10%) of the difference between the original award and the reevaluated first year’s net savings or net increase in revenue. In no event, however, shall the aggregate total monetary award for any one Category III suggestion exceed \$5,000 or the aggregate total monetary award for any one Category II suggestion exceed \$1,000.

(Amended 12-5-1983 by O-16087 N.S.)

§22.1018 Council Approval of Awards

Upon receiving a recommendation from the Committee, the Council shall consider the recommendation and may approve it. Upon approval by the Council of a recommendation of the Committee, the award shall be made.

(Amended 8-2-1982 by O-15788 N.S.)

§22.1019 Industrial Leave

- (a) Industrial Leave Intent and Definition. The intent of this section is to provide industrial leave benefits to employees who are temporarily and totally disabled from performing productive City work by reason of injury or illness, arising out of or in the course of their employment, while properly performing the duties of their classification.
- (b) Eligibility for Industrial Leave: Employees shall be eligible for industrial leave benefits subject to the provisions promulgated by the City Manager.
- (c) Industrial Leave Benefits: The industrial leave benefit shall be the employee's normal compensation less current deductions for state and federal tax withholdings.
- (d) Duration of Industrial Leave: An employee's maximum industrial leave benefit shall not exceed the number of hours equivalent to the employee's work year for each injury, including any recurrence or aggravation to an injury previously approved for industrial leave. Industrial leave will terminate when the employee no longer qualifies for industrial leave under the provisions promulgated by the City Manager.
- (e) Appeal from Denial of Industrial Leave: An employee may appeal the denial of industrial leave by the Worker's Compensation Administration in writing to the City Manager by stating the specific reasons for the employee's appeal and the issues upon which the appeal is based. The City Manager or his designee shall meet with the employee to discuss the basis for denial. Following that meeting, the City Manager shall report his findings and decision in writing to the employee.
- (f) Total Compensation of Employee: Industrial leave is granted in lieu of Worker's Compensation Temporary Disability.
- (g) Worker's Compensation and Industrial Leave: Nothing herein contained shall be deemed to affect the employee's entitlement to medical, surgical and hospital treatment as provided in Division 4 of the California Labor Code nor be deemed to affect the employee's entitlement to receive such Temporary Disability payments as provided in Division 4. Industrial leave is not within the jurisdiction of the California Labor Code nor the adjudication of the Worker's Compensation Appeals Board.

(Amended 8-16-1982 by O-15802 N.S.)

§22.1020 Purpose

Charter Section 129.1, in part, prohibits employees from instigating, participating in or providing leadership to a strike or to engage in any form of concerted action to withhold their services from the City.

The purpose of this article is to provide uniform procedures for the administration of Charter Section 129.1.

(“*Purpose*” added 8-2-1982 by O-15789 N.S.)

§22.1021 Definitions

It is intended that the definitions provided herein shall govern any and all actions pursuant to Section 129.1 and the construction of this article.

(a) Strike:

A work stoppage, slowdown, sick-out or any other concerted interruption of operations by employees.

(b) Concerted Action to Withhold Service:

Any activity by two or more employees, including planning thereof, intended to interrupt, stop, disrupt, or slowdown the services they or other employees are employed to perform or the operations of the City.

(c) Participate In:

As used herein, such term means to actively and willfully participate in a strike or a concerted action to withhold service.

(d) Instigate:

As used herein, such term means to goad, influence, or urge other employees to participate in an actual or proposed strike or concerted action to withhold services.

(e) Offer Leadership:

As used herein, such term means to influence or direct other employees to engage in an actual or proposed strike or concerted job action by force, example or persuasion.

(f) Proposed Strike or Concerted Action to Withhold Services:

As used herein, such phrase means a plan or scheme, agreed to by two or more employees, which is intended by the employees to lead to or result in an actual strike or concerted action to withhold services.

(g) Other Appointing Authority:

As used herein, such term shall mean a department head not appointed by or responsible to the City Manager.

(h) Job Action:

As used herein, job action shall mean an actual or proposed strike or any form of concerted action to withhold services as those terms are defined in this Division.

(*"Definitions"* added 8-2-1982 by O-15789 N.S.)

§22.1022 Employee Rights

Nothing herein is intended nor shall it preclude City employees from expressing their views, as an abstract concept, on the right of public employees to strike. It is intended that these provisions and San Diego Charter Section 129.1 shall be limited to those circumstances in which employees actually strike or withhold their services or take action(s) intended to result in such action.

(*"Employee Rights"* added 8-2-1982 by O-15789 N.S.)

§22.1023 Investigation and Notice

The City Manager or other appointing authority(s) shall be responsible for investigating actual or proposed job actions involving City employees. The investigation shall include the identification of those involved and the collection of pertinent facts.

In the event the City Manager or other appointing authority, as a result of such investigation, concludes that an employee has instigated, provided leadership for or participated in a job action, such employee shall be notified of the results of the investigation. The notice shall include the following:

(a) That the employee has been charged with a violation of Charter Section 129.1 and a simple statement of the factual basis of the charge.

- (b) All information which was relied upon in making the charge including any investigative materials.
- (c) That a violation of Charter Section 129.1 shall result in his or her termination.
- (d) That the employee shall have the right to be represented at all stages of any proceedings.
- (e) The following phrase:

“You have been charged with a violation of Charter Section 129.1. At your request, a hearing on your behalf will be convened. The evidence supporting this charge will be presented and you have the right to present evidence in your defense. If it is your desire to participate in such a hearing, notify me within five (5) calendar days of receipt of this notice. If you do not notify me within five (5) days, I will presume that you do not deny the charges contained herein and you will be terminated.”

As part of such notice, the City Manager or other appointing authority may also elect to suspend such employee without pay for up to thirty (30) days pending final resolution of the charges. Such a suspension is not a disciplinary action and the suspension itself may not be appealed. If the charges are subsequently sustained, the employee shall be terminated and shall not receive pay for the period of suspension. If the charges are determined to be unfounded, the employee shall be restored to duty and paid for the term of suspension.

(“Investigation and Notice” added 8-2-1982 by O-15789 N.S.)

§22.1024 Hearings

Upon the timely receipt of a notice of a charged employee’s desire to participate in a hearing, the City Manager or other appointing authority shall be responsible for convening such hearing. The City Manager or other appointing authority shall select the hearing officer(s). Such hearing officer(s) may be presently employed by the City so long as such employee had no direct involvement in the investigation of the alleged Charter Section 129.1 violation.

If as a result of an alleged job action, there are multiple employees charged with a violation of Charter Section 129.1, the City Manager or other appointing authority may select multiple hearing officers to hear various individual cases.

(“Hearings” added 8-2-1982 by O-15789 N.S.)

§22.1025 Conduct of Hearing

The proceedings shall be as informal as is compatible with the requirements of justice. The hearing officer need not be bound by the common law or statutory rules of evidence and procedure, but may make inquiry into the matter in the manner which is best calculated to make a just factual determination.

The sole responsibility of the hearing officer shall be to determine whether or not the charges are supported by the evidence presented. If the hearing officer finds that it is not possible to resolve the factual issues presented, absent the resolution of a question of law, such legal issue shall be referred to the City Attorney for guidance.

The appointing authority's representative shall present evidence in support of the charges. The employee shall then present such evidence as he or she may wish to offer in defense. The testimony taken at the hearing shall be under oath and shall be recorded by a reporter. The hearing officer(s) shall have the power to subpoena and require the attendance of witnesses and the protection of pertinent documents. The hearing may be continued from time to time; however, the hearing should proceed as expeditiously as possible.

Prima Facie Case:

The appointing authority shall have established a prima facie case that the employee participated in a strike upon a showing that:

- (a) a strike or job action occurred.
- (b) the employee was absent, without department head authorization, during any part of the period of time the strike occurred.

Such a showing shall shift the burden to the employee to offer evidence in defense.

Report:

At the conclusion of the hearing, the hearing officer(s) shall report his or her findings to the City Manager or other appointing authority. The hearing officer(s) shall determine if the charges against the employee are supported by the evidence and report those factual findings made in support of such determination.

(“Conduct of Hearing” added 8-2-1982 by O-15789 N.S.)

§22.1026 Common Hearing

If the City Manager or other appointing authority, as a result of their investigation, determines that there are preliminary factual allegations common to two or more individuals, and that a determination of the validity of those common preliminary allegations would be a necessary part of each individual hearing, he or she may convene a common hearing. The hearing officer at such hearing will determine the validity of such preliminary common allegations. An example of such preliminary question may be whether under a given set of facts a job action took place.

- (a) Each employee who may be affected by such determination in the common hearing shall be notified of the time and place of such hearing and the allegation subject to a determination.
- (b) The appointing authority shall bring evidence relevant to the issues before the hearing officer. Any affected employee may offer evidence relevant to the issues raised.
- (c) At the conclusion of the hearing, the hearing officer shall make a determination and render his or her report to the convening authority(s) and parties. Upon receiving such report, the City Manager or other appointing authority may accept the report as a final disposition of the facts reviewed or send such report back to the hearing officer with specific questions.

If the report is returned to the hearing officer, he or she shall answer the specific questions posed. If necessary, the hearing officer shall be empowered to conduct further hearings into the matter.

(“Common Hearing” added 8-2-1982 by O-15789 N.S.)

§22.1027 Final Action

The City Manager or other appointing authority shall determine if, based on the factual findings of the hearing officer(s), the employee has violated Charter Section 129.1. The City Manager or other appointing authority, upon receiving the hearing officer(s) report, shall have the discretion to ask the hearing officer(s) to make further finding in response to specific questions.

Employees charged under this section who do not initially contest the charges, abandon their hearing rights prior to the conclusion of the hearing, or are found to have violated Charter Section 129.1 shall be immediately dismissed. Such action of the appointing authority is final and shall not be appealable.

Such dismissed employee shall not be reinstated or returned to employment. However, he or she may be rehired, at some future date, as a new employee. Such employment as a new employee shall be in accordance with the employment practices then in effect.

(“Final Action” added 8-2-1982 by O-15789 N.S.)

§22.1028 Economic Job Actions

If a job action occurs during a period when the City is meeting and conferring with the recognized bargaining agent for a unit of employees or if the focus of the job action is to protest any offer by the City of San Diego concerning wages, hours, or other terms and conditions of employment, the last offer by the City shall become final for that bargaining unit. The City Council shall be precluded from making any improvement in the wages, hours, and working conditions for employees in that unit until July 1 of the next calendar year. The provisions of this section shall be invoked by the City Council upon the City Manager presenting evidence of a violation of the prohibitions contained herein.

(“Economic Job Actions” added 8-2-1982 by O-15789 N.S.)