

**Additional Information
Submitted by Appellant**

From : Keith Winston
Reg. EEO File # 4308

Additional Documents in Support of my Appeal

1. The main focus of my appeal was not address by Carol Isen HR DIR. In her Determination letter. Or by Francisco Isidoro in his civil Ser. Comm. report.
2. Please see Ms. Isen's Determination letter. Pg. (3)
3. J. Prather has and had no supervisory responsibilities for the Operation's dept. J. Prather is head of the Maintenance dept. These two are totally independent departments with different management staffs.
4. Please see J. Prather's written warning Pg (4) regarding the incident with C. Nikai.
5. The incident between me and C. Nakai occurred while we both were working in the Operation dept. In fact C. Nakai has been working in the Operation dept the past four years, he has not worked in the Maintenance dept. under J. Prather supervision.
6. This incident was reviewed by the Operation Management dept. nearly two years ago and put to rest. No document exist. J. Prather had no review and or supervision of this matter, he is head of Maint. Dept. not the operation dept. The only information J. Prather has about this incident is what C. Nakai told him nearly two years after it toke place.
7. In my classification 7372 Stationary Eng. Can be assigned to two independent department, Operations or Maintenance departments within the PUC Wastewater Ent.
8. Operation Dept. Head George Engals, Supertendent Dale Miller, Chief Stationary Engineer Mark Lauer.
9. Maintenance Dept. Head J. Prather, Superentendent S, Kholmman, Chief Jimmy Ma.
10. J. Prather used the Civil Ser. Disciplinary rules as weapon to retaliate against me in a racist, unethical and dishonest manner. There are no signed statements by co-workers that describe me way J. Prather does.
11. I have Completed a one year long new employee probationary period , three annual performance reviews, no statement regarding my behavior.

5-12

12. Please see Performance review Pg.() signed by Brandon Wong, who J. Prather included in his written warning. B Wong makes no statement about me putting my fist in his face as J. Prather states in his 6-11-2021 written warning. Because that didn't happen.

THANK YOU
Keith Winston
2-28-2023

P.2

II. FINDINGS & ANALYSES

A. Discrimination Allegations

To warrant further investigation, a complaint of discrimination/disparate treatment in violation of the City's EEO Policy must sufficiently allege all of the following: (1) you a member of a protected category; (2) you suffered an adverse employment action; and (3) you suffered an adverse employment action because of your membership in a protected category.

You are a member of a protected category based on race (Black). However, the information did not support that Prather issued you your September 15, 2021, written warning based on your race. Rather, Prather had a legitimate business reason for taking this action as overseeing employee behavior and performance is within Prather's supervisory responsibility and you acknowledged that you told the co-worker "Go back to Costa Rica" and had conflict with at least one other co-worker identified in your written warning. Accordingly, your complaint will be administratively closed without further investigation.

B. Retaliation Allegations

To warrant further investigation, a complaint of retaliation in violation of the City's EEO Policy must sufficiently allege all of the following: (1) you engaged in a protected activity; (2) you suffered an adverse employment action; and (3) there was a causal link between the protected activity and the adverse employment action.

Prior to making your complaint to DHR EEO, you did not allege that you engaged in any protected activity within EEO jurisdiction. Further, based on the information provided, it is unclear how the alleged hacking into your work Outlook e-mail was an adverse employment action, such as action affecting your pay or other benefits. Nevertheless, PUC's IT team confirmed that on September 15, 2021, you were logged into the computer used in the alleged hack of your work Outlook e-mail four times between 2:40 p.m. and 3:28 p.m., while DeBono and Chinn had logged into that computer the day prior to your first log in. It was thus unclear that any unauthorized log in occurred on September 15, 2021. As such, your complaint will be administratively closed without further investigation.

III. DETERMINATION OF THE HUMAN RESOURCES DIRECTOR

Please be advised that that it is my determination that your complaint, EEO File No. 4308, will be administratively closed without further investigation.

My determination is final unless it is appealed to the Civil Service Commission and is reversed or modified. A request for appeal must be received by the Civil Service Commission at 25 Van Ness Avenue, Room 720, San Francisco, CA, 94102, within 30 calendar days from date of the e-mail sending this letter.

For your information, you may file a complaint of employment discrimination with the California Civil Rights Department, or the United States Equal Employment Opportunity Commission. Contact those agencies directly for filing requirements and deadlines.

Should you experience any new instances of unwelcome conduct, please do not hesitate to contact Steven Tang, EEO Programs Manager, SFPUC, at (628) 207-2637.

City & County of San Francisco - Public Utilities Commission
Wastewater Enterprise - Maintenance

Written Warning

It is hereby documented that on June 11, 2021, you, Keith Winston, Class 7372 Stationary Engineer, were officially warned in a conference with Joel Prather, WWE Maintenance Manager, for **Discourteous Treatment of Others and Violation of Policies Prohibiting Violence in the Workplace.**

As part of your Official Employee Personnel File, this warning is based on the following incident(s):

On October 28, 2020, you instigated an altercation with Robert Gall, Class 7372 Stationary Engineer, while working on a job together to deep clean the Polymer Mix Room at OSP. Out of nowhere, you went into a rage and yanked out the AC power plug from the pressure washer that Gall was using to clean the debris. You shouted at Gall "You're not listening. You don't know what the hell you're doing!! You're a f*cking idiot!" as you stepped within 1 ½ feet of his personal space with your fists clenched.

Gall was completely shocked by your outburst. He did not curse or raise his voice back at you. Instead, he tried to remain calm and said, "What's wrong? What happened?" Seeing you visibly angry, he also said to you, "Everything is fine. Why are you so angry? Look. You are in a safe place. Please calm down." When Gall went on to say, "I don't know what is going on, but you can't talk to me that way," you shot back, "I can talk to you any way I want. You aren't my boss," in a confrontational tone. Gall continued to try and de-escalate the situation and said, "Look. I'm going to give you space. I'm going to leave." Your last comment to Gall was, "Fine. Get the f*ck out of here. Go back to Costa Rica," which was taken with racist undertones since Gall had recently returned from visiting family there.

Gall felt threatened by your inciting behavior and promptly removed himself from the situation before it could escalate into a physical confrontation.

Your co-workers have felt unsafe working with you, as this is not the first time you have engaged in intimidating, confrontational, and highly disrespectful behavior towards others in the workplace.

- You have yelled at your previous supervisor, Brannon Wong, Class 7373 Stationary Engineer, on multiple occasions in an aggressive, insubordinate, and disrespectful manner. In June 2020, you raised your voice at Wong while he was trying to give you directives on your work for the day. In July 2020, you came into the office in a tirade and immediately started yelling at Wong about work you did not want to do. In August 2020, you raised your voice at Wong when he was talking to you about the importance of attending daily morning meetings. You were screaming so loud that Jimmy Ma, Class 7252 Chief Stationary Engineer, had to come out and intervene. In August 2020, you continued to shout over your superior as he tried to give you information about your work.
- Several months earlier, you provoked another conflict with Cliff Nakai, Class 7372 Stationary Engineer, in the men's locker room at OSP where you made strange accusations claiming Nakai manipulated a DCS computer. Nakai denied this. You became enraged, balled up your fist, and aggressively stepped into Nakai's personal space as if to fight. Despite this, Nakai remained calm and tried to diffuse the situation by apologizing for whatever you thought he did wrong. Another co-worker had to step in and separate you from Nakai.



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF HUMAN RESOURCES

2020 - 2021

**Performance Plan
and
Appraisal Report**

*San Francisco Public Utilities Commission
Wastewater Enterprise*

I. EMPLOYEE IDENTIFICATION INFORMATION

<p>1. LAST NAME, FIRST NAME, MIDDLE INITIAL</p> <p>Winston, Keith</p> <p>DSW#:</p>	<p>2. JOB CODE NUMBER AND TITLE</p> <p>7372 Stationary Engineer, Sewage Plant</p>	<p>3. STATUS</p> <p><input checked="" type="checkbox"/> Permanent (PCS) <input type="checkbox"/> Provisional (TPV) <input type="checkbox"/> Permanent Exempt (PEX) <input type="checkbox"/> Temporary Exempt (TEX) <input type="checkbox"/> Temporary Civil Service (TCS) <input type="checkbox"/> Limited Tenure (Restricted Use) (TLT) <input type="checkbox"/> Non Civil Service (Restricted Use) (NCS)</p>
<p>4. WORK LOCATION & DIVISION</p> <p>Wastewater Enterprises Oceanside Treatment Plant 3500 Great Highway San Francisco, Ca 94132</p>	<p>5. DEPARTMENT</p> <p>Public Utilities Commission</p>	<p>6. REASON FOR REPORT</p> <p><input checked="" type="checkbox"/> Annual <input type="checkbox"/> Dept. Review Period <input type="checkbox"/> Probationary <input type="checkbox"/> Unscheduled</p>
	<p>7. REVIEW PERIOD</p> <p>July 2020-June 2021</p>	<p>8. PROBATION START AND END DATE</p> <p>N/A</p>

P-5

II. REVIEW OF DUTIES & RESPONSIBILITIES BASED ON JOB DESCRIPTION

FUNCTIONAL/WORKING TITLE	
7372 Stationary Engineer, Sewage Plant	
1. Makes regular visual, audio, olfactory and tactile inspections and/or manual tests of all plant machinery and equipment, including auxiliary equipment, in an assigned area	COMMENTS:
2. Operates, inspects, maintains, overhauls and makes major and minor repairs to wide variety of pumping, heating, ventilating, process machinery and equipment in a wastewater treatment plant or pumping station, including pumps, bar racks, grit collectors, conveyors and washers, chlorinators, evaporators and storage tanks, sludge collectors, drive units, deodorizing equipment and a wide variety of metering and recording devices to assure the safety and efficiency of equipment and facilities; includes lubricating and greasing machinery and equipment; cleaning and maintaining machinery, equipment and facility to ensure safety and equipment reliability	COMMENTS:
3. Inspects sewage pipe lines, tanks and gates to check for the condition of equipment, for infiltration and blockage of debris and build-up of mineral deposits, etc., by draining tanks, by monitoring pressure and flow indicators and by visual inspection to determine any problem areas to ensure proper operation	COMMENTS:
4. Inspects sewage pipe lines, tanks and gates to check for the condition of equipment, for infiltration and blockage of debris and build-up of mineral deposits, etc., by draining tanks, by monitoring pressure and flow indicators and by visual inspection to determine any problem areas to ensure proper operation.	COMMENTS:
5. Training and supervising work of apprentices or other trainees by oral instruction and hands-on demonstration in the operation and maintenance of sewage treatment processes to ensure competent performance of required skills by apprentices and other trainees	COMMENTS:

<p>Equity and Inclusiveness: Fully comply with all Departmental and City rules and policies including: Discrimination, Harassment, Retaliation-Free Workplace Policy; equal employment opportunity; reasonable accommodation for individuals with disabilities; practices to ensure fairness, diversity, and inclusiveness; completion of required implicit bias awareness training.</p>	<p>COMMENTS:</p>
<p>Use of City and County Resources for Business Purposes Only: All City equipment, devices, and materials (i.e., photocopiers, telephones, computers, vehicles, stationery, fax machines, email accounts, etc.) must be used only for conducting City business.</p>	<p>COMMENTS:</p>
<p>DSW Preparedness: Take all necessary steps to prepare yourself for an emergency, in your capacity as a Disaster Service Worker; provide updated personal contact information to your department so that you can be contacted in the event of an emergency; report in and respond promptly to instructions by the City and/or your department in the event of an emergency; participate in any drills or emergency exercises as notified; and carry out disaster-related work assignments as required; complete all required disaster-related trainings.</p>	<p>COMMENTS:</p>
<p>Customer Service: As a representative of the City, be efficient, professional, accountable, and courteous in your interactions with the public, fellow employees, and external business partners. Respond to requests for assistance and/or requests for information in a timely manner as specified by your department.</p>	<p>COMMENTS:</p>
<p>Attendance: Regular and prompt attendance is required for your job. All planned absences must be requested and approved in advance. For illness, emergencies or other unplanned and unforeseeable absences, notify your supervisor as soon as possible, but no later than the beginning of the work day on the first day of the absence.</p>	<p>COMMENTS:</p>
<p>Compliance with Rules, Policies and Procedures: Fully comply with all Departmental rules, policies and procedures. Also comply with City rules and policies in the Employee Handbook including, but not limited to: Department's Statement of Incompatible Activities; Policy Prohibiting Employee Violence in the Workplace; Policy Regarding the Treatment of Co-Workers and Members of the Public; Reporting and Responding to Workforce Violence; etc.</p>	<p>COMMENTS:</p>

P.7



III. PERFORMANCE PLAN

Workplan #: <u>1</u> When working on CM's or PM's check solenoids, gauges, strainers, check valves, actuators and other auxiliary equipment to make sure equipment will run at peak efficiency	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		
Workplan #: <u>2</u> LOTO- Make sure that when working on CMS and PMS that equipment is LOTO to ensure workplace safety and that operations knows what equipment is running	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		
Workplan #: <u>3</u> Organize Crew Tools and Job Site cleanup	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		
Workplan #: <u>4</u> Communication – Communicate actions and ideas with crew clearly to reduce confusion or delays in jobs.	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		

IV. TRAINING & PROFESSIONAL DEVELOPMENT

Training/Professional Development Pass Grade 1 Mech Tech or Wastewater Exam	Action Items:	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
		1	2	3
		Comments:		

P.8



V. GENERAL PERFORMANCE FACTORS

<p>Safety</p> <p>Consistently attends and actively participates in all safety meetings; Routinely observes all safety practices; identifies and reports safety hazards; initiates corrective action.</p> <p>Evaluation Criteria:</p> <p>Personal evaluation by supervisor in various work circumstances</p>	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		
<p>Knowledge of Job</p> <p>Knowledge principles and methods related to wastewater activities; common technology and equipment; current federal, state and local laws, codes, and ordinances; quality control and quality assurance practices and procedures; safe practices and procedures, excellent customer service practices.</p> <p>Evaluation Criteria:</p> <p>Demonstrable knowledge of above</p>	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		
<p>Quantity of Work Performed</p> <p>Complete tasks and projects as assigned.</p> <p>Evaluation Criteria:</p> <p>Completes assigned tasks within agreed upon time frames.</p>	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		
<p>Quality of Work Performed</p> <p>Submits clear and comprehensive reports documenting project or task activities. Tasks performed to procedure, standard, and instructions and within established deadlines.</p> <p>Evaluation Criteria:</p> <p>Completeness, accuracy and legibility of reports; Reports submitted on time; Quality and consistency of observations and reporting. Audits conducted by supervisor determine if procedures and standards and instructions are followed.</p>	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		
<p>Use of Materials and Equipment</p> <p>Maintains materials, supplies, and equipment issued in good clean condition.</p> <p>Evaluation Criteria:</p> <p>Maintains materials, tools, equipment and supplies as</p>	Did Not Meet Expectations	Met Expectations	Exceeded Expectations
	1	2	3
	Comments:		



<p>assigned; Overall appearance and condition of equipment and material issued; accountability for materials issued;</p>			
<p>Attendance and Punctuality</p> <p>Regular and prompt attendance is required for your job. All planned absences must be requested and approved in advance. For illness, emergencies or other unplanned and unforeseeable absences, notify your supervisor as soon as possible, but no later than the beginning of the work day on the first day of the absence</p> <p>Evaluation Criteria:</p> <p>Observance of working hours, punctuality, and Dependability.</p>	<p>Did Not Meet Expectations</p>	<p>Met Expectations</p>	<p>Exceeded Expectations</p>
<p>Organization of Work Space</p> <p>Maintains assigned work area in a clean and organized condition.</p> <p>Evaluation Criteria:</p> <p>Overall appearance and organization of assigned work area.</p>	<p>Did Not Meet Expectations</p>	<p>Met Expectations</p>	<p>Exceeded Expectations</p>
<p>Effectiveness in Working with Others</p> <p>Interact and communicate tactfully, courteously, effectively, and harmoniously with superiors, coworkers, personnel, and the general public; Works effectively with others even under difficult circumstances.</p> <p>Evaluation Criteria:</p> <p>Personal evaluation by supervisor in various work circumstances.</p>	<p>Did Not Meet Expectations</p>	<p>Met Expectations</p>	<p>Exceeded Expectations</p>
<p>Team Performance Effectiveness</p> <p>As team leader, demonstrates effective team leadership in making strategic decisions and cultivating a focused collaborative working environment.</p> <p>Participate in team class training. As team member, demonstrates commitment to team goals by completing individual tasks promptly and with high quality; respects and listens to the views and opinions of others.</p> <p>Evaluation Criteria:</p> <p>Team performance survey results</p>	<p>Did Not Meet Expectations</p>	<p>Met Expectations</p>	<p>Exceeded Expectations</p>
<p>Comments:</p>			

VI. APPRAISAL REPORT SUMMARY

a. OVERALL PERFORMANCE RATING

The appraisal report on overall performance should include a consideration of all items in the Job Description, Departmental policies and procedures, and the Performance Plan's Key Objectives for the review period. Circle the appropriate number on the continuum.

Did Not Meet Expectations	Met Expectations	Exceeded Expectations
Performance of job duties needs improvement; did not meet many or majority of objectives.	Performed job duties competently and effectively; met the objectives. (Meets Competent and Effective requirement)	Performed job duties with exceptional competence and effectiveness; exceeded the objectives.
1	2	3

b. COMMENTS REGARDING OVERALL PERFORMANCE

c. EMPLOYEE GUIDELINES -- PERFORMANCE PLAN AND APPRAISAL REPORT

1. Employee should review his/her employee organization's Memorandum of Understanding with the City and County of San Francisco for information that may add to or modify the following list of guidelines.
2. Employee has the right to read the Performance Plan and Appraisal Report.
3. Employee has the right to receive a copy of the Performance Plan and Appraisal Report.
4. Employee has the right to discuss the report with the Reporting Supervisor or Manager.
5. Employee has the right to attach a rebuttal to the Performance Appraisal Plan and Report. The rebuttal must be presented within 30 working days of the report date. The rebuttal should only address the items presented in the report.
6. Employee may request a conference, if requested, with the Reviewer (Reporter's supervisor or manager).

P.11



VII. SIGNATURE PAGE

PERFORMANCE PLAN

A. Performance Plan/Key Objectives Sign-Off

1. REVIEWER SIGNATURE	2. REVIEW DATE	
3. SUPERVISOR SIGNATURE <i>BZ</i>	4. EMPLOYEE SIGNATURE <i>Kate Wu</i>	5. MEETING DATE <i>August 5, 2020</i>

B. Mid-Period Performance Review Meeting

1. SUPERVISOR SIGNATURE	2. EMPLOYEE SIGNATURE	3. MEETING DATE
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PERFORMANCE APPRAISAL REPORT

C. Reviewer's Certification

1. NAME, WORK LOCATION Jianmin Ma 3500 Great Highway San Francisco, Ca 94132	2. JOB CODE NUMBER AND TITLE 7552 Chief Stationary Engineer	
3. I CERTIFY THAT I HAVE REVIEWED THIS REPORT. (Signature)		4. DATE

D. Reporting Supervisor/Manager

1. NAME, WORK ADDRESS Brannon Wong 3500 Great Highway San Francisco, Ca 94132	2. JOB CODE NUMBER AND TITLE 7373 Senior Stationary Engineer	
3. DATE OF CONFERENCE WITH EMPLOYEE	4. SIGNATURE	5. DATE

E. Employee's Statement

1. <input type="checkbox"/> I AGREE WITH THIS REPORT. <input type="checkbox"/> I DO NOT AGREE WITH THIS REPORT: SECT. ____ NO. ____ <input type="checkbox"/> I HAVE ATTACHED A REBUTTAL. <input type="checkbox"/> I HAVE ATTACHED A REBUTTAL AND REQUEST A CONFERENCE WITH THE REVIEWER.	2. CONFERENCE DATE
	3. SIGNATURE CERTIFIES I HAVE READ THE REPORT <input type="checkbox"/> DECLINED TO SIGN. DATE:

P. 12



Winston, Keith

From: Miller, Dale
Sent: Monday, August 26, 2019 10:14 AM
To: Jacobs, Thomas; Winston, Keith
Cc: Clark, Andrew M
Subject: FW: Staff re-assignment

Gentlemen,

Please review the assignment changes,

Regards,

Dale Miller

From: Clark, Andrew M
Sent: Monday, August 26, 2019 10:10 AM
To: Miller, Dale <dmiller@sflower.org>
Subject: Re: Staff re-assignment

Dale I don't see Thomas or Kieth on the email. Please verify
thanks Andy

Sent from my iPhone

On Aug 23, 2019, at 6:19 AM, Miller, Dale <dmiller@sflower.org> wrote:

Watch 1 29441-41

7372 Keith Winston is assigned to Oceanside Watch 1 as of September 3, 2019.
Reporting to James Faaita.

Watch 6 29441-61

7372 Thomas Jacobs is assigned to Oceanside Watch 6 as of September 3, 2019.
Reporting to Mark Lauer working directly with contactor CTS on competency based
training modules.

Please adjust Org charts, E-time and Uniforms accordingly.

Best Regards,

Dale Miller
Operations Superintendent

P.13

Winston, Keith

From: Winston, Keith
Sent: Wednesday, July 6, 2022 3:53 AM
To: Prather, Joel; DeBono, Christopher
Cc: Brosas, Marlon; Kohmann, Steve P; Leeming, Elaine; Kumar, Radha; Ho, Michael C
Subject: RE: Reporting to C0403 supervisor

This is another fraudulent statement from J. Prather. I have been on crew #403 since 2-16-2021. C. Debono has been allowed to start work at 8:00 a.m. or 8:30 a.m. or whenever he shows up. I have mentioned this with M. Brosas. He said that C. Debono has been given a special schedule by management. Crew #403 starts work at 5:30 a.m. How could I get instructions from C. Debono when he is never onsite at 5:30 a.m., this can be confirmed by multiple other staff members. Also we are under Covid 19 precaution rules so if C. Debono isn't present at the time I sign in I will sit in an enclosed area with 5 or 6 other people.

On 9-15-2021 C. Debono hacked into my Outlook account which I reported to Management. Management responded that they would not do anything regarding the Outlook hack. So I have no trust at all with the maintenance chain of command to be honest (see statement above), act with integrity, or to be ethical. I have a current H.R. claim regarding these issues and more.

I have been requested by J. Prather to attend a meeting with him, C. Debono, M. Brosas, S. Kohmann these are the four subjects of my H.R. claim. I request that a Local #39 shop steward be present at this meeting. If not I will not attend this meeting with these individuals due to the amount of unethical behavior, fraudulent statements and overall lack of integrity from the maintenance chain of command.

Thank you,
Keith Winston

From: Prather, Joel <JPrather@sfwater.org>
Sent: Friday, July 1, 2022 2:47 PM
To: Winston, Keith <KWinston@sfwater.org>; DeBono, Christopher <CDeBono@sfwater.org>
Cc: Brosas, Marlon <MBrosas@sfwater.org>; Kohmann, Steve P <SKohmann@sfwater.org>; Leeming, Elaine <ELEeming@sfwater.org>; Kumar, Radha <RaKumar@sfwater.org>; Ho, Michael C <MCHo@sfwater.org>
Subject: Reporting to C0403 supervisor

Hello Keith,

I've been made aware that after signing in each day, you've been leaving the shop before Chris can give you your daily work assignment.

This is not acceptable.

Going forward please make sure that you stick around for enough time for Chris to give out your work assignment along with the rest of the C0403 staff.

Chris,

Please print a copy of this email for Keith in case he doesn't get a chance to see it before he starts work on 7/5/22.

P-15