



**CIVIL SERVICE COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**LONDON N. BREED  
MAYOR**

*Sent via Electronic Mail*

February 23, 2023

**NOTICE OF CIVIL SERVICE COMMISSION MEETING**

Crystal Chow



**SUBJECT: REQUEST FOR A HEARING BY CRYSTAL CHOW FORMER 2918 HAS SOCIAL WORKER ON THEIR FUTURE EMPLOYMENT RESTRICTION WITH THE CITY AND COUNTY OF SAN FRANCISCO.**

Dear Crystal Chow:

The above matter will be considered by the Civil Service Commission at a hybrid meeting (in-person and virtual) in Room 400, City Hall, 1 Dr. Goodlett Place, San Francisco, California 94102 and through Cisco WebEx to be held on **March 6, 2023, at 2:00 p.m.** You will receive a separate email invite from a Civil Service Commission staff member to join and participate in the meeting.

The agenda will be posted for your review on the Civil Service Commission's website at [www.sf.gov/CivilService](http://www.sf.gov/CivilService) under "Meetings" no later than end of day on Wednesday, March 1, 2023. Please refer to the attached Notice for procedural and other information about Commission hearings. A copy of the department's staff report on your appeal is attached to this email.

In the event that you wish to submit any additional documents in support of your appeal, please submit one hardcopy 3-hole punch, double-sided and numbered at the bottom of the page, to the CSC Office at 25 Van Ness Ave., Suite 720 and email a PDF version to the Civil Service Commission's email at [civilservice@sfgov.org](mailto:civilservice@sfgov.org) by **5:00 p.m. on Tuesday, February 28, 2023**, please be sure to redact your submission for any confidential or sensitive information that is not relevant to your appeal (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

Attendance by you or an authorized representative is recommended. Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. Where applicable, the Commission has the authority to uphold, increase, reduce, or modify any restrictions recommended by the department. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance.

You may contact me at (628) 652-1100 or at [Sandra.Eng@sfgov.org](mailto:Sandra.Eng@sfgov.org) if you have any questions.

CIVIL SERVICE COMMISSION

/s/

SANDRA ENG  
Executive Officer

Attachment

Cc: Trent Rhorer, Human Services Agency  
Daniel Kaplan, Human Services Agency  
Anna Pineda, Human Services Agency  
Andrea De Leon, Human Services Agency  
Katrina Williams, Human Services Agency  
Shawn Sherburne, Department of Human Resources  
Lauren Rowe, Department of Human Resources  
Anna Biasbas, Department of Human Resources  
Mawuli Tugbenyoh, Department of Human Resources  
Commission File  
Commissioners' Binder  
Chron

## **NOTICE OF COMMISSION HEARING POLICIES AND PROCEDURES**

### **A. Commission Office**

The Civil Service Commission office is located at, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. The telephone number is (628) 652-1100. The fax number is (628) 652-1109. The email address is [civilservice@sfgov.org](mailto:civilservice@sfgov.org) and the web address is [www.sfgov.org/civilservice/](http://www.sfgov.org/civilservice/). Office hours are from 8:00 a.m. to 5:00 p.m., Monday through Friday.

### **B. Policy Requiring Written Reports**

It is the policy of the Civil Service Commission that except for appeals filed under Civil Service Commission Rule 111A Position-Based Testing, all items appearing on its agenda be supported by a written report prepared by Commission or departmental staff. All documents referred to in any Agenda Document are posted adjacent to the Agenda, or if more than one (1) page in length, available for public inspection and copying at the Civil Service Commission office. Reports from City and County personnel supporting agenda items are submitted in accordance with the procedures established by the Executive Officer. Reports not submitted according to procedures, in the format and quantity required, and by the deadline, will not be calendared.

### **C. Policy on Written Submissions by Appellants**

All written material submitted by appellants to be considered by the Commission in support of an agenda item shall be submitted to the Commission office, no later than 5:00 p.m. on the fourth (4<sup>th</sup>) business day preceding the Commission meeting for which the item is calendared (ordinarily, on Tuesday). An original copy on 8 1/2-inch X 11 inch paper, three-hole punched on left margin, and page numbered in the bottom center margin, shall be provided. Written material submitted for the Commission's review becomes part of a public record and shall be open for public inspection.

### **D. Policy on Materials being Considered by the Commission**

Copies of all staff reports and materials being considered by the Civil Service Commission are available for public view 72 hours prior to the Civil Service Commission meeting on the Civil Service Commission's website at <https://sf.gov/civilservice> and in its office located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If any materials related to an item on this agenda have been distributed to the Civil Service Commission after distribution of the agenda packet, those materials will be available for public inspection at the Civil Service Commission's during normal office hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

### **E. Policy and Procedure for Hearings to be Scheduled after 5:00 p.m. and Requests for Postponement**

**A request to hear an item after 5:00 p.m. should be directed to the Executive Officer as soon as possible following the receipt of notification of an upcoming hearing. Requests may be made by telephone at (628) 652-1100 and confirmed in writing or by fax at (628) 652-1109.**

A request for a postponement (continuance) to delay an item to another meeting may be directed to the Commission Executive Officer by telephone or in writing. Before acting, the Executive Officer may refer certain requests to another City official for recommendation. Telephone requests must be confirmed in writing prior to the meeting. Immediately following the "Announcement of Changes" portion of the agenda at the beginning of the meeting, the Commission will consider a request for a postponement that has been previously denied. Appeals filed under Civil Service Commission Rule 111A Position-Based Testing shall be considered on the date it is calendared for hearing except under extraordinary circumstances and upon mutual agreement between the appellant and the Department of Human Resources.

### **F. Policy and Procedure on Hearing Items Out of Order**

Requests to hear items out of order are to be directed to the Commission President at the beginning of the agenda. The President will rule on each request. Such requests may be granted with mutual agreement among the affected parties.

### **G. Procedure for Commission Hearings**

All Commission hearings on disputed matters shall conform to the following procedures: The Commission reserves the right to question each party during its presentation and, in its discretion, to modify any time allocations and requirements.

If a matter is severed from the *Consent Agenda* or the *Ratification Agenda*, presentation by the opponent will be for a maximum time limit of five (5) minutes and response by the departmental representative for a maximum time limit of five (5) minutes. Requests by the public to sever items from the [*Consent Agenda* or] *Ratification Agenda* must be provided with justification for the record.

For items on the *Regular Agenda*, presentation by the departmental representative for a maximum time of five (5) minutes and response by the opponent for a maximum time limit of five (5) minutes.

For items on the *Separations Agenda*, presentation by the department followed by the employee or employee's representative shall be for a maximum time limit of ten (10) minutes for each party unless extended by the Commission.

Each presentation shall conform to the following:

1. Opening summary of case (brief overview);
2. Discussion of evidence;
3. Corroborating witnesses, if necessary; and
4. Closing remarks.

The Commission may allocate five (5) minutes for each side to rebut evidence presented by the other side.

**H. Policy on Audio Recording of Commission Meetings**

As provided in the San Francisco Sunshine Ordinance, all Commission meetings are audio recorded in digital form. These audio recordings of open sessions are available starting on the day after the Commission meeting on the Civil Service Commission website at [www.sfgov.org/civilservice/](http://www.sfgov.org/civilservice/).

**I. Speaking before the Civil Service Commission**

Speaker cards are not required. The Commission will take public comment on all items appearing on the agenda at the time the item is heard. The Commission will take public comment on matters not on the Agenda, but within the jurisdiction of the Commission during the “Requests to Speak” portion of the regular meeting. Maximum time will be three (3) minutes. A subsequent comment after the three (3) minute period is limited to one (1) minute. The timer shall be in operation during public comment. Upon any specific request by a Commissioner, time may be extended.

**J. Public Comment and Due Process**

During general public comment, members of the public sometimes wish to address the Civil Service Commission regarding matters that may come before the Commission in its capacity as an adjudicative body. The Commission does not restrict this use of general public comment. To protect the due process rights of parties to its adjudicative proceedings, however, the Commission will not consider, in connection with any adjudicative proceeding, statements made during general public comment. If members of the public have information that they believe to be relevant to a matter that will come before the Commission in its adjudicative capacity, they may wish to address the Commission during the public comment portion of that adjudicative proceeding. The Commission will not consider public comment in connection with an adjudicative proceeding without providing the parties an opportunity to respond.

**K. Policy on use of Cell Phones, Pagers and Similar Sound-Producing Electronic Devices at and During Public Meetings**

The ringing and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

**Information on Disability Access**

The Civil Service Commission normally meets in Room 400 (Fourth Floor) City Hall, 1 Dr. Carlton B. Goodlett Place. However, meetings not held in this room are conducted in the Civic Center area. City Hall is wheelchair accessible. The closest accessible BART station is the Civic Center, located 2 ½ blocks from City Hall. Accessible MUNI lines serving City Hall are 47 Van Ness Avenue, 9 San Bruno and 71 Haight/Noriega, as well as the METRO stations at Van Ness and Market and at Civic Center. For more information about MUNI accessible services, call (415) 923-6142. Accessible curbside parking has been designated at points in the vicinity of City Hall adjacent to Grove Street and Van Ness Avenue.

The following services are available on request 48 hours prior to the meeting; except for Monday meetings, for which the deadline shall be 4:00 p.m. of the last business day of the preceding week. For American Sign Language interpreters or the use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please contact the Commission office to make arrangements for the accommodation. Late requests will be honored, if possible.

Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call our ADA coordinator at (628) 652-1100 or email [civilservice@sfgov.org](mailto:civilservice@sfgov.org) to discuss meeting accessibility. In order to assist the City’s efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals.

**Know your Rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code)**

Government’s duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils, and other agencies of the City and County exist to conduct the people’s business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people’s review. For more information on your rights under the Sunshine Ordinance or to report a violation of the ordinance, or to obtain a free copy of the Sunshine Ordinance, contact Victor Young, Administrator of the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102-4689 at (415) 554-7724, by fax: (415) 554-7854, by e-mail: [soff@sfgov.org](mailto:soff@sfgov.org), or on the City’s website at [www.sfgov.org/bdsupvrs/sunshine](http://www.sfgov.org/bdsupvrs/sunshine).

**San Francisco Lobbyist Ordinance**

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 25 Van Ness Ave., Suite 220, San Francisco, CA 94102, telephone (415) 252-3100, fax (415) 252-3112 and web site <https://sfethics.org/>.



# CIVIL SERVICE COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE  
MAYOR

### NOTICE OF RECEIPT OF APPEAL

E. DENNIS NORMANDY  
PRESIDENT

DOUGLAS S. CHAN  
VICE PRESIDENT

KATE FAVETTI  
COMMISSIONER

SCOTT R. HELDFOND  
COMMISSIONER

GINA M. ROCCANOVA  
COMMISSIONER

MICHAEL L. BROWN  
EXECUTIVE OFFICER

DATE: January 23, 2015  
REGISTER NO.: 0010-15-7  
APPELLANT: CRYSTAL CHOW

Micki Callahan  
Human Resources Director  
Department of Human Resources  
1 South Van Ness Avenue, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Callahan:

The Civil Service Commission has received the attached letter from Ms. Crystal Chow, requesting a hearing on her future employment as a 2918 HSA Social Worker with the City and County of San Francisco. Your review and action are required.

If this matter is not timely or appropriate, please submit CSC Form 13 "Action Request on Pending Appeal/Request," with supporting information and documentation to my attention at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. CSC Form 13 is available on the Civil Service Commission's website at [www.sfgov.org/Civil\\_Service](http://www.sfgov.org/Civil_Service) under "Forms."

In the event that Ms. Chow's appeal is timely and appropriate, the department is required to submit a staff report in response to the appeal within sixty (60) days so that the matter may be resolved in a timely manner. Accordingly, **the staff report is due no later than 11 a.m. on March 5, 2015** so that it may be heard by the Civil Service Commission at its meeting on March 16, 2015. If you will be unable to transmit the staff report by the March 5<sup>th</sup> deadline, or if required departmental representatives will not be available to attend the March 16<sup>th</sup> meeting, please notify me by use of CSC Form 13 as soon as possible, with information regarding the reason for the postponement and a proposed alternate submission and/or hearing date.

You may contact me at [Michael.Brown@sfgov.org](mailto:Michael.Brown@sfgov.org) or (415) 252-3250 if you have any questions. For more information regarding staff report requirements,

Appellant: Crystal Chow  
January 23, 2015  
Page 2 of 2

meeting procedures or future meeting dates, please visit the Commission's website at [www.sfgov.org/Civil\\_Service](http://www.sfgov.org/Civil_Service).

Sincerely,

CIVIL SERVICE COMMISSION



MICHAEL L. BROWN  
Executive Officer

Attachment

Cc: Susan Gard, Department of Human Resources  
Luenna Kim, Human Services Agency



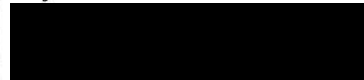
# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE  
MAYOR

*Sent via U.S. Mail*

January 23, 2015

Crystal Chow



E. DENNIS NORMANDY  
PRESIDENT

DOUGLAS S. CHAN  
VICE PRESIDENT

KATE FAVETTI  
COMMISSIONER

SCOTT R. HELDFOND  
COMMISSIONER

GINA M. ROCCANOVA  
COMMISSIONER

MICHAEL L. BROWN  
EXECUTIVE OFFICER

Subject: **Register No. 0010-15-7: Request for Hearing on her future employability as a 2918 HSA Social Worker with the City and County of San Francisco**

Dear Ms. Chow:

This is in response to your appeal submitted to the Civil Service Commission on January 21, 2015 regarding the request for hearing on your future employability as a 2918 HSA Social Worker with the City and County of San Francisco. Your appeal has been forwarded to the Department of Human Resources and the Human Services Agency for investigation and response to the Civil Service Commission.

If your appeal is timely and appropriate, the department will submit its staff report on this matter to the Civil Service Commission in the near future to request that it be scheduled for hearing. The Civil Service Commission generally meets on the 1st and 3rd Mondays of each month. You will be notified approximately one week in advance of the hearing date, at which time you will be able to pick up a copy of the department's staff report at the Commission's offices located at 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please submit your request to [CivilService@sfgov.org](mailto:CivilService@sfgov.org) (this will also result in your receiving the meeting notice and staff report a few days sooner).

In the meantime, you may wish to compile any additional information you would like to submit to the Commission in support of your position. The deadline for receipt in the Commission office of any additional information you may wish to submit is 5:00 p.m. on the Tuesday preceding the meeting date (note that the Commission requires an original and nine copies of any supplemental/rebuttal materials you wish to submit—all double-sided, hole-punched, paper-clipped and numbered). Please be sure to redact your submission for any confidential or sensitive information (e.g., home addresses, home or cellular phone numbers, social security numbers, dates of birth, etc.), as it will be considered a public document.

You may contact me by email at [Michael.Brown@sfgov.org](mailto:Michael.Brown@sfgov.org) or by phone at (415) 252-3250 if you have any questions. You may also access the Civil Service Commission's meeting calendar, and information regarding staff reports and meeting procedures, on the Commission's website at [www.sfgov.org/Civil\\_Service](http://www.sfgov.org/Civil_Service).

Sincerely,

CIVIL SERVICE COMMISSION

MICHAEL L. BROWN  
Executive Officer

CIVIL SERVICE COMMISSION  
REGISTER  
NUMBER 0010 15 7

Crystal Chow



X<sup>i</sup> M. Callahan  
S. Gard  
L. Kim

January 13, 2015

Executive Officer  
Civil Service Commission  
25 Van Ness Avenue, Suite 720  
San Francisco, CA 94102

RE: Appeal for Future Employment Restrictions

Dear Executive Officer:

My name is Crystal Chow. I was separated from the City and County of San Francisco, Human Services Department on December 30, 2014, with a "No future employment with the City and County of San Francisco" restriction. I am requesting a hearing date to appeal this decision and your reconsideration of my employment with the City and County of San Francisco.

Thank you in advance for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Crystal Chow".

Crystal Chow

Enclosure: City and County of San Francisco, Notice of Future Employment Restrictions Dated December 30, 2014

Certified Mail #: 7014 2120 0004 1552 5838

Union Reps

RECEIVED  
EXECUTIVE OFFICER  
CIVIL SERVICE COMMISSION  
SAN FRANCISCO  
2015 JAN 21 PM 3:16

**CITY AND COUNTY OF SAN FRANCISCO  
NOTICE OF FUTURE EMPLOYMENT RESTRICTIONS**

**Via Certified Mail**

**Status of Action:**

- Pending  
 Final

Crystal Chow  
Name of Employee

December 30, 2014  
Mailing Date



Human Services Agency/In Home Supportive Services  
Department/Division

PCS  
Type of Appointment

This notice is to inform you that a future employment restriction is being imposed along with your separation action, or with the action of automatic resignation, reported to the Department of Human Resources separating you from your position in Class 2918, Title HSA Social Worker, effective(\*) December 31, 2014, for the reasons outlined in the attached document(s).

You may request a hearing before the Civil Service Commission on your future employability with the civil service system of the City and County of San Francisco. The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability.

You may request a hearing for review of any restrictions on your future employability with the Civil Service Commission within 20 calendar days of the mailing date of this notice or from the date of separation, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102 by 1/20/2015. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing or file an appeal, the Human Resources Director will take final administrative action to confirm the restriction(s) in effect on the date of separation (\*).

The items checked below are the restrictions made by the department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/>	No restrictions on future employability.	<input type="checkbox"/>	Cancel any current examination and eligibility status.
<input type="checkbox"/>	No future employment with this department.	<input checked="" type="checkbox"/>	No future employment with the City and County of San Francisco.
<input type="checkbox"/>	Future employment subject to the review and approval of the Human Resources Director after satisfactory completion of _____ year(s) work experience outside the City and County service.		
<input type="checkbox"/>	Other (specify):		

(\*) Note: Future Employment Restriction(s) effective immediately.

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6.

(SEE REVERSE SIDE)

**MUST BE COMPLETED BY DEPARTMENT:**

Rank: 25 List #: 052907  
 SSN: [REDACTED]  
 Employee Organization: SEIU 1021

Trent Rhorer by [Signature]  
SIGNATURE OF APPOINTING OFFICER

METHOD OF SERVICE:  
 Certified Mail  Hand Delivered   
 Certified Mail #: 7011-1150-0000-6958-4707

Trent Rhorer  
NAME  
Executive Director, Human Services Agency  
TITLE

Attachment(s)



## INFORMATION FOR FORMER EMPLOYEE FOLLOWING SEPARATION

1. This document serves as an official notice of future employment restrictions imposed with the Notice of Automatic Resignation From Employment to the former employee or with a Separation Action that is subject to the provisions of a collective bargaining agreement, to the Civil Service Commission, and the Department of Human Resources.
2. If there are no restrictions imposed with the separation, the box indicating "*no restrictions on future employability*," would be checked.
3. A separated employee may request a hearing before the Civil Service Commission only for review of any restrictions on their future employability with the City and County of San Francisco.
4. Such appeals or requests for hearing must be in writing and received from the employee or the employee's representative by the date specified on this notice, or within twenty (20) calendar days from the mailing date of this notice, or the effective date of the separation whichever is later. The request must be submitted to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102.
5. An employee who requests a hearing within the time limits is entitled to:
  - a. Representation by an attorney or authorized representative of her/his own choice.
  - b. Notification of date, time, and place of hearing at a reasonable time in advance.
  - c. Inspection by the employee's attorney or authorized representative of those records and materials on file with the Civil Service Commission which relate to the restrictions on future employability.
6. Any interested party may request that the hearing be continued or postponed.
7. The decision of the Civil Service Commission is final and not subject to reconsideration.
8. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.




# CIVIL SERVICE COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

### CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22)

Refer to Civil Service Commission Procedure for Staff - Submission of Written Reports for Instructions on Completing and Processing this Form

1. Civil Service Commission Register Number: 0010-15-7
2. For Civil Service Commission Meeting of: March 6, 2023
3. Check One:  
 Ratification Agenda  
 Consent Agenda  
 Regular Agenda X  
 Human Resources Director's Report
4. Subject: Crystal Chow, former classification 2918 Human Services Agency Social Worker with the City and County of San Francisco, Appeal of Decision to Place Citywide Future Employment Restrictions
5. Recommendation: **Uphold the San Francisco Human Services Agency's decision to restrict Ms. Chow's future employment with the City and deny the appeal.**
6. Report prepared by: Andrea De Leon, Senior Human Resources Analyst, San Francisco Human Services Agency, 415-557-5920
7. Notifications: See attached Notification List
8. Reviewed and approved for Civil Service Commission Agenda:  
  
Human Resources Director:   
  
Date: 2/22/23
9. Submit the original time-stamped copy of this form and person(s) to be notified (see Item 7 above) along with the required copies of the report to:

**Executive Officer**  
**Civil Service Commission**  
**25 Van Ness Avenue, Suite 720**  
**San Francisco, CA 94102**

10. Receipt-stamp this form in the ACSC RECEIPT STAMP box to the right using the time-stamp in the CSC Office.

Attachment: Notification List – CSC Register No: 0010-15-7

CSC-22 (11/97)

<p><b><u>CSC RECEIPT STAMP</u></b></p>
--



**SAN FRANCISCO  
HUMAN SERVICES AGENCY**

Department of Benefits  
and Family Support

Department of Disability  
and Aging Services

P.O. Box 7988  
San Francisco, CA  
94120-7988  
[www.SFHSA.org](http://www.SFHSA.org)



**London Breed**  
Mayor

**Trent Rhorer**  
Executive Director

**NOTIFICATION LIST – CSC REGISTER NO: 0010-15-7, CRYSTAL CHOW**

**Crystal Chow**



Trent Rhorer  
Executive Director  
San Francisco Human Services Agency  
170 Otis Street, 8<sup>th</sup> Floor  
San Francisco, California 94103  
[Trent.Rhorer@sfgov.org](mailto:Trent.Rhorer@sfgov.org)

Daniel Kaplan  
Deputy Director for Finance and Administration  
San Francisco Human Services Agency  
170 Otis Street, 8<sup>th</sup> Floor  
San Francisco, California 94103  
[daniel.kaplan@sfgov.org](mailto:daniel.kaplan@sfgov.org)

Anna Pineda  
Deputy Director of Benefits and Family Support  
San Francisco Human Services Agency  
170 Otis Street, 8<sup>th</sup> Floor  
San Francisco, California 94103  
[anna.pineda@sfgov.org](mailto:anna.pineda@sfgov.org)

Katrina Williams  
Director of Human Resources  
San Francisco Human Services Agency  
1650 Mission Street, Suite 400  
San Francisco, California 94103  
[katrina.williams@sfgov.org](mailto:katrina.williams@sfgov.org)

Andrea De Leon  
Interim Manager, Employee and Labor Relations  
San Francisco Human Services Agency  
1650 Mission Street, Suite 400  
San Francisco, California 94103  
[andrea.deleon@sfgov.org](mailto:andrea.deleon@sfgov.org)



SAN FRANCISCO  
HUMAN SERVICES AGENCY

P.O. Box 7988  
San Francisco, CA  
94120-7988  
[www.SFHSA.org](http://www.SFHSA.org)

Mawuli Tugbenyoh  
Chief of Policy  
Department of Human Resources  
One South Van Ness, 4<sup>th</sup> Floor  
San Francisco, California 94103  
[Mawuli.tugbenyoh@sfgov.org](mailto:Mawuli.tugbenyoh@sfgov.org)

Shawn Sherburne  
Assistant Director, Employment Services  
Department of Human Resources  
One South Van Ness, 4<sup>th</sup> Floor  
San Francisco, California 94103  
[shawn.sherburne@sfgov.org](mailto:shawn.sherburne@sfgov.org)

Anna Biasbas  
Director Employment Services  
Department of Human Resources  
One South Van Ness, 4<sup>th</sup> Floor  
San Francisco, California 94103  
[anna.biasbas@sfgov.org](mailto:anna.biasbas@sfgov.org)

Lauren Rowe  
Senior Human Resources Analyst  
Department of Human Resources  
One South Van Ness, 4<sup>th</sup> Floor  
San Francisco, California 94103  
[lauren.rowe@sfgov.org](mailto:lauren.rowe@sfgov.org)



**CIVIL SERVICE COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

*Sent Via US Mail*

October 20, 2022

Crystal Chow  
[REDACTED]

**Subject: Register No. 0010-15-7: Request for Hearing on her future employability as a 2918 HSA Social Worker with the City and County of San Francisco.**

Dear Crystal Chow:

This is in response to your appeal submitted to the Civil Service Commission on January 21, 2015, appealing the decision of the Human Resources Director to place restrictions on your potential future employment with the City and County of San Francisco.

The Human Services Agency informed the Commission, that the arbitration award in your case denied your grievance and upheld your dismissal in its entirety. In light of the arbitrator's decision, the Civil Service Commission proposes to hear the appeal matter on future employment restrictions unless you do not want to pursue your appeal. If you decide you want to proceed please inform me by October 21, 2022. If I do not hear from you by 5:00PM on Friday, October 21, 2022 I will consider the matter closed and direct staff to close all files on this matter.

You may contact me by email at [Lavena.Holmes@sfgov.org](mailto:Lavena.Holmes@sfgov.org) or by phone at (628) 652-1100, should you have any questions or concerns regarding this appeal or the closure of your file on this matter.

If this matter is subject to Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

Sincerely,

CIVIL SERVICE COMMISSION

/s/

LAVENA HOLMES

Deputy Director



**SAN FRANCISCO  
HUMAN SERVICES AGENCY**

Department of Benefits  
and Family Support  
  
Department of Disability  
and Aging Services

Date: January 26, 2023  
To: Honorable Civil Service Commission  
Through: Carol Isen, Human Resources Director  
Through: Katrina Williams, Human Resources Director, San Francisco Human Services Agency  
From: Andrea De Leon, Senior Employee and Labor Relations Analyst, San Francisco Human Services Agency  
Subject: Crystal Chow, former 2918 HSA Social Worker, San Francisco Human Services Agency's Decision to Place Future Employment Restriction

P.O. Box 7988  
San Francisco, CA  
94120-7988  
[www.SFHSA.org](http://www.SFHSA.org)

Civil Service Register No.: 0010-15-7

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**I. Summary and Issue on Appeal to the Civil Service Commission**

On January 13, 2015, Ms. Chow filed an appeal with the Civil Service Commission. In her appeal, she requested a hearing to appeal the decision for future employment restrictions with the City and County of San Francisco." The issue on appeal is whether the Citywide restriction on Ms. Chow's future employment is appropriate.

**II. Authority**

Pursuant to Civil Service Commission Rule 122, Article I, persons who are terminated from employment with restrictions placed on their future employment may appeal those restrictions to the Civil Service Commission for review.

**III. Background**

On or about July 16, 2014, the San Francisco Human Services Agency (SFHSA or Agency or Department) Investigations Division received a report alleging that classification 2918 HSA Social Worker Crystal Chow (Chow) had engaged in misconduct. Ms. Chow was assigned to the Agency's Department of Disability and Adult Services, In-Home Supportive Services (IHSS) division. Specifically, it was alleged that she had falsified official records relating to a home visit she conducted on November 14, 2013 with IHSS recipient S.L.

The Agency's investigation substantiated the allegations and the Agency recommended that Ms. Chow be dismissed from her permanent position. After the *Skelly* hearing, the Agency upheld the dismissal and recommended to the Civil Service Commission that Ms. Chow's future employment with the City and County



**London Breed**  
Mayor

**Trent Rhorer**  
Executive Director

of San Francisco be restricted as follows: No future employment with the City and County of San Francisco.

See *Exhibit 4*.

#### **A. Investigation**

##### **Ms. Chow entered false information in the IHSS annual assessment for S.L. dated November 14, 2013**

In the November 14, 2013 annual assessment turned in by Ms. Chow, she included the following note:

*"Clt was alert and oriented x3 during HV. She stated that her memory declined a little bite (sic). She was groomed appropriately. She was responsive and coherent during our conversation. She was pleasant and cooperative."*

However, medical records technicians at San Francisco General Hospital disclosed that the recipient (S.L.) remained hospitalized at SFGH from October 4, 2013 until her discharge to Kentfield Rehabilitation Hospital in Marin County on December 2, 2013. Ms. Chow later admitted that she had not seen the recipient on November 14, 2013 but completed the needs assessment based upon information obtained from S.L.'s brother on that date. IHSS managers including Chow's direct supervisor Kean Tan stated that, in order to complete an annual assessment, the worker MUST see the recipient who they are assessing. State guidelines and regulations, as well as policies in effect in the Department's IHSS program, required that Ms. Chow meet face-to-face with the recipient in order to properly assess S.L.'s current condition and ability to perform various and basic functions independently. Chow's initial training and the training she received from her supervisor and other more experienced staff during her probation informed her of this requirement.

Therefore, the Agency found that Ms. Chow did not see S.L. on November 14, 2013 and that she submitted an annual assessment with false information - creating the impression that she had in fact met with the client on that date. This was in violation of State guidelines and regulations and the Department's IHSS program requirements. This also constituted negligence in the performance of duties in violation of Agency policies and procedures.

##### **Ms. Chow falsified IHSS recipient Form SOC 864 dated November 13, 2014**

Following her home visit to S.L.'s residence on November 14, 2013, Ms. Chow submitted documents purportedly signed by the recipient during that face-to-face visit. When examined, S.L.'s signature on the IHSS Form SOC 864 completed on this date appeared dissimilar to S.L.'s signature recorded on the same form dated November 6, 2012.



Further, San Francisco General Hospital representatives confirmed that the recipient remained hospitalized at that institution between October 4 and December 2, 2013 and not at home when Ms. Chow claimed to have seen her on November 14, 2013. There was nothing in the IHSS file or Ms. Chow's notes to suggest that she met with the recipient at San Francisco General Hospital. During her interview, Ms. Chow denied that she had signed S.L.'s name on the forms collected at the time of the visit, implying that S.L.'s brother may have done so. However, Chow's supervisor Kean Tan, as well as other IHSS managers and supervisors, asserted that this State form must only be signed by the recipient. As was the case with the annual assessment, Chow received initial training as well as on-the-job training where she was informed of this requirement.

IHSS social workers are required to obtain the recipient's signature in order to properly complete the IHSS Form SOC 864. Ms. Chow failed to do so in violation of State guidelines and regulations and the Department's IHSS program requirements.

Ms. Chow falsified IHSS recipient S.L.'s Voter Preference document dated November 14, 2013

Following her home visit to S.L.'s residence on November 14, 2013, Ms. Chow submitted documents purportedly completed by the recipient during that face-to-face visit. San Francisco General Hospital representatives confirmed that S.L. remained hospitalized at that institution between October 4 and December 2, 2013 and not at home when the worker claimed to have seen her on November 14, 2013. There was nothing in the IHSS file or the worker's notes to indicate that she met with the recipient at San Francisco General Hospital. When questioned by investigators, Ms. Chow acknowledged that she had had no face-to-face contact with the recipient in over a year.

Ms. Chow received training in the proper completion of forms used in conjunction with the annual needs assessments including the assessment, the SOC 864, and HSA Voter Preference form. As part of her ongoing training, she would have been aware of the requirement that she provide additional documentation in those instances when a recipient was unwilling or unable to fill them out. By her own admission, she did not meet with S.L. on November 14, 2014 and so could not have offered the opportunity to her to state her preference regarding registering to vote. The recipient was not present during this visit and was not contacted by Chow subsequent to the visit. Thus, S.L. neither participated in its completion nor authorized Chow to submit the form on her behalf.

Therefore, the agency found that Ms. Chow falsified the recipient's Voter Preference Form in violation of State guidelines and regulations and the Department's IHSS program requirements.

Ms. Chow was negligent in the performance of her duties

Ms. Chow submitted paperwork and her completed annual assessment for S.L. asserting that she had in fact met with recipient when she had not. IHSS social workers are required to see their recipient in order to properly assess their level of need. In part, the requirement that there be a face-to-face contact with the recipient is to insure that the social worker can observe them in their home and identify unsafe conditions such as evidence of abuse and neglect. Ms. Chow admitted to investigators that she failed to carry out this essential duty and that the paperwork she submitted for the fabricated visit would lead any one reviewing her work to conclude she had seen the recipient in person. Her falsification of the paperwork that accompanied the November 14, 2013 visit meant that S.L. received no timely assessment and might not be seen by a county worker for another 12 months.

Ms. Chow also failed to properly complete the SOC 864 "Individual Back-up Plan and Risk Assessment" for S.L. on November 14, 2013. She completed the document without having obtained the recipient's signature. A review of similar documents from other recipients' IHSS case files showed in each instance that she had obtained that recipient's signature as required by the program's policy and regulations. She would have known that the form included false information but turned it in anyway.

Ms. Chow submitted documents including the annual needs assessment and SOC 804 for a face-to-face visit with the recipient she did not make. She ignored program policy and regulations thereby placing the recipient at risk, and failed to perform her duties as an IHSS social worker. Therefore, the Agency found she was negligent in the performance of her duties in violation of Agency policies and procedures.

#### **B. Skelly Meeting and Dismissal from Employment**

On September 3, 2014, the Agency issued Ms. Chow a *Notice of Intent to Dismiss from Permanent Position and Skelly Notification*. On October 2, 2014 a *Skelly* meeting was held to provide Ms. Chow with an opportunity to respond to the charges. Ms. Chow was represented by SEIU, Local 1021. The charges against Ms. Chow were as follows:

- Dishonesty
- Unethical Acts
- Policy Violations
- Negligence, inefficiency, incompetence in the performance of duties
- Grievous Misconduct

In the *Notice of Dismissal from Permanent Position*, dated December 30, 2014, the Agency adopted the recommendation to dismiss Chow from her permanent position as a 2912/2918 HSA Social Worker. Ms. Chow was dismissed effective close of business December 30, 2014.

Additionally, the Agency recommended to the Civil Service Commission that Ms. Chow's future employment with the City and County of San Francisco be restricted as follows: No future employment with the City and County of San Francisco.

See *Exhibit 4*.

### **C. Grievance and Arbitration**

The Union, SEIU, Local 1021, filed a grievance on behalf of Ms. Chow asserting that there was no progressive discipline and that termination was unduly harsh. The Union sought to have Ms. Chow reinstated.

The grievance was elevated to arbitration and the hearing was held on September 22, 2015 and February 2 and 3, and May 3, 2016. It was found that the Department's investigation was fair and thorough, and that the IHSS rules and expectations regarding the need to accurately and truthfully report annual assessment visits were reasonable and important to insuring client health and safety. Further, the arbitrator found that the evidence convincingly showed that Ms. Chow engaged in systematic and sustained wrongdoing – Ms. Chow fabricated the annual assessment documents, failed to capture the absence of the recipient, and falsely notated that she made multiple attempts to return to see the recipient.

The arbitrator did not find the Union's arguments to be persuasive, as Ms. Chow's personal stress did not justify her long term malfeasance and the evidence demonstrated that she engaged in purposeful falsification of documents over a sustained period.

The arbitration award denied Ms. Chow's grievance and upheld the dismissal in its entirety.

See *Exhibit 3*.

### **IV. Analysis and Findings**

Under the Authority of the Civil Service Rules 122.14 and 122.15, and CSC Policy and Guidelines on Restrictions of Future Employment, egregious misconduct and serious unethical conduct which may mar the Department's reputation and/or the public's trust in the Department, merit a future employment restriction. See *Exhibits 1 and 2*.

Based on Ms. Chow's documented and confirmed egregious and unethical conduct, the Department concluded that imposing a Citywide future employment restriction was justified and necessary. In November 2013, Ms. Chow was required to conduct a home visit to an IHSS client to properly assess her current condition. She did not complete a face-to-face visit nor did she complete an assessment of the client in November 2013. Instead, she falsified official Department records indicating that she had visited the recipient on November 14, 2013. Additionally, Ms.

Chow submitted the Voter Preference document purportedly completed by S.L. during the home visit on November 14, 2013; however, S.L. was not present and was not contacted by Ms. Chow subsequent to the visit. Thus, she neither participated in its completion nor authorized Ms. Chow to submit the form on her behalf. Therefore, Ms. Chow submitted the document with a forged signature. IHSS social workers are required to see recipients in order to properly assess their level of need; this also insures that the social worker can observe them in their home and identify unsafe conditions such as evidence of abuse and neglect. Ms. Chow admitted to investigators that she failed to carry out this essential duty and that the paperwork she submitted for the fabricated visit would lead one to conclude she had seen the recipient in person. Her willful, grievous misconduct directly jeopardized the Agency's ability to ensure the safety of its clients and undermined the trust placed in SFHSA to protect children and adults in San Francisco from neglect and abuse.

The City is entrusted with hiring and retaining the best qualified employees for public service for the citizens of San Francisco. Employees who willfully engage in egregious and unethical misconduct violate the public trust and should not have the privilege of working for the City and serving the public. Therefore, under these circumstances, a Citywide future employment restriction is appropriate.

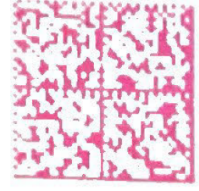
#### **V. Conclusion and Recommendation**

For the reasons discussed above, the Department respectfully requests that the Civil Service Commission uphold Ms. Chow's Citywide future employment restriction.

#### **EXHIBITS**

1. Civil Service Rules 122.14 and 122.15
2. Civil Service Commission Policy 2014-10
3. Crystal Chow's Dismissal Arbitration Opinion and Award
4. Crystal Chow's Notice of Dismissal and Skelly Packet, dated December 30, 2014

City and County of San Francisco  
Civil Service Commission  
25 Van Ness Avenue, Suite 720  
San Francisco, CA 94102-6033



Crystal Chow



9413481937 0010

# **EXHIBIT 1**

## **Rule 122**

### **Employee Separation Procedures**

#### **Article VII: Request to Remove Non-Permanent Ban**

Applicability: Article VII, Rule 122, shall apply to officers and employees in all classes, except the Uniformed Ranks of the Police and Fire Departments and MTA Service-Critical classes.

#### **Sec. 122.13**    **Those Individuals Covered Under Rule 122, Article VII**

Former employees of the City and County of San Francisco who were banned from future employment in one or more department(s) in accordance with the provisions of Civil Service Rule 122 may request reconsideration of any non-permanent ban if it has been five (5) or more years since the ban was imposed. For the purpose of this Rule, any Citywide ban imposed before April 21, 2014 is considered a permanent ban not subject to reconsideration.

#### **Sec. 122.14**    **Reconsideration**

Individuals as defined in Section 122.13 may submit a written request to the Human Resources Director for reconsideration of a ban on their future employment. It shall be the responsibility of the requesting individual to submit to the Human Resources Director all available documentation and information regarding the separation. The individual must also provide reasons for the request for reconsideration of the employment restriction.

#### **Sec. 122.15**    **Action of the Human Resources Director**

The Human Resources Director shall consider the request and the recommendation from the affected department(s). The Human Resources Director may request additional information deemed necessary to make a recommendation to the Civil Service Commission. The decision of the Civil Service Commission is final.

# **EXHIBIT 2**





# CIVIL SERVICE COMMISSION CITY AND COUNTY OF SAN FRANCISCO

EDWIN M. LEE  
MAYOR

MEMORANDUM  
CSC No. 2014 - 10


SCOTT R. HELDFOND  
PRESIDENT

E. DENNIS NORMANDY  
VICE PRESIDENT

DOUGLAS S. CHAN  
COMMISSIONER

KATE FAVETTI  
COMMISSIONER

GINA M. ROCCANOVA  
COMMISSIONER

Date: April 24, 2014  
To: Department Heads  
Human Resources Representatives  
Cc: Micki Callahan, Human Resources Director  
From: Jennifer Johnston, Executive Officer   
Subject: **Policy and Guidelines regarding Future Employment Restrictions  
under Civil Service Rule Series 022**

JENNIFER C. JOHNSTON  
EXECUTIVE OFFICER

Civil Service Rule Series 022 provides that the appointing officer or Human Resources Director may impose restrictions on a separated employee's future employment with the department and/or City—either indefinitely or conditioned on the individual meeting certain requirements—subject to appeal to the Civil Service Commission (“Commission”). Such restrictions apply to all future employment with the City in any appointment type (e.g., permanent civil service, exempt, provisional, etc.).

This memorandum states the Commission's policies and guidelines on the imposition, removal and appeal of such future employment restrictions, as adopted by the Commission on April 21, 2014. Civil Service Adviser No. 021 provides additional guidance on appeals of proposed restrictions on future employment.

## I. Authority

Under Charter Section 10.100, the Commission is charged with “the duty of providing qualified persons for appointment to the service of the City and County.” Charter Section 10.101 provides that the Commission shall adopt rules, policies and procedures to carry out the civil service merit system provisions of the Charter, including rules governing eligibility for employment with the City and County of San Francisco.

## II. Overview

Departments have an affirmative duty to their employees, other departments, the taxpayers of the City and County of San Francisco and the individuals to whom

the City provides services, to ensure that the selection and appointment of individuals for City employment is done in a careful and responsible manner. This includes the obligation to review the circumstances of any negative separation to determine whether it would be appropriate to restrict a former employee's future employment with the City.

This also includes the responsibility to review the employment history of any current or former employee prior to making an appointment. Departments are prohibited from appointing individuals with any applicable restriction on their future employment, irrespective of the appointment type of the position (e.g., permanent civil service, temporary exempt, provisional, etc.).

There are two primary benefits of future employment restrictions. First, they serve to limit the possibility of a City department making any hiring decision mistakes in the future and/or exposing itself to liability for negligent hiring. This is particularly important in light of the fact that there may not be sufficient existing documentation regarding the circumstances of a former employee's release, since City departments are not required to retain a former City employee's personnel file more than seven years following separation pursuant to the Commission's Citywide Employee Personnel Records Guidelines. Second, individuals who are restricted from future employment with the City do not get referred to a department for selection off of an eligible list, and therefore do not count against the number of reachable eligibles that a department may consider for employment under the applicable certification rule.

### **III. Imposing a Restriction**

#### **When to Impose a Restriction on Future Employment**

All negative separations (e.g., discharge/negative release/termination, disciplinary release from probation, designation of services unsatisfactory following a resignation, etc.), irrespective of appointment type (e.g., permanent civil service, exempt, etc.), should be evaluated to determine whether a restriction on future employment would be appropriate.

This evaluation should be on a case-by-case basis, based on the totality of the circumstances (e.g., the egregiousness of the conduct, the consequences of the conduct, whether it was repeated or a one-time occurrence, etc.). *Generally speaking*, and depending on the circumstances, one or more of the following situations would likely merit a future employment restriction of some kind (note that the following is not intended to be an exhaustive list):

- Egregious misconduct (malfeasance or nonfeasance) (e.g., being intoxicated in the workplace).
- Serious unethical conduct which may mar the department's reputation and/or the public's trust in the department/City (e.g., using one's City position for personal gain).
- Misappropriation of public/City/department funds or property.
- Destruction or serious misuse of public/City/department property.
- Mistreatment of persons (e.g., sexual harassment, violence in the workplace).
- Acts or conduct which presented a danger to the health and safety of the individual, his or her coworkers or members of the public.

- Significant, continued performance issues/deficiencies that would indicate that the individual would not satisfactorily perform the duties of his or her future employment with the City.

#### Type of Restriction to be Imposed

There are a multitude of different types of restrictions that a department may consider. They range from any of the following or a combination of the following: requiring evidence of subsequent satisfactory work performance outside the City for a specified duration; cancelling eligibility status; restricting employment in a particular department, classification or type of job (for example a job that requires driving); and, any other job-related restrictions, up to and including no future employment with the department and/or City and County of San Francisco.

Except in cases of misconduct/malfeasance, the Commission *generally* favors demonstration of satisfactory work experience outside the City consistent with the position for a period of time, prior to allowing a former employee to return to the City workforce.

Departments must be thoughtful in recommending a department-specific ban instead of a City-wide ban, as the latter would be more appropriate absent special circumstances unique to a specific department. For example, an individual who was separated from City employment for violating the City's policy prohibiting workplace violence should be banned from employment in all City departments, not just the one from which he or she was separated. Likewise, a restriction on future employment conditioned on proof of a satisfactory driving record for an individual separated for numerous driving infractions/accidents should apply to any driving position with the City, not just those with the department from which he or she was separated.

There must also be a nexus between the conduct that resulted in the negative separation and the type of the restriction. For example, if an employee has been released due to his or her unsafe driving, the restriction should be related to restricting that person's employment in a driving position with the City pending proof of a satisfactory driving record in a similar position for another employer. Note that this would not prohibit the individual from being appointed to non-driving positions with the City. Again, the restriction should be for *any* driving position with *the City* (not just with the specific department), since many City departments have driving positions.

The severity (scope and duration) of the restriction should also be correlative to, and commensurate with, the conduct that resulted in the negative separation. The duration of the restriction should be meaningful, and should be whatever time period the department believes would be enough to correct the employee's conduct that led to his or her negative separation. Permanent, unconditional bans should be imposed judiciously and only in circumstances that would merit such a severe restriction.

#### Effective Date of the Employment Restriction

If appealed, recommendations on future employment restrictions become final by action of the Civil Service Commission. In the absence of an appeal, a recommendation of the appointing officer or Human Resources Director that results in a "Final Administrative Action" is in effect a

final action of the Commission, provided that the restriction conforms to Civil Service Rules and applicable laws.

Individuals are placed under general waiver for all appointments pending resolution of an appeal of a restriction on their future employment in accordance with the Civil Service Rules. Further, the Department of Human Resources (“DHR”) and the Municipal Transportation Agency (“MTA”) place individuals under general waiver on all eligible lists pending the outcome of any grievances/arbitrations regarding their dismissal, discharge or termination.

Unless it is a permanent, unconditional ban on any and all future City employment, an individual may still be placed on an eligible list for future consideration under waiver pending satisfaction of any conditions on his or her future employment.

#### **IV. Appeals**

The decision of the appointing officer or Human Resource Director to impose restrictions on an individual’s future employment with the City may be appealed to the Commission in accordance with Rule Series 022. The Commission may uphold, modify or expand the recommendation of the appointing officer on the future employment restriction. Again, see Civil Service Adviser No. 021 for additional guidance on appeals of future employment restrictions.

A proposed employment restriction should not be rescinded solely because it has been appealed to the Commission. A department should only consider rescinding a proposed restriction for good cause (e.g., in the event that the department learns of new information that mitigates the conduct, or if DHR advises that the circumstances do not warrant the proposed restriction, etc.).

#### **Commission’s Review**

The Commission does not determine if the negative release itself was appropriate, nor does it re-adjudicate an arbitrator’s decision. Rather, the Commission’s role is to determine *if the proposed restriction on future employment is appropriate* (i.e., whether the circumstances surrounding the individual’s negative separation merit a restriction on his or her future employment with the City/department; and whether the scope, duration and type of restriction itself is appropriate under the circumstances).

#### **Requirement for a Staff Report**

As indicated, the individual is placed under general waiver for all appointments pending resolution of an appeal of a restriction on future employment to the Civil Service Commission. Therefore, departments are required to submit a staff report to the Commission within sixty (60) calendar days of receiving notification of an appeal on a future employment restriction to ensure that the matter is resolved expeditiously.

The department’s staff report should support the department’s position and address the issue to be determined on appeal: whether the proposed restriction on future employment is appropriate (i.e., whether the circumstances surrounding the individual’s negative separation merit a restriction

on his or her future employment with the City/department; and, whether the scope, duration and type of the restriction itself is appropriate under the circumstances).

The department must notify the Executive Officer as soon as possible if the individual has filed a grievance or lawsuit challenging the underlying separation so that the matter may be postponed until that proceeding has concluded. In the event that the former employee's separation is overturned, therefore making the appeal moot, the department must submit a Form 13 with supporting documentation within ten (10) business days to request administrative closure. In the event that the former employee's separation is upheld, the department must submit a staff report within sixty (60) calendar days so that the appeal can be scheduled for a Commission hearing.

The appeal will be calendared at the next Commission hearing date following receipt of the staff report in accordance with the Commission's meeting calendar.

## **V. Removing a Restriction**

Permanent restrictions on future employment may never be removed. Unless the restriction specifically indicates that it is a "permanent" ban on the individual's future employment with the City and/or department, it will be considered to be a non-permanent restriction eligible for reconsideration after five years in accordance with Civil Service Rule Series 022. A permanent restriction must specify, for example, "Permanent restriction on any future employment with the City and County of San Francisco;" or "Permanent restriction on any future employment in a driving position with the City and County of San Francisco;" or "Permanent restriction on any future employment with the MTA;" etc. Citywide bans imposed before April 21, 2014 are considered permanent restrictions and are therefore not subject to reconsideration.

Non-permanent, unconditional future employment restrictions may be removed by action of the Commission; and conditional restrictions on future employment may generally be removed with the approval of the Human Resources Director (or Director of Transportation, if the conditional restriction is specific to an MTA service-critical class or position), unless otherwise specified by the Commission. The removal of a restriction does not serve to rescind or abrogate the Commission action that imposed the restriction in the first place.

The procedures for removing a future employment restriction are outlined below. In all instances, it is the individual's responsibility to submit a *complete and thorough* request that the restriction/ban be lifted, including all relevant documentation in support of the request.

Individuals cannot be considered for employment in accordance with the terms of any restriction until it is removed. Therefore, DHR and/or the department should endeavor to respond to and process an individual's request to have a non-permanent ban lifted within a reasonable amount of time.

### **Request to Remove a Conditional Restriction**

Unless otherwise specified by the Commission, the Human Resources Director (or Director of Transportation, if the conditional restriction is specific to an MTA service-critical class or

position) may approve the removal of a conditional restriction on an individual's future employment upon determination that he or she has met or otherwise satisfied the terms or conditions of that restriction (e.g., future employment conditioned on the demonstration of one year of satisfactory service with another employer, future employment conditioned on the demonstration of a satisfactory driving record for a period of five years, etc.).

DHR/MTA should endeavor to respond to an individual's *complete* request to remove a conditional ban within thirty (30) calendar days of receipt of the request, notifying him or her of the Human Resources Director's/Director of Transportation's determination on whether the terms or conditions of the restriction have been met. The decision of the Human Resources Director/Director of Transportation is not appealable to the Commission.

#### Requests to Remove a Non-Permanent, Unconditional Restriction (Requests for Reconsideration)

As indicated, the removal of a non-permanent, unconditional ban may only be done through Commission action. Civil Service Rule Series 022 governs the process and procedures for a request to remove such restrictions.

Departments are required to forward to DHR within thirty (30) calendar days, an individual's *complete* request to lift a non-permanent and an accompanying memorandum with the department's recommendation on whether the request should be approved, declined or modified, and the reason(s) therefor. The memorandum must also include sufficient information that may be available regarding the circumstances of the individual's negative separation (including an overview of what happened and the reason(s) for the separation) and any supporting relevant documentation to inform the Human Resources Director's recommendation to the Commission

Within sixty (60) calendar days of receipt of the department's memorandum, DHR must submit a staff report to the Commission (with the department's memorandum packet attached) with the Human Resources Director's recommendation to either approve, decline or modify the individual's request to remove the restriction, and the reason(s) therefore.

## **VI. Additional Roles and Responsibilities**

### Appointing Officers/Departments

An Appointing Officer must properly notify an individual of his or her intent to impose a restriction on his or her future employment in accordance with the procedures prescribed by DHR. The notification must clearly indicate the type (i.e., whether it is permanent or not), scope and duration of the restriction; and it must include information on the process for appealing the restriction. Departments are also required to adequately document in the system of record the base(s) for the employment restriction.

Departments are responsible for ensuring that any proposed employment restriction is appropriately and accurately documented in the system of record and in the individual's personnel file. Departments are also responsible for documenting in the system of record when an individual has appealed a proposed employment restriction, and what the disposition was if the matter did not

ultimately go before the Commission for review.

Finally, departments are responsible for ensuring that any other necessary actions are undertaken to implement a final employment restriction. This includes notifying the DHR Recruitment and Assessment Services Division and/or the MTA of any restriction that requires that an individual's name from any eligible lists.

#### Human Resources Director/DHR and Director of Transportation/MTA

The Human Resources Director is responsible for establishing the procedures for implementing these policies and guidelines for all departments except for the MTA, which shall be the responsibility of the Director of Transportation.

DHR is required to report to the Commission in February and August of each year with information on individuals who appealed a restriction on their future employment but ultimately withdrew the appeal because the department reduced or rescinded the restriction. The MTA is also required to report such information to the Commission for MTA service-critical positions in February and August of each year.

DHR and the MTA are responsible for ensuring that the Human Resources Director's/Director of Transportation's decision to lift a conditional employment restriction is appropriately and accurately documented in the system of record, and that any other necessary actions are undertaken to implement that decision.

#### Executive Officer/Commission Staff

The Executive Officer is responsible for ensuring that departments understand their roles and responsibilities as outlined herein. This includes providing any training that may be needed.

The Executive Officer is also responsible for notifying all parties of the Commission's action on an appeal or request to remove an employment restriction, and for ensuring that such action is properly documented in the system of record.

#### QUESTIONS

Questions on Civil Service Rules or Commission policies, procedures and guidelines may be directed to Commission staff at (415) 252-3247.

# **EXHIBIT 3**



**BARRY WINOGRAD**

*Arbitrator and Mediator*

Lake Merritt Plaza • 1999 Harrison Street, Suite 1400  
Oakland, California 94612

(510) 465-5000

Direct Dial: (510) 273-8755 Fax: (510) 273-8746



Via Email and U.S. Mail

July 19, 2016

Ruth M. Bond  
Deputy City Attorney  
City/County of San Francisco  
Fox Plaza, 1390 Market Street, 5<sup>th</sup> Floor  
San Francisco, CA 94102-5402

Kerianne Steele  
Weinberg, Roger & Rosenfeld  
1001 Marina Village Pkwy, Suite 200  
Alameda, CA 94501

Re: City and County of San Francisco (HSA),  
and SEIU Local 1021  
(Re: Chow Dismissal, ERD No. 45-15-2951)  
[Arbitrator's File No. 15-128-LA)

Dear Counsel:

Enclosed please find a copy of the Arbitration Opinion and Award in the above matter. My invoice to the parties also is enclosed. As a courtesy, the parties have been charged one-half day for the hearing session on May 3, 2016, rather than a full-day per diem. I appreciate having been selected to work with the parties.

Very truly yours,

Barry Winograd  
BW/dks

cc: SEIU 1021/Accounts Payable

**BARRY WINOGRAD**

*Arbitrator and Mediator*

Lake Merritt Plaza • 1999 Harrison Street, Suite 1400  
Oakland, California 94612

(510) 465-5000

July 19, 2016

Ruth M. Bond

Deputy City Attorney Direct Dial: (510) 273-8755 Fax: (510) 273-8746

City/County of San Francisco

Fox Plaza, 1390 Market Street, 5<sup>th</sup> Floor  
San Francisco, CA 94102-5402

Kerianne Steele

Weinberg, Roger & Rosenfeld

1001 Marina Village Pkwy, Suite 200

Alameda, CA 94501

For Professional Services

Re: City and County of San Francisco (HSA), and SEIU Local 1021  
(Re: Chow Dismissal, ERD No. 45-15-2951)  
[Arbitrator's File No. 15-128-LA]

Arbitration Hearing:  
(at \$2,800 per day)

September 22, 2015 (1 day)	\$ 2,800.00
February 2, 2016 (1 day)	2,800.00
February 3, 2016 (1 day)	2,800.00
May 3, 2016 (.5 day)	1,400.00

TOTAL FEE PAYABLE	\$ 9,800.00
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Analysis and Preparation of  
Opinion and Award:  
(at \$2,800 per day)

4.25 days	\$11,900.00
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TOTAL FEE PAYABLE	\$21,700.00
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<b>CITY One-Half Share:</b>	<b>\$10,859.00</b>
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<b>UNION One-Half Share:</b>	<b>\$10,850.00</b>
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The respective shares should be forwarded within 30 days to the above address, payable to Barry Winograd (Federal Tax I.D. No. 94-3074698).

BARRY WINOGRAD  
Arbitrator and Mediator  
1999 Harrison Street, Suite 1400  
Oakland, CA 94612  
(510) 465-5000

IN ARBITRATION PROCEEDINGS PURSUANT TO  
AGREEMENT BETWEEN THE PARTIES

In the Matter of a Controversy Between: )  
)  
)  
SEIU LOCAL 1021 ) Arbitrator's  
) File No. 15-128-LA  
)  
and, )  
)  
)  
CITY AND COUNTY OF SAN FRANCISCO ) ARBITRATION  
(HUMAN SERVICES AGENCY) ) OPINION AND AWARD  
) (July 19, 2016)  
)  
[Re: Chow Dismissal, ERD No. 45-15-2951])  
\_\_\_\_\_)

Appearances: Kerianne R. Steele (Weinberg Roger & Rosenfeld),  
attorney for SEIU Local 1021; Ruth M. Bond (Deputy City  
Attorney), attorney for the City and County of San Francisco.

INTRODUCTION

This dispute arises under a collective bargaining agreement  
between the Service Employees International Union, Local 1021,  
and the City and County of San Francisco. The Union contends

that social worker Crystal Chow was dismissed without just cause. The City maintains that dismissal was justified because Ms. Chow falsified client documentation.

The undersigned was selected by the parties to conduct a hearing and to render a final and binding award. The hearing was held on September 22, 2015, and February 2 and 3, and May 3, 2016 in San Francisco, California. At the hearing, the parties were afforded an opportunity to examine and cross-examine witnesses, and to introduce relevant documentary evidence. A transcribed record of the hearing was prepared. The matter was deemed submitted for decision upon receipt of the final posthearing brief on June 20, 2016.

#### ISSUES

The parties agreed upon the following statement of the issues for resolution: Was the grievant dismissed with just cause; if not, what is the appropriate remedy? (Tr. 5.)

## FACTUAL ANALYSIS

### 1. Employment Setting

This case concerns the dismissal in December 2014 of Crystal Chow, a social worker. According to the final decision,

In November 2013, you were obligated to conduct a home visit to an In Home Supportive Services (IHSS) client. You did not visit nor did you complete an assessment of the client in November 2013. You then falsified official department records indicating that you had visited the client on November 14, 2013. Additionally, the documents signed by the client on November 14, 2013, contained a forged signature. (Jt. Exh. 3.)

Ms. Chow became a City employee in 2006. (Tr. 285-286.) When Ms. Chow was dismissed, she worked in the City's Human Services Agency (HSA), in its In Home Supportive Services (IHSS) program. Ms. Chow immigrated to the United States from China when she was a child, and has multi-lingual ability. (Tr. 277-279.) She also has a graduate degree from the University of California at Berkeley in the field of geriatric care. (Tr. 282-283.) In the IHSS program, Ms. Chow, along with several other individuals, worked in a "carrying unit" administering cases for Chinese-speaking elderly benefit recipients. Ms. Chow had not been disciplined prior to this case. (Tr. 177, 287.)

In 2013, Ms. Chow's supervisor was Kean Tan. He supervised Ms. Chow for the entire time of her employment with the City. (Tr. 539; City Exh. 9.) Ms. Chow's manager was Hua Huang, who hired and trained her in 2006. (Tr. 104-107.) Mr. Huang manages eight social worker teams. (Tr. 102.) Mr. Tan is in the same SEIU bargaining unit as the grievant; Mr. Huang is not. (Tr. 275-276.) Each testified. The program manager for IHSS is Megan Elliott. (Tr. 39-41.) Another individual involved in this proceeding is Joan Almeida, formerly an employee in the quality assurance unit and reportedly retired. (Tr. 48-49, 338.) In Ms. Almeida's position, she investigated overpayments and fraud affecting the program, by clients, and also, on occasion, by employees. Ms. Almeida did not testify.

During the period of Ms. Chow's work for the City, Ms. Chow testified that she assisted in caring for and was emotionally close to her uncle. (Tr. 315-318.) He died in early November 2013, shortly before the incident giving rise to this dispute. (Tr. 315-318.) Ms. Chow recalled she felt "overwhelmed" by his condition. However, Mr. Tan, her supervisor, testified she did not appear upset by his death, and asked questions about managing her uncle's property. (Tr. 593.)

A major activity for Ms. Chow and other social workers in her IHSS unit was conducting annual home visits to clients receiving public support. (Tr. 43-46, 110-114.) About 22,000 people are covered by the program in San Francisco. Each social worker is responsible for up to 400 cases. (Tr. 244, 287.)

The purpose of the home visits is to confirm the client's condition and safety, including whether the client is suffering abuse. (Tr. 44-46.) During the visit, which typically lasts for about an hour, a social worker can assess the client's physical condition and services that are provided, and whether added support would be appropriate. A social worker's functions are spelled out in a job description. (Jt. Exh. 7.) IHSS social workers also function as "mandatory reporters" under State law with responsibility to report client abuse. (Tr. 46.) Ms. Chow acknowledged that she could not assess whether a client was being abused if she did not see the client. (Tr. 395.)

Social workers conducting home visits make about two visits per day. (Tr. 462, 478, 551.) Ms. Chow, on an alternative workweek schedule, averaged over two visits a day. (Tr. 437, 551-552.) Visits are tracked on field reports, prepared in advance on a weekly basis. (City Exh. 2.) As the week progresses, employees add information to the field reports about

the times of a visit, observations, and any additional comments. (Tr. 474-478, 507-509, 551-553.) According to instructions for preparing field reports,

....if a worker arrives at a field visit and the client is not there, the worker should wait for 15 minutes for the client to show up. If the client does not arrive, the worker should leave his/her business card and a note saying s/he was there for a visit and asking the client to call to schedule the appointment. (City Exh. 2, p. 2.)

During a home visit, clients may sign forms, including an individual emergency back up plan, and a voter preference document. (Tr. 123-127, 140-141, 561-566; Jt. Exh. 4, atts. B, C.) If a client is unable to sign, an authorized representative may do so, provided a signed authorization is in the client's record.

After a home visit, a social worker is required to complete an annual assessment form, with a goal of doing so within a week of a visit. (Tr. 135-136, 479-480, 572-573, 576-578.) If a social worker is unable to see a client, the inability is noted on an "overdue list" for subsequent tracking and follow up. (Tr. 478-479.) In preparing an assessment report, portions can be taken from reports from a previous year, such as demographic information and a description of the home's configuration, assuming there are no changes on such matters. (Tr. 572-573.)



There is no explicit written rule requiring that an employee report a "no show" on a field report or in some other manner, in order to record that a client was not present for a home visit. (City Exh. 2; Tr. 561.) However, as confirmed by Ms. Chow's supervisor, Mr. Tan, and her manager, Mr. Huang, social workers are trained that a client's absence should be noted on the report, with the employee's supervisor informed. (Tr. 142-143, 522, 561.) Ms. Chow's coworker in the unit confirmed this expectation, including calling to advise the supervisor. (Tr. 246, 250, 263-264.) Another social worker confirmed the need to report a "no show," in part because the visit counts toward the weekly quota. (Tr. 477.)

Information related to annual assessments, and other notes regarding a client, are recorded in the program's past and current computer information systems, known as "ISIS" and "CMIPS II," respectively. (Tr. 135-136, 569-572, 576-578; also see, e.g., City Exhs. 4-8.)

## 2. Facts Giving Rise to the Dispute

The summary that follows provides the arbitrator's understanding of the material facts drawn from the substantial record in this proceeding. The basic chronology and key

documents are provided in an investigation report prepared by John McClellan, a supervising law enforcement investigator with HSA. (Jt. Exh. 4; Tr. 195-196.) Ms. Chow's account of what she did and saw during the home visit underlying this arbitration is largely undisputed. (See, generally, Tr. 292-303, 377-393, 435-441.)

On November 14, 2013, Ms. Chow paid a home visit to a female client. The client was a companion case with her brother at the same address. The brother's wife - the client's sister-in-law - was the IHSS provider for both brother and sister.

When Ms. Chow arrived at the home, the female client was not present. The client's brother reported that she was at the doctor, and the time for her return was unknown. He advised Ms. Chow of his sister's satisfactory status, with little change from the year before. Actually, on November 14, the female client was in the hospital, and remained in a hospital or in a rehabilitation facility for several months.

According to the relevant portion of the field report prepared by Ms. Chow after her visit, she met with the brother and the sister at their home for over an hour. (City Exh. 3; Tr. 381-382.) The field report does not include any notation in the

comment section that the female client was absent. (Tr. 382.) During the visit, two documents were completed. One was an emergency backup information form and the other was a voter preference form. According to Ms. Chow, the brother signed the forms. (Tr. 301-303, 349.) Ms. Chow believed the brother was authorized to do so based on Chinese cultural tradition, but she did not check the client file before her visit to verify authorization. (Tr. 303-304, 388-389.)

After the visit, Ms. Chow did not call to reschedule with the female client. Ms. Chow testified that she placed a note on the file, and placed the file on her desk, as a reminder to schedule another visit. (Tr. 309-311.) But Ms. Chow did not do so. Nor did she report the client's absence either to Mr. Tan or in any notation in the field report. Ms. Chow testified she should have included a comment in the field report about not seeing the client, or told Mr. Tan about the absence. (Tr. 315, 382.)

Several weeks after the November 2013 visit, Ms. Chow submitted the annual assessment, filing it electronically in CMIPS. (Tr. 165-167, 498-502; Jt. Exh. 4, att. A; City Exhs. 6-8.) The assessment included portions she cut-and-pasted from the 2012 report. (Tr. 221-222, 401-403; City Exh. 4.) Extra time to

submit the assessment was approved by Mr. Tan in mid-December 2013. The assessment was provided on January 6, 2014, and was approved by Mr. Tan the next day. In preparing the assessment, Ms. Chow testified that she forgot she had not seen the client in November, nor gone back for a visit. (Tr. 322-323.)

In the annual assessment, Ms. Chow included observations regarding the November 2013 visit, notably the following:

MEDICAL/PSYCHOLOGICAL STATUS:

Clt was alert and oriented x3 during HV. She stated that her memory declined a little bite. [sic] She was groomed appropriately. She was responsive and coherent during our conversation. She was pleasant and cooperative. (Jt. Exh. 4, att. A, p. 2.)

In other portions of the assessment, Ms. Chow recorded that it was "conducted in Cantonese with clt. alone in her apartment." (Id., p. 1.) She also noted in the assessment that, "Overall, clt. is stable with no changes for this reassessment," and noting, "Worker informed clt. to contact worker if there are changes in the future." (Id., p. 2.) Documents were signed during the November 13 visit, although, as noted above, there was no authorization for a representative to sign. (Tr. 140-142, 216-217.)

In April 2014, one of the hospital facilities used by the female client submitted a bill for services. The bill came to Ms. Chow's attention. (Tr. 323-330.) Ms. Chow learned from the

client's son that the client had been in a hospital since October 2013. This prompted Ms. Chow to file an overpayment report with Ms. Almeida in the HSA quality assurance unit. (Jt. Exh. 5, pp. 4-9.) As a result, funds being paid to the provider, the client's sister-in-law, were stopped. In all, about \$2,900 had been paid to the provider based on time sheets submitted to the program while the client was in a hospital facility. (City Exh. 1; Tr. 144-145, 151.) Once the overpayment report was submitted, Ms. Almeida followed up.

By July 2014, having investigated the situation, Ms. Almeida determined that Ms. Chow had submitted an annual home visit assessment without seeing the client. On July 9, Ms. Almeida noted her finding in the CMIPS record, including confirmation that the client was at different facilities between October 2013 and June 2014. (Jt. Exh. 5, p. 12.) For her part, Ms. Chow also made a CMIPS note on July 9, stating:

An administrative error occurred when annual hv on 11/14/13, recipient's brother, stated recipient went to the doctor and assessment was completed, but every attempt to see recipient to verify HV assessment was unable to due to recipient's long term hospitalization from 10/14/13-6/6/14. (Jt. Exh. 5, p. 13.)

On July 9, Ms. Chow and Ms. Almeida informed Mr. Tan about her error. (Tr. 581-585.) Ms. Almeida relayed the information



McClellan in July and August 2014, with a summary provided in September. (Jt. Exh. 4, pp. 3-10.) During the investigation, Ms. Chow was interviewed. She conceded it was a mistake to turn in the assessment without seeing the client. (Tr. 199-202, 210, 218-220.) When interviewed, Ms. Chow claimed that she did not do so intentionally, reporting that the client's brother gave her incorrect information. The investigator checked 23 other home visit assessments by Ms. Chow in spring and summer 2014, but found no other incident in that period in which Ms. Chow submitted an assessment without seeing the client. (Tr. 198-199, 213-216.)

Discipline followed the investigation. A notice of intent to dismiss Ms. Chow was issued in September 2014. (Jt. Exh. 4.) A *Skelly* hearing was conducted in October 2014. (Jt. Exh. 2.)<sup>1</sup> After the *Skelly* session, additional questions were raised by HSA with Ms. Chow based on comments made by Ms. Chow at the session. Ms. Chow declined an opportunity to meet with management a second time to address these issues, offering a written statement instead. (Tr. 486-488; Jt. Exh. 5 (10/21/14 email).)

Among the additional documents considered by management was Ms. Chow's July 9, 2014 CMIPS statement about her unsuccessful

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<sup>1</sup> *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194

follow up attempts to visit the client. (Jt. Exh. 5, pp. 1-2.) In Ms. Chow's response to the post-Skelly inquiry, she mentioned that Ms. Almeida "suggested I write a note." (Jt. Ex. 5, p. 3.) Ms. Chow's comments did not elaborate on anything else said by Ms. Almeida, nor did she mention Mr. Tan.

A final dismissal notice was issued in December 2014, quoted above. (Jt. Exh. 3.) Ms. Elliott, the IHSS program manager, explained that, in her view, Ms. Chow violated the trust expected of employees who deal with the health and safety of a vulnerable client population. (Tr. 53-55, 89.) For Ms. Elliott, Ms. Chow could not continue working without causing damage to the program by permitting Ms. Chow and other employees to believe that committing fraud is acceptable. This grievance and arbitration followed Ms. Chow's dismissal. (Jt. Exh. 1.)

At the arbitration, Ms. Chow testified that the content of the July 9 note, suggesting that she made an "administrative error" and "every attempt" to follow up and visit the female client, was language suggested on July 9 by Ms. Almeida and Mr. Tan. (Tr. 334-341, 419-421.) Mr. Tan flatly denied the claim in his testimony, recalling only a brief late afternoon discussion with Ms. Chow and Ms. Almeida on July 9 as he was about to leave the office, explaining that he would review the case the next



day. (Tr. 543-546, 581-585.) As noted above, Ms. Almeida did not testify. The CMIPS record shows that Ms. Almeida logged on to the system on July 9 in the afternoon at almost the same time as Ms. Chow's entry, but it is not evident what she did. (City Exh. 6.)

#### DISCUSSION

The City contends that there is just cause for dismissal of the grievant based on her mishandling of a home visit and her falsification of an important annual assessment document when the client was not present. The City emphasizes that client safety is a principal concern in the home visit process since there is only one annual review. The City urges that Ms. Chow's denial of wrongful intent is not credible.

For its part, the Union argues that Ms. Chow's submission of an erroneous assessment report, relying on the client's brother, was a negligent mistake due to personal stress and overwork. The Union also maintains that progressive discipline was not applied in this instance, urging that only minor discipline is appropriate, at most.

A review of employee discipline requires consideration of several factors. First, was the employee given sufficient notice of a reasonable rule governing employee conduct, and warning of discipline for a violation of the rule? Second, did the employer fairly investigate the alleged wrongdoing? Third, did the employee engage in actual wrongdoing as charged by the employer? Last, are there any countervailing or mitigating circumstances justifying modification or reversal of the discipline imposed by the employer?

For the reasons that follow, Ms. Chow's dismissal is upheld in its entirety.

First, IHSS has established reasonable rules and expectations regarding the need to accurately and truthfully report annual assessment visits. This is an important requirement to insure client health and safety, and to track the appropriate expenditure of public funds. Social workers understand the need to be truthful and complete in their assessment reports, as Ms. Chow acknowledged by conceding at the time that she made a mistake.

Second, the Department's investigation was fair and thorough. The investigator spoke with Ms. Chow and others, and

reviewed relevant documents. A post-*Skelly* inquiry also took place to consider concerns raised at the session, with an additional opportunity for Ms. Chow to explain matters, but which she declined to do in person, submitting a supplemental written response instead.

Third, turning to the issue of whether actual misconduct has been demonstrated, the evidence convincingly shows that Ms. Chow engaged in systematic and sustained wrongdoing. Most important, Ms. Chow did not truthfully complete the annual assessment form. The text written by Ms. Chow clearly states that she saw the client when she did not, and offers details about the client's physical condition. It was a fabrication, plain and simple.

Ms. Chow's misconduct regarding the assessment report was an element of a broader failure on her part. She did not make any notation on the field report that the client was absent, nor did she tell her supervisor, nor did she make any calls to reschedule. As a result, the absence of a visit for the female client was never noted by IHSS. Additionally, Ms. Chow's wrongdoing was compounded by her July 9 CMIPS notation indicating, falsely, that she made multiple attempts to return to see the female client.

Regarding mitigating factors, several Union arguments have been advanced, but they are not persuasive. Granted, Ms. Chow may have been under personal stress when she visited the client due to the death of an uncle earlier in November 2013. However, this unfortunate circumstance cannot justify her long term malfeasance weeks and months later. Even if Ms. Chow properly completed assessments for other clients, her egregious and repeated falsifications in this case amounted to continuous, aggravated wrongdoing.

The Union's claim that Ms. Chow did not have a wrongful intent is not supported by the record. As demonstrated by the evidence, Ms. Chow engaged in the purposeful falsification of documents over a sustained period. Accepting that Ms. Chow's negligence may have contributed to the problems, particularly her failure to recollect her initial annual assessment falsification, Ms. Chow's subsequent denial of wrongful intent is not credible. For example, if Ms. Chow expected to return to see the client, as she testified, why were documents signed during the visit? Nearly two months later, why did Ms. Chow fill out the assessment report in the way that she did, with multiple misstatements of fact that described observations of the client supposedly in her presence?


In addition, the Union urges that others were responsible or contributed to Ms. Chow's actions; specifically citing Mr. Tan and Ms. Almeida. This line of argument is not consistent, however, with the facts related to the subsequent inquiry beginning in April 2014. If Ms. Almeida was assisting Ms. Chow in a cover up, why did she pursue the issue into the summer and inform others? Nor were claims about Mr. Tan and Ms. Almeida engaging in wrongful conduct in July 2014 ever mentioned by Ms. Chow prior to the arbitration hearing. At most, Ms. Chow reported after the *Skelly* hearing that Ms. Almeida advised her to write a note. In any event, Mr. Tan denied contributing in any manner to Ms. Chow's wrongdoing. Ms. Almeida was not called as a witness.

As a final consideration, it is irrelevant that the client's brother and sister-in-law may have been involved in a scheme to defraud the public. No doubt they acted incorrectly by reporting false information and by continuing to collect money for services not rendered. This course of conduct, however, underscores the importance of Ms. Chow's failure to properly report and assess her visit. By not taking the required steps and leaving the client's status in the dark, Ms. Chow potentially endangered the client's well-being and facilitated fiscal wrongdoing.

AWARD

Based on the testimony and documentary evidence, and the findings and conclusions set forth above, the undersigned renders the following Award: The grievance is denied and the dismissal of Ms. Chow is upheld in its entirety.

Date: July 19, 2016

  
\_\_\_\_\_  
BARRY WINOGRAD  
Arbitrator

# **EXHIBIT 4**



*Edwin M. Lee, Mayor*

*Trent Rhorer, Executive Director*

Via Certified Mail #7011-1150-0000-6958-4707 & Hand Delivered

December 30, 2014

Crystal Chow



**NOTICE OF DISMISSAL FROM PERMANENT POSITION**

**Union: SEIU, Local 1021**  
**Class/Title: 2912/2918 HSA Social Worker**  
**Program: In Home Supportive Services**

Dear Ms. Chow:

On October 2, 2014, a Skelly meeting was held to provide you with the opportunity to respond to the Human Services Agency's (HSA) recommendation that you be dismissed from your permanent Class 2912 Senior Social Worker position. The recommendation is based on the charges and violations delineated in the attached Notice of Intent dated September 3, 2014, as follows:

- Dishonesty
- Unethical Acts
- Policy Violations
- Negligence, inefficiency, incompetence in the performance of duties
- Grievous Misconduct

Present at the meeting were: you; SEIU, Local 1021 Shop Stewards Kerry Sheehan and Lisa Hines; SEIU, Local 1021 Field Representative Kim Cantacessi; Human Resources Director Luenna Kim; Employee/Labor Relations Analyst Amanda Moreno; and Finance and Administration Deputy Director Dan Kaplan, who acted as the Skelly officer.

In November 2013 you were obligated to conduct a home visit to an In Home Supportive Services client. You did not visit nor did you complete an assessment of the client in November 2013. You then falsified official Department records indicating that you had visited the client on November 14, 2013. Additionally, the documents signed by the client on November 14, 2013, contained a forged signature.

**Final Decision**

After careful consideration of the evidence, the recommendation to dismiss you from your permanent position as a 2912/2918 HSA Social Worker position is adopted as the final decision of the Agency.




Please note that your dismissal from your permanent position with the Human Services Agency is effective close of business on December 30, 2014. See attached Separation Report.

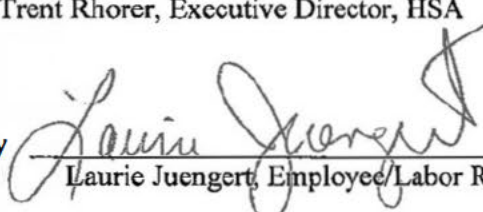
In accordance with Article IV of the Collective Bargaining Agreement between SEIU and the City and County of San Francisco, only the Union shall have the right on behalf of a discharged employee to file a grievance on the discharge action within fifteen (15) days of receipt of this letter.

In addition, I am recommending to the Civil Service Commission that your future employment with the City and County of San Francisco be restricted as follows: *No future employment with the City and County of San Francisco*. See attached DHR 1-13e Form – Notice of Future Employment Restrictions.

In regards to your future employability, you may request a hearing with the Civil Service Commission within twenty (20) calendar days of the mailing date of this letter or from the date of separation whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102.

If this matter is subject to the California Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set form in CCP Section 1094.6.

Approved by   
\_\_\_\_\_  
Trent Rhorer, Executive Director, HSA

Recommended by   
\_\_\_\_\_  
Laurie Juengert, Employee/Labor Relations Manager, HSA

Attachments:

1. September 3, 2014 Notice of Intent to Dismiss, with attachments, forty eight (48) pages
2. Separation Report, two (2) pages
3. DHR 1-13e Form – Notice of Future Employment Restrictions, two (2) pages

cc: Shireen McSpadden, DAAS Deputy Director \*  
Luenna Kim, Director of Human Resources \*  
Megan Elliott, In Home Supportive Services Program Director \*  
Personnel File  
Livelink

\*No attachments

**City and County of San Francisco**



*Edwin Lee, Mayor*

**Human Services Agency**

Department of Human Services

Department of Aging and Adult Services

*Trent Rhorer, Executive Director*

*Via Regular and Certified Mail No. 7011-1150-0000-6958-3717*

September 3, 2014

Crystal Chow



**AMENDED NOTICE OF INTENT TO DISMISS FROM PERMANENT POSITION  
AND SKELLY NOTIFICATION**

**Union: SEIU, Local 1021**

**Class/Title: 2912 Senior Social Worker**

**Program: In Home Supportive Services**

Dear Ms. Chow:

Please be advised that the Human Services Agency (HSA/Agency) has recommended your dismissal from your permanent position as a Class 2912 Senior Social Worker based on the following charges:

- Dishonesty
- Unethical Acts
- Policy Violations
- Negligence, inefficiency, incompetence in the performance of duties
- Grievous Misconduct

The policies violated are as follows:

- HSA's Code of Ethics and Code of Conduct, Section 9-12 (I)(A)
- HSA's Discipline Policy Procedures Section 9-13 (II)(A)(e)(f)(n); Section 9-13 (II)(B)(1); and Section 9-13 (II)(C)

Documents to support the charges are attached.

A Skelly meeting has been scheduled in order to give you the opportunity to respond, either orally, or in writing, to the charges. The meeting will be held on Tuesday, September 16, 2014,

at 1:00 PM, in the Human Resources Conference Room, 1650 Mission Street, 2nd Floor, San Francisco. You have the right to representation at the meeting. It is your responsibility to make the necessary arrangements.

You may elect to submit a written response instead of attending the meeting. The response should be addressed to me and must be received by close of business on September 15, 2014. If you choose not to attend the meeting on September 16, 2014, it is requested that you advise me no later than close of business on September 15, 2014.

If you fail to attend the scheduled meeting or do not submit a written response, a decision will be made by the Agency based upon the information obtained in its investigation and referred (if applicable) to the Appointing officer for final decision.

You may not visit or report to your customary work location at 1650 Mission Street, 3<sup>rd</sup> Floor or to any other work location with the exception of the place set for this meeting. You are not to discuss this matter with any of your colleagues or witnesses, either directly or through a third party, other than your representative. Failure to comply with these terms may lead to disciplinary action up to and including termination.

If this matter is subject to the California Code of Civil Procedure (CCP) Section 1094.5, the time within which judicial review must be sought is set forth in CCP Section 1094.6.

Should you have questions, you may contact me at 415-557-5712.

Sincerely,

  
Laurie Juengert  
Labor Relations Manager

Attachment: Redacted Investigatory Report dated August 25, 2014

cc: Shireen McSpadden, Deputy Director, Adult Services  
Luenna Kim, Human Resources Director  
Megan Elliott, In Home Supportive Services Program Director  
Livelihood



Edwin M. Lee, Mayor

Department of Human Services

Trent Rhorer, Executive Director

August 25, 2014

To: Diana Christensen, Director of Investigations

Cc: Luenna Kim, Human Resources Director  
Megan Elliott, IHSS Program Manager

From: John McClellan, Supervising Investigator

Subject: Report of Investigation – Crystal Chow

**BACKGROUND:**

On or about July 16, 2014, IHSS managers forwarded information to the Investigations Division concerning alleged misconduct by HSA employee Crystal Chow. Chow, a social worker assigned to the Department's In-Home Supportive Services program was suspected of having falsified official Department records relating to a home visit conducted by her on November 14, 2013 with IHSS recipient S ■ I ■. Records received by the IHSS program from outside agencies as well as initial inquiries conducted by its Quality Assurance unit found that the recipient had been hospitalized continuously at various institutions from October 4, 2013 to the present, making it impossible for Chow to have completed the November 14, 2013 assessment and home visit. Further, when examined, the documents purportedly signed by I ■ on this date appeared to have been forged.

Further, prior to forwarding this referral to the Investigations Division for review, IHSS managers conducted brief interviews with other workers assigned to Ms. Chow's unit. The workers' statements obtained during this process indicated that on July 9<sup>th</sup>, Chow told one worker that she had submitted an assessment for a client she had not seen.

**INVESTIGATION**

IHSS case records confirmed that Ms. Chow submitted documents verifying she completed a face-to-face contact with IHSS recipient S ■ I ■ at L ■'s home at ■■■■■■■■■■ on November 14, 2013. Chow also met with L ■'s brother, Q ■ T ■■■■■, another IHSS recipient who lived at this address on this same date. Notes made by the worker on Lai's annual assessment documented that she had seen her, spoken with her and made observations concerning the recipient's current condition. Following these visits, she met with a third recipient, H ■■■■■ N ■■■■■, living at ■■■■■■■■■■ on this same date. When examined, the Form SOC 864 purportedly signed by L ■ during the above visit bore a signature that appeared dissimilar to her signatures found on forms signed by her in 2012 and 2013.

Investigators spoke with the recipient's son, M ■■■■■ L ■ who confirmed that his mother was admitted to San Francisco General Hospital on October 4, 2013 as the result of a motor vehicle accident. She stayed

there until December 2, 2013 when she was transferred to Kentfield Rehabilitation Hospital in Marin County. Representatives at this institution stated that between December 2, 2013 and January 28, 2014, L■ moved back and forth between Kentfield Rehab and Marin General Hospital until transferring to Alameda Wellness and Healthcare Center in Alameda County on January 28, 2014. L■ stayed at Alameda Wellness until June 6, 2014 when she moved in to Laguna Honda Hospital in San Francisco. L■'s son, M■■■■ told investigators that his mother had not returned to her home at ■■■■■ since first being hospitalized on October 4, 2013. The recipient's IHSS case files contained no record of attempts by the worker to see her at any of the above institutions.

Based upon the above discrepancies, investigators requested to see documents associated with annual home visits conducted by Ms. Chow during the months May, June and July. Investigators accompanied by Cantonese-speaking translators conducted field interviews of 23 recipients seen by Chow during these months, meeting with recipients, their family members and providers. With the exception of S■ L■, information obtained from these interviews indicated that Chow conducted the face-to-face visits as documented in the respective recipients' case records.

IHSS managers conducted interviews between July 17 and 21, 2014 of the other HSA employees that comprised Ms. Chow's unit. During these interviews, her co-workers disclosed that on July 11, 2014, Ms. Chow called a unit meeting during which she appeared upset, telling staff she had "made a mistake," one that was serious enough to lead to her suspension or termination. One co-worker, Sharon Lai told IHSS managers that she recalled receiving a telephone call from Chow on July 9, 2014. During the conversation, Chow told Lai that she had turned in an assessment for a home visit without having seen the recipient. Lai said that Chow told her that she "committed fraud on the case."

HSA investigators interviewed Ms. Chow on August 19, 2014. During the interview, she admitted that she did not see the recipient, S■ L■ on November 14, 2013. She said that when she got to L■'s residence, she met with the recipient's brother, Qi T■■■H■. He told her that L■ had gone to see her doctor but did not mention that she was actually hospitalized. Chow said she interviewed H■ about his sister's condition and used that information to complete the absent recipient's assessment. She told investigators that it was not unusual to collect information about a recipient from family members, particularly when the recipient was incapacitated or otherwise unable to participate in the assessment.

Ms. Chow acknowledged that it had been a mistake to turn in L■'s assessment without having seen her but denied she had done so intentionally. She asserted she had intended to return to the recipient's home to complete the assessment but never did so. She agreed that her submission of L■'s assessment created the impression she had seen the recipient when in fact she had not. Moreover, having done so, she created a situation in which the recipient would not be seen by a County representative for another 12 months. Her negligence increased the risk of abuse or neglect going undetected for these additional months.

Ms. Chow denied recalling specific conversations between herself and her co-workers in early July 2014 regarding the L■ situation. She could not recall the details of any conversation in which she disclosed having turned in an assessment without having seen the client. She became vague, avoiding answering the question directly, saying "this thing is really affecting my memory." She acknowledged that at the time, she had been worried because "QA was involved." She denied that she had turned in other needs assessments for recipients that she did not see face-to-face.

During his interview, Ms. Chow's supervisor, Kean Tan stated that he had supervised Chow from her initial probation as a newly-hired social worker to the present day. Like all of the workers assigned to his unit, she received training in how to properly complete the Form SOC 864. He stated that policy and regulations required that the worker obtain the recipient's signature or document why they had been unable to do so. He noted that in the case of the annual assessment, the worker was always required to see the client.

## **RELATED RULES AND POLICIES**

**Section 9-13: IIA(2)(e) of the Human Services Agency Personnel Procedures Handbook states:**

*"Dishonesty: A willful perversion of the truth (i.e. lying or failing to provide accurate and complete information) in order to deceive, cheat or defraud, or a failure to disclose or provide information possessed about a matter of official interest when requested to do so, or when required to do so by these procedures, charter or law."*

**Section 9-13: IIA(2)(f) of the Human Services Agency Personnel Procedures Handbook states:**

*"Unethical Acts: Acts committed by an employee on duty in the capacity of a representative of the City and County of San Francisco/HSA which discredit the Agency and the public service..."*

**Section 9-13: IIB(1) of the Human Services Agency Personnel Procedures Handbook states:**

I *"Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned tasks or training, or failure to discharge duties in a prompt, competent, and reasonable manner."*

**Chapter 30-756.1 NEED of the Social Services Standards Services Program 7: In-Home Supportive Services states in part:**

*"Staff of the designated county department shall determine the recipient's level of ability and dependence upon verbal or physical assistance from another for each of the functions listed in Section 30-756.2..."*

**CDSS In Home Supportive Services Consumer Handbook – Chapter 2, page 16 "Reassessment" states in part:**

*"It is important to portray your abilities and limitations accurately when the IHSS worker comes to your home for an initial assessment or reassessment. Be clear when describing your need. Do not exaggerate your need for assistance. On the other hand, do not overstate your ability to provide your own care..."*

## ALLEGATION #1

**HSA employee Crystal Chow entered false information in the IHSS annual assessment for S ■ L ■ dated November 14, 2013.**

In the November 14, 2013 annual assessment turned in by Ms. Chow, she included the following note:

*“Cit was alert and oriented x3 during HV. She stated that her memory declined a little bite (sic). She was groomed appropriately. She was responsive and coherent during our conversation. She was pleasant and cooperative.”*

However, medical records technicians at San Francisco General Hospital disclosed that the recipient remained hospitalized at SFGH from October 4, 2013 until her discharge to Kentfield Rehabilitation Hospital in Marin County on December 2, 2013. Ms. Chow later admitted that she had not seen the recipient on November 14, 2013 but completed the needs assessment based upon information obtained from S ■ L ■’s brother on that date. IHSS managers including Chow’s direct supervisor, Kean Tan stated that in order to complete an annual assessment, the worker MUST see the recipient who they are assessing. Chow’s initial training and the training she received from her supervisor and other more experienced staff during her probation informed her of this requirement.

FINDING: Sustained.

RATIONALE: Ms. Chow did not see Ms. L ■ on November 14, 2013. She later submitted an annual assessment that included notes, creating the impression that she had in fact met with the on that date. Guidelines set out in State regulations as well as policies in effect in the Department’s IHSS program required that she meet face-to-face with the recipient in order to properly assess L ■’s current condition and ability to perform various, basic functions independently.

## ALLEGATION #2

**HSA employee Crystal Chow falsified IHSS recipient S ■ L ■’s IHSS Form SOC 864 “Individual Back-up Plan and Risk Assessment” dated November 13, 2014.**

Following her home visit to S ■ L ■’s residence on November 14, 2013, Ms. Chow submitted documents purportedly signed by the recipient during that face-to-face visit. When examined, L ■’s signature on the IHSS Form SOC 864 completed on this date appeared dissimilar to L ■’s signature recorded on the same form dated November 6, 2012.

Further, San Francisco General Hospital representatives confirmed that the recipient remained hospitalized at that institution between October 4 and December 2, 2013 and not at home when the worker claimed to have seen her on November 14, 2013. There was nothing in the IHSS file or the worker’s notes to suggest that she met with the recipient at San Francisco General Hospital. During her interview, Ms. Chow denied that she had signed L ■’s name on the forms collected at the time of the visit, implying that L ■’s brother, Q ■ T ■ H ■ may have done so. However, Chow’s supervisor, Kean Tan as well as other IHSS managers and supervisors asserted that this State form must

only be signed by the recipient. As was the case with the annual assessment, Chow received initial training as well as on-the-job training she received throughout her 6-month probation during which she was informed of this requirement.

**FINDING: Sustained**

**RATIONALE:** IHSS social workers are required to obtain the recipient's signature in order to properly complete the IHSS Form SOC 864. Ms. Chow failed to do so.

### **ALLEGATION #3**

**HSA employee Crystal Chow falsified IHSS recipient S■■ L■■'s Voter Preference document dated November 14, 2013.**

Following her home visit to S■■ L■■'s residence on November 14, 2013, Ms. Chow submitted documents purportedly completed by the recipient during that face-to-face visit. San Francisco General Hospital representatives confirmed that Ms. L■■ remained hospitalized at that institution between October 4 and December 2, 2013 and not at home when the worker claimed to have seen her on November 14, 2013. There was nothing in the IHSS file or the worker's notes to indicate that she met with the recipient at San Francisco General Hospital. When questioned by investigators, Ms. Chow acknowledged that she had had no face-to-face contact with the recipient in over a year.

Ms. Chow received training in the proper completion of forms used in conjunction with the annual needs assessments including the assessment, the SOC 864, and HSA Voter Preference form. As part of her ongoing training, she would have been aware of the requirement that she provide additional documentation in those instances when a recipient was unwilling or unable to fill them out. By her own admission, she did not meet with L■■ on November 14, 2014 and so could not have offered the opportunity to her to state her preference regarding registering to vote.

**FINDING: Sustained.**

**RATIONALE:** Ms. Chow submitted a Voter Preference document purportedly completed by the recipient during the November 14, 2013 home visit. The recipient was not present during this visit and was not contacted by Chow subsequent to the visit. Therefore, she neither participated in its completion nor authorized Chow to submit the form on her behalf.

### **ALLEGATION #4**

**HSA employee Crystal Chow was negligent in the performance of her duties.**

Ms. Chow submitted paperwork and her completed annual assessment for S■■ L■■ asserting that she had in fact met with recipient when she had not. IHSS social workers are required to see their recipient in order to properly assess their level of need. In part, the requirement that there be a face-to-face contact with the recipient is to insure that the social worker can observe them in their home and identify unsafe



conditions such as evidence of abuse and neglect. Chow admitted to investigators that she failed to carry out this essential duty and that the paperwork she submitted for the fabricated visit would lead any one reviewing her work to conclude she had seen the recipient in person. Her falsification of the paperwork that accompanied the November 14, 2013 visit meant that L■ received no timely assessment and might not be seen by a county worker for another 12 months.

Ms. Chow also failed to properly complete the SOC 864 “Individual Back-up Plan and Risk Assessment” for S■ L■ on November 14, 2013. She completed the document without having obtained the recipient’s signature. A review of similar documents from other recipients’ IHSS case files showed in each instance that she had obtained that recipient’s signature as required by the program’s policy and regulations. She would have known that the form included false information but turned it in anyway.

FINDING: Sustained.

RATIONALE: Ms. Chow submitted documents including the annual needs assessment and SOC 864 for a face-to-face visit with the recipient she did not make. She ignored program policy and regulations thereby placing the recipient at risk, and failed to perform her duties as an IHSS social worker.

## INTERVIEWS

### Crystal Chow

*Senior investigator John McClellen interviewed IHSS social worker Crystal Chow at the Investigation Division offices at 160 South Van Ness on August 19, 2014. Also present during the interview were Chow’s union representative, Lisa Hines, union representative in-training Kerry Sheehan and investigator Vicki Saltzer-Lamb. Ms. Chow declined to allow the interview to be recorded.*

Ms. Chow stated that she had worked as an IHSS social worker for approximately eight years. Her current title is senior social worker. She described her duties as including going on home visits, writing reports, filling out medical consent forms, voter registration forms and other documents.

Ms. Chow stated that she recorded all of her home visits in a weekly field visit log that she turned in to her supervisor. Her supervisor is Kean Tan.

Ms. Chow stated that her last face-to-face visit with recipient S■ L■ occurred more than a year ago. She said that on the last scheduled home visit, she had gone to L■’s residence but only seen the recipient’s brother who was also assigned to her as one of her recipients. Chow said that the brother told her that L■ was not home. He told her that L■ had gone out to see her doctor. At the time of the visit, only Chow and the brother were at the residence.

Ms. Chow said that she asked the brother questions about L■’s condition, going through the form together with him answering her questions about the absent recipient. She said that he provided her with information about L■’s condition and told her that there was “no change.” When asked whether she had made subsequent attempts to see the recipient, Chow responded that she did not.

Ms. Chow denied remembering stating to her co-workers that she had “made a mistake” or that she was in trouble, saying “I don’t remember. This thing is really affecting my memory.” When questioned further, Chow acknowledged that she had called a unit meeting but continued to respond that she could not remember. She volunteered then that she “was concerned because QA got involved.” Chow acknowledged that there was an expectation that the IHSS social worker needed to see the clients face to face.

Ms. Chow had no clear recollection of ever discussing the S■■ L■■ situation with her supervisor.

Ms. Chow told investigators that she thought that S■■ L■■’s brother may have been authorized to sign for the absent recipient. However, she added that this happened so long, she did not remember. She said that at the time, she had intended to go back and make the face-to-face visit with L■■. She said that because of her “400 client caseload and a death in my family, I wasn’t able to.” Also, she noted that the “recipient was in the hospital.” When asked to clarify this last statement, she explained that she did not learn of the recipient’s hospitalization until she received a written notice of this.

Ms. Chow said that did not forge any recipients’ signatures on the Voter Preference forms shown to her by investigators. She said that there had been a change in the program’s policies. The change said that the workers no longer needed to have the recipient’s signature on the voter registration form. She explained further that when she put the recipient’s names on the forms such as those shown to her that she was simply filling in the name and that the form itself did not actually state that it had to be signed by the recipient.

#### Kean Tan

*Senior investigator interviewed IHSS social worker supervisor Kean Tan at the Investigation Division offices at 160 South Van Ness on August 20, 2014.*

Tan stated that he has worked as an IHSS supervisor for 10 years. Prior to this, he worked as an IHSS social worker. He has supervised Ms. Chow since she began working as an IHSS social worker. As with all of the workers newly assigned to his unit, he conducted much of the initial and ongoing training regarding her understanding of the program’s rules and policies. New workers go through a six-month probation period. He spends this time working with the worker closely, teaching them best practices. Included in these instructions would have been the requirement that only the recipient could sign the Voter Preference form.

Tan said that each time a worker goes out to perform an annual assessment, they bring the Voter Preference form with them for the recipient to sign. In cases where the recipient is incapacitated in some way or refuses to sign the form, the worker may put an “X” on the line where their name goes accompanied with an explanation why the form was not signed. Although he could not recall any specific instance when the subject of signing the voter registration form had come up during his staff meetings, he stated that the workers had all received training on this both when they first were hired and by him and understood that the signature was required. Tan had no knowledge of any policy change that allowed workers to sign these forms themselves.

Tan said that the worker must see the recipient in order to complete the annual needs assessment. This was a program requirement, one that was emphasized during the workers’ training and by Tan during the workers’ probation. He explained that the requirement existed in part to ensure that the program had an opportunity to identify instances of neglect and/or abuse at least once every 12 months. Tan repeated that there were no exceptions to the requirement that the recipient be seen every year. He added that Chow should have known that she couldn’t submit the assessment to him without having first seen S■■ L■■. Similarly, she could not have simply relied on information obtained from the recipient’s brother and used that to complete the assessment.

Tan said that in addition to turning in an assessment containing language implying that she had seen Ms. L, Chow also input information into CMIPS II showing she had had a face-to-face contact with the recipient on November 14, 2013.

Tan acknowledged that it was not uncommon for social workers to “cut-and-paste” information from a prior annual assessment into the one they were currently responsible for. He said that this was fine for demographic information, addresses and diagnoses that remained unchanged. However, it was not acceptable to simply copy the medical/psychological portion, medications etc. from one assessment to another because these things did tend to change. He said that the worker should be updating these areas not copying them. He acknowledged though that the absence of changes did not necessarily mean that a worker had not seen a particular recipient on the given date.

Tan said that the program used its “Field Visit Log” as a means to track where its workers were on a given date and time. The log allowed the supervisor and others to identify where the social worker had gone to and how long they expected to be there. The log was not used to verify that the worker made a face-to-face contact on that date, only that they had planned to be at the recipient’s home. In the case of S L, the form completed by Ms. Chow told him that she had gone to the address and had expected to be there during the times listed.

Tan said that he was unaware of any other instance when Ms. Chow lied about having seen one of her recipients.

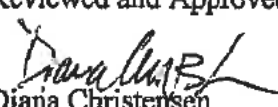
#### EXHIBITS

- A. Annual Assessment for S L dated November 14, 2013.
- B. SOC 864 for S L dated November 14, 2013.
- C. Voter Preference form for S L dated November 14, 2013.
- D. Voter Preference form for S L dated November 6, 2012.
- E. E-mail from Hugh Wang dated July 22, 2014.
- F. Interview notes dated July 17 through July 21, 2014.

Investigated by:

  
John McClellan  
Senior Investigator

Reviewed and Approved by:

  
Diana Christensen  
Director of Investigations

# Exhibit A

Client

**Assessment Narrative**

CASE NUMBER: 0167594 CASE NAME: L [REDACTED] S [REDACTED]  
 Address: [REDACTED]  
 ASSESSMENT DATE: 11/14/2013  
 TYPE OF ASSESSMENT: Annual HV  
 TIME LIMITED SERVICES: No  
 MOTOR VOTER REGISTRATION: Yes  
 LANGUAGE SPOKEN: Cantonese; WRITTEN: Cantonese  
 IHSS REFERRAL FORM (3012): Yes  
 IHSS APPLICATION FORM (SOC 295): Yes  
 LANGUAGE SERVICE NEEDS FORM (8072): Yes  
 HEALTH CARE CERTIFICATION NOTICE (SOC 874/SOC875): Yes  
 HEALTH CARE CERTIFICATION FORM (SOC 873): Yes  
 CIVIL RIGHTS BROCHURE: Yes  
 ADA INFORMATION BROCHURE: Yes  
 BACK-UP PLAN AND RISK ASSESSMENT FORM (SOC 864): Yes  
 DESIGNATION OF PROVIDER FORM (SOC 426A): No  
 RESPONSIBILITY LIST FORM (SOC 332): Yes  
 OTHER FORMS INCLUDED:  
 MEDICATIONS:

[REDACTED]  
 CLIENT KNOWS PURPOSE OF MEDS: Yes  
 CLIENT NEEDS HELP WITH MEDS: Yes  
 EQUIPMENT/SUPPLIES:  
 CANE: Has CRUTCHES: N/A WALKER: N/A WHEELCHAIR: N/A  
 BATH SEAT: Has BEDPAN/URINAL: N/A COMMODE: N/A DIAPERS: N/A  
 GRAB BAR: N/A HOSPITAL BED: N/A RESPIRATORY AIDS: N/A

**Notes:**

OTHER:  
 NUTRITION:  
 DESCRIBE APPETITE: Good  
 SPECIAL DIET? Yes  
 DIET COMPLIANCE? Good  
 HOW MANY MEALS ARE EATEN DAILY? 3  
 HOW MANY ARE HOT / MAIN? 3  
 IHSS MEAL ALLOWANCE: No  
 CAREGIVER STATUS/ISSUE(S): Sister in law is the IP.  
 MODE: IP

**DEMOGRAPHIC DATA:**

Client is a 78 years old Chinese female who speaks Cantonese and Toishanese. Annual assessment was conducted in Cantonese with client alone in her apartment.

**ENVIRONMENTAL DESCRIPTION/IMPACTS:**

Client moved into this new apartment in 10/09. Client lives in an one-bedroom basement unit in the Sunset district w/ her grandson; however, in 2011, her younger brother (IHSS recipient) and sister in-law immigrated from China and live with them. The unit has one big bedroom/living room and kitchen and one bathroom. Client has her own bedroom. Client shares the kitchen, and bathroom. Client has 3 children living in San Francisco, but they are not always available to assist her with chores due to family obligation and employment. Sister in-law is the main support. The apartment appears to be clean.

**MEDICAL/PSYCHOLOGICAL STATUS:**

Client was alert and oriented x 3 during HV. She stated that her memory declined a little bit. She was groomed appropriately. She was responsive and coherent during our conversation. She was pleasant and cooperative.

MC Form dated 10/12: Client diagnosed with bilateral knee pain, right shoulder pain,

chronic HTN and DM. Clt's chief complaints are shoulder pain, but needs help with putting on clothes upper and lower. She is able to self-administer glucose check approx. 3x/week. She visits Dr. Wang for arthritis once per month. She reported that she had a fall in Chinatown in 2011 with minor injuries. She rubbed the bruises with ointment. No hospitalization reported and no falls reported in the 12 months.

**FUNCTIONAL ABILITIES/LIMITATIONS:**

Clt. uses a cane to walk inside the home. Clt. reported both knees pain, but doesn't need assistance with walking inside the home, and shoulder pain which affect her ability to put on clothes; needs help with domestic and related services. She also has problem lifting and prolonged walking outside of home.

**CONCLUSION:**

Overall, clt. is stable with no changes for this reassessment.

Worker informed clt. to contact Worker if there are changes in the future.

**SERVICES BEING PROVIDED BY OTHER AGENCIES:** No

**LIST MEDICAL PROVIDER(S):** ■■■■■ (Primary Care) - 12 time(s) per year; 2 hour (s) (round trip); Total per week: 0:28. Address: 1450 Noriega St. SF CA 94122 Tel: 415-391-9686 Fax:

DR. ■■■■■ (Pain Specialist) - 12 time(s) per year; 2 hour(s) (round trip); Total per week: 0:28. Address: Tel: Fax:

4  
19

# Exhibit B

家中支援服務 (IHSS) 計劃個人化後備計劃與風險評估表

服務接受人姓名:

L, S, U

作業號碼:

38- 40057800

同意與簽名

第 5 節 - 同意與簽名

以下簽名表示, 您本人、您的社會工作者和您選擇參與本項程序的任何其他個人認為你們已經討論並同意本個人化後備計劃與風險評估表中包含的資訊。

服務接受人

簽名:

X L S

日期:

11/6/12

縣政府工作人員

簽名:

*Cristal*

日期:

11/6/12

用印刷體填寫姓名和職稱:

Cristal Chow

經授權代表

簽名:

日期:

用印刷體填寫姓名, 並說明關係:

其他人

簽名:

日期:

用印刷體填寫姓名, 並說明關係:

如果與去年的個人化後備計劃與風險評估表相同, 沒有變更, 服務接受人/社會工作者可在下方簽名, 確認沒有變更。

服務接受人/經授權代表

簽名:

X L S

日期:

11/14/13

縣政府工作人員

簽名:

*Cristal*

日期:

11/14/13

用印刷體填寫姓名和職稱:

Cristal Chow, Sr. SW

分發:

原件/個案檔案  
第 3 頁 / 共 4 頁

副本/服務接受人

SOC 634 (3/11)



# Exhibit C

您希望進行選民登記嗎？

如果符合以下條件，您可以在加州登記投票

1. 您是美國公民。
2. 您是加州居民。
3. 您至少18歲（或到下次選舉日年滿18歲）。
4. 您未因被判重罪正在監獄服刑或處於假釋期內。
5. 您未被法院判定因精神原因沒有行為能力。

重要通知

1. 申請進行選民登記或拒絕登記 不會影響本機構將向您提供的幫助多寡。
2. 如果您希望在填寫選民登記申請表時得到幫助，我們將會幫助您，由您決定是否尋求或接受幫助。您可以私下填寫申請表。
3. 如果您拒絕今天在此進行選民登記，此資訊屬於機密，不得用於選民登記以外的用途。如果您今天在此進行選民登記，您辦理登記的機構或辦公室屬於機密。
4. 如果您認為有人干預您進行選民登記或拒絕進行選民登記的權利，您決定是否登記或申請進行選民登記的私下權利或是您選擇自己的政黨傾向或其他政治傾向的權利，您可以透過以下方式向州務卿提出投訴：撥打免費電話 (800) 339-2857或寫信寄至：Secretary of State, 1500 - 11<sup>th</sup> Street, Sacramento, CA, 95814。欲獲取關於選舉和投票的更多資訊，請瀏覽州務卿網站 [www.sos.ca.gov](http://www.sos.ca.gov)。
5. 如果您搬到新地址，或是變更您的姓名或是希望變更您的政黨傾向，您必須填寫新的選民登記卡。
6. 我們將把本選民傾向表保存在本機構。如果您選擇今天登記，我們將您填好的選民登記卡寄至縣選舉辦公室。

如果您沒有在現居住地進行選民登記，您是否希望今天在此申請選民登記？  
(勾選一項)

- 已經登記。 我已在現住址進行選民登記。
- 是。 我希望進行選民登記。(請填寫所附的選民登記卡。)
- 否。 我不想進行選民登記。

注意： 如果您不在一個方格打勾，將會被視為您已決定不在此時進行選民登記。

申請人姓名

日期

# Exhibit D

您希望進行選民登記嗎？

如果符合以下條件，您可以在加州登記投票

1. 您是美國公民。
2. 您是加州居民。
3. 您至少18歲（或到下次選舉日年滿18歲）。
4. 您未因被判重罪正在監獄服刑或處於假釋期內。
5. 您未被法院判定因精神原因沒有行為能力。

重要通知

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2. 如果您希望在填寫選民登記申請表時得到幫助，我們將會幫助您。由您決定是否尋求或接受幫助。您可以私下填寫申請表。
3. 如果您拒絕今天在此進行選民登記，此資訊屬於機密，不得用於選民登記以外的用途。如果您今天在此進行選民登記，您辦理登記的機構或辦公室屬於機密。
4. 如果您認為有人干預您進行選民登記或拒絕進行選民登記的權利，您決定是否登記或申請進行選民登記的私下權利，或是您選擇自己的政黨傾向或其他政治傾向的權利，您可以透過以下方式向州務卿提出投訴：撥打免費電話 (800) 339-2857或寫信寄至：Secretary of State, 1500 - 11<sup>th</sup> Street, Sacramento, CA, 95814。欲獲取關於選舉和投票的更多資訊，請瀏覽州務卿網站 [www.sos.ca.gov](http://www.sos.ca.gov)。
5. 如果您搬到新地址，或是變更您的姓名或是希望變更您的政黨傾向，您必須填寫新的選民登記卡。
6. 我們將把本選民傾向表保存在本機構。如果您選擇今天登記，我們會將您填好的選民登記卡寄至縣選舉辦公室。

如果您沒有在現居住地進行選民登記，您是否希望今天在此申請選民登記？  
(勾選一項)

- 已經登記。 我已在現住址進行選民登記。
- 是。 我希望進行選民登記。(請填寫所附的選民登記卡。)
- 否。 我不想進行選民登記。

注意： 如果您不在一個方格打勾，將會被視為您已決定不在此時進行選民登記。

申請人姓名

日期

# Exhibit E

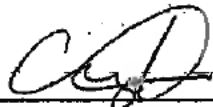
**Human Services Agency  
National Voter Registration Act Training Materials**

**EMPLOYEE RECEIPT FORM**

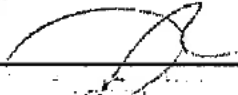
Employee Name: Crystal Chow N275  
Supervisor Name: Kean Tan  
Program and Section: ITSS and Section 270

I certify that I have received National Voter Registration Act Training Materials regarding my roles and responsibilities as an employee of a mandated program within the Human Services Agency. I understand that it is my responsibility as an employee of the HSA to read and adhere to the policies and procedures contained within the material given to me.

Signed and Dated:

  
Employee

5/1/14  
Date

  
Supervisor

5/1/14  
Date

Copy: Supervisor's File  
NVRA Coordinator File  
Staff Development

# Exhibit F

# City and County of San Francisco



*Edwin M. Lee, Mayor*

# Human Services Agency

Department of Human Services  
Department of Aging and Adult Services

*Trent Rhorer, Executive Director*

## National Voter Registration Act Informational/Training Notice

The National Voter Registration Act of 1993 (NVRA) was designed to increase the number of registered voters in the United States by requiring many government offices, including San Francisco's Human Services Agency, to offer people the opportunity to register to vote. The NVRA also protects the integrity of elections by requiring states, as well as local government agencies, to maintain accurate and current documentation.

The NVRA requires each state to designate as "voter registration agencies" all agencies and offices that provide public assistance or are funded by the state primarily to serve people with disabilities. In California, the Governor designated all local public assistance and disability service agencies and offices, as well as local offices of the Franchise Tax Board and Board of Equalization as NVRA voter registration agencies. Chapter Four of the National Voter Registration Act specifically covers voter registration services at public assistance agencies.

Designated agencies must provide both an NVRA voter preference form, which asks "Would you like to register to vote?" and a Voter Registration Card (VRC) to each person who:

- applies for new service benefits,
- requests renewal or recertification,
- or requests a change of address.

The NVRA requires designated agencies to ask the applicant to complete the preference form and to keep all completed preference forms on file for two years. If an applicant asks for assistance, the NVRA requires designated agencies to assist with filling out the VRC in the same manner that it assists with filling out the agency's own forms. Finally, designated agencies must accept and forward completed VRCs to election officials.

The NVRA authorizes the US Department of Justice to bring civil action in federal district court against states that do not comply with the NVRA. It also allows individuals who believe they suffered harm due to a failure to properly implement the NVRA to sue the relevant state or local agency. In most circumstances, private parties must first notify the chief elections official of the state and provide an opportunity for the state to correct the violation before filing a legal action. A plaintiff who prevails may be awarded reasonable court costs and attorney's fees. Finally, the NVRA establishes criminal



penalties for certain intentional acts regarding registration, voting, or violation or denial of any other right to vote .

With regards to the Human Services Agency, the following is specifically required under the NVRA of the Human Services Agency's CalWORKs, Medi-Cal, CalFresh (Food Stamps) and In-Home Supportive Services programs which will be collectively referred to as HSA henceforth.

**All applicants and continuing clients** must be given a VRC and a NVRA Voter Preference Form, **regardless** of whether they indicate they want to register to vote or not. This policy replaces the policy in ACIN I-09-09 to "offer" voter registration materials. If HSA fails to comply with the NVRA, the county and state can be subject to a civil action by the United States Department of Justice or a private party.

Under federal law, HSA **must** provide the following services to clients at initial application, recertification, and changes of address:

- Provide and collect a VRC;
- Provide and collect a NVRA Voter Preference Form;
- Provide assistance in completing these forms, if requested;
- Accept and transmit completed VRCs to the appropriate county elections officials within 10 days; however, if a voter registration agency receives a completed VRC within five days of the voter registration deadline (the 15th day prior to an election), the agency must transmit the VRC to the county elections office within five days;
- Obtain VRCs from the county elections office to ensure proper tracking of completed and returned NVRA VRCs;
- Provide the same degree of assistance to all applicants, including persons with disabilities, when completing VRCs either in their home or in person as offered when completing the agency's own application forms;
- Inform clients that receipt of benefits is not linked in any way to the decision to register or not register to vote;
- Ensure that HSA employees do not seek to influence the client's decision to register or not register to vote, or the client's political party preference;
- If a client declines to indicate whether they wish to register or that he/she will complete the VRC at a later time, the Voter Preference Form should still be completed;
- HSA must retain the Voter Preference Form for 24 months. Counties may determine the manner for filing and retaining the forms (e.g., with the client's case file or filed separately). An electronic record of the form or the individual's response (Yes/No/Already registered) may be kept in lieu of retaining paper forms; and
- Provide staff training annually on the NVRA requirements and how to assist clients with voter registration.

**Note:** Please understand that the aforementioned responsibilities of HSA must be provided whether the client transaction occurs in-person, through internet, over the telephone, e-mail, or through the mail.

### **VRC**

The NVRA requires HSA to give applicants applying for benefits, renewal, or a change of address a Voter Preference Form and a VRC so that the applicant may register to vote. The NVRA also requires all states to accept the National Mail Voter Registration Form. However, HSA should make every effort to distribute the California VRC, rather than the National Mail Voter Registration Form, in order to ensure county election officials can properly track and report the number of registrations coming from public assistance agencies. Below are procedures for obtaining California VRCs.

### **Procedures for CWDs when ordering VRCs**

In California, the Secretary of State (SOS) supplies VRCs to county elections officials. The SOS prints county-specific VRCs including a postage-paid envelope and the county elections office address in the county where the agency office is located. In turn, county elections officials distribute supplies of VRCs to public assistance agencies within the county. Election officials record the serial numbers in order to track the number of completed VRCs returned and attribute new registrations to the public assistance agencies. Therefore, in order to ensure proper tracking and reporting of NVRA voter registrations, HSA must obtain supplies of VRCs exclusively from the San Francisco Department of Elections.

HSA programs shall obtain necessary NVRA related materials only from HSA's Supply Room. The Support Services staff in the Supply Room have been charged with obtaining and maintaining a sufficient quantity of materials in relevant languages from the San Francisco Department of Elections. When ordering and picking up VRCs, HSA Supply Room staff will identify themselves as a NVRA public assistance agency to Department of Election officials. Prior to placing the forms on the shelves or distributing the forms, Supply Room Staff will log the form serial numbers in a master spreadsheet. The Master spreadsheet will reside in a shared file folder on the O' drive.

### **NVRA Voter Preference Form**

The NVRA Voter Preference Form has been redesigned and simplified by the State: 1) to allow clients and agency staff to complete the form more quickly; and 2) to allow agencies to use an electronic form and encourage online voter registration whenever possible. Below are examples of ways to assist clients with the Voter Preference Form, either in person or remotely.

**In-person transactions-** HSA staff must ask the client to complete the Voter Preference Form. If the client chooses not to register at the agency, but still takes a blank VRC home, staff should encourage the client to complete the Voter Preference Form and check the "No" box, since the applicant is choosing not to register at that time.

**Remote transactions** - For mail, telephone, e-mail, and internet transactions, if the client fails to complete and return the Voter Preference Form, HSA staff should attempt to follow up once with the client to find out whether he/she would like to register to vote or if assistance is needed. HSA staff are not required to complete Voter Preference Forms on behalf of clients who choose not to return the Voter Preference Form in a transaction. In such instances, after following up with the client, staff should include a blank Voter Preference Form with the client's name in their records.

**Retention of the Voter Preference Form (Questions about record imaging)**

HSA must retain the completed Voter Preference Form for two years. However, federal and state laws do not state the manner in which the forms are to be filed within the agency. The SOS office recommends HSA store the Voter Preference Form in a central, chronological file (e.g. case file), so that HSA staff can easily determine how many Voter Preference Forms are received in a given month, which can help demonstrate NVRA compliance. Voter Preference Forms and responses may be stored electronically.

**California Department of Social Services (CDSS): NVRA Monitoring**

CDSS will continue to monitor counties to ensure NVRA compliance with the above instructions during county Management Evaluations. An example of such monitoring will include a check of the informational packets provided to applicants/clients to ensure they include the VRCs and NVRA Voter Preference Forms, including a review of the serial number ranges of VRCs distributed to public assistance agencies in order to track the number of completed VRCs returned and attribute new registrations to the public assistance agencies providing voter registration services under the NVRA. Therefore, in order to ensure proper tracking and reporting of NVRA voter registrations, it is important that HSA program staff only obtain VRCs from HSA's Supply Room, which will have been provided by the San Francisco Department of Elections. The Supply Room staff will be responsible for obtaining and maintaining a sufficient quantity of NVRA materials from the San Francisco Department of Elections for HSA programs in relevant languages.

**NVRA Reporting**

The SOS has eliminated the "Voluntary Reporting Requirement" policy previously indicated in ACIN I-09-09. Effective January 5, 2012, HSA is no longer being asked to voluntarily report the total number of completed VRCs and NVRA Voter Preference Forms received. The San Francisco Department of Elections will continue to report on the number of VRC received from HSA. However, HSA must continue to coordinate with their county elections office to obtain supplies of VRCs to ensure NVRA compliance.

**NVRA HSA Program Coordinators**

John Murray serves as HSA's NVRA Coordinator. Each program should appoint one staff person within program to be in charge of NVRA compliance, which includes coordinating staff training, ordering supplies of VRCs from HSA Supply Room, and ensuring VRCs are submitted in a timely manner to the county elections office.

**Annual Training**

HSA must ensure that staff are trained on the NVRA requirements and on how to assist applicants with voter registration. HSA must provide training annually. HSA's Staff Development provides and online training and a challenge quiz. Staff are annually mailed/emailed information regarding NVRA which contains information about their roles and responsibilities which they are required to review and acknowledge receipt.

For more information, HSA program staff can refer to the SOS' NVRA training webpage for the public assistance agencies presentation, which can be accessed at the SOS' NVRA Training webpage link:

[www.sos.ca.gov/elections/nvra/pdf/ca-nvra-voter-registration-training-for-public-assistance-agencies.pdf](http://www.sos.ca.gov/elections/nvra/pdf/ca-nvra-voter-registration-training-for-public-assistance-agencies.pdf).

**Repeal of CDSS ACIN I-56-95 and Department of Health Care Services (DHCS) ACWDL 95-78**

CDSS and Department of Health Care Services adopted and implemented the "flagging" policy of questionable voter registration forms in December of 1995. CWDs were instructed to "flag" questionable voter registration forms when the employee had specific knowledge that the applicant did not meet the voter registration requirements as indicated in the CDSS ACIN I-56-95 and DHCS ACWDL 95-78.

Federal and state laws do not require the use of the "flagging" policy for CWDs and a determination was made by the SOS office to eliminate this requirement. Therefore, ACIN I-56-95 and ACWDL 95-78 is repealed. Effective the date of this letter, the "flagging" policy used by CWDs is no longer in effect.

15

# Exhibit G

**McClellan, John (HSA)**

---

**From:** Wang, Hugh (HSA)  
**Sent:** Friday, August 01, 2014 5:07 PM  
**To:** McClellan, John (HSA)  
**Subject:** FW: Crystal Chow  
**Attachments:** Crystal Chow.doc

Fyi

---

**From:** Wang, Hugh (HSA)  
**Sent:** Tuesday, July 22, 2014 4:16 PM  
**To:** Christensen, Diana (HSA)  
**Cc:** Elliott, Megan (HSA); Huetti, Martha (HSA)  
**Subject:** Crystal Chow

Hi Diana,

Crystal Chow called for a unit meeting on July 11, 2014 and admitted to a mistake she made but did not give details to the mistake.

Martha and I have completed interviewing all the staff in Kean Tan's unit and took down their statements.

Please read attached document.

Thank you,

Hugh Wang, N200  
IHSS Section Manager  
DAAS  
P.O. Box 7988  
San Francisco, CA 94120

(415) 557-5253  
(415) 557-5170 fax

This message and any attachments are solely for the intended recipient and may contain confidential information. If you are not the intended recipient, any disclosure, copying, use or distribution of this message and any attachments is prohibited. If you have received this communication in error, please notify sender by reply e-mail and immediately and permanently delete this message and any attachments.

# Exhibit H

On Friday, July 11, 2014, Ms. Chow called her co-workers from her unit for a meeting at 9 am without her supervisor, Kean Tan, permission, and Mr. Tan was off. In the meeting, she admitted to a mistake that she made but did not give any details, and no one in the meeting asked her about her mistake. However, she did disclose and admit to commit fraud on a case to her co-worker, Sharon Lai, prior to the meeting.

The people in her unit are Kitty Man, Hang Kin (Ken) Chan, Lai Ming Wong, Crystal Chow, Carman Yuen, Angela Chung, Sharon Lai, and Winnie Lau, and they were interviewed including Kean Tan.

**Kean Tan** **July 17, 2014**

Mr. Tan said when he came to work on Monday morning, July 14, 2014, one of his staff, Angela Chung, informed him that Ms. Chow had called for a unit last Friday, July 11, 2014, and Ms. Chung was upset. According to Mr. Tan, Ms. Chow apologized to the unit and said she made a mistake but did not go into details. Mr. Tan did meet with all his staff who attended the meeting, and three of his staff, Angela Chung, Carmen Yuen, and Lai Ming Wong, in the unit were upset about the meeting. Ms. Lai Ming Wong expressed to him that Ms. Chow should not have called for unit meeting without Mr. Tan permission. Lastly, one of his staff, Sharon Lai, mentioned to him that Ms. Chow called her prior to the meeting because she was caught with a finding by HSS QA, and she asked Ms. Lai for advices how to approach her supervisor, Mr. Tan.

**Hang Kin (Ken) Chan** **July 17, 2014**

On Friday, July 11, 2014, Mr. Chan said between 8:45 am to 9 am, Ms. Chow came to his cubicle and informed him about a unit meeting at 9 am. Mr. Chan did not know what it was about, and he did see all his co-workers from his unit were there except his supervisor, Mr. Tan. Ms. Chow did lead the meeting, and she was mumbling and said she made a mistake and hoped that her co-workers would not make the same mistake. Ms. Chow was crying, and Ms. Lai Ming Wong tried to comfort her. Ms. Wong said they would support her and wait and see the outcome. According to Mr. Chan, he guessed it was about what his supervisor, Mr. Tan, was addressing yesterday. Mr. Tan reminded his staff to make sure that they have seen the client during face to face interview prior to writing up the assessment. Mr. Tan wanted his staff to perform quality work, and he told his staff not to be as concerned about overdue cases.

**Angela Chung** **July 18, 2014**

On Friday, July 11, 2014, Ms. Chung said Ms. Chow asked for unit meeting at 9 am. In the meeting, Ms. Chow said she made a mistake but did not give details. Ms. Chung asked Ms. Chow if it was a big incident. Ms. Chow asked everyone to be careful and don't get caught. Ms. Chow said she may get suspended or fired. Ms. Chung said if it is one incident, the county would not be cruel. Someone in the meeting said everyone made mistake. Ms. Chung felt Ms. Chow wanted some support from her co-workers, and she said a couple of the people in meeting were upset including herself, but she kept silent.



**Kitty Man**

**July 18, 2014**

Ms. Man said Ms. Chow asked if we all could meet at 9 am on Friday, July 11, 2014. In the meeting, Ms. Chow said she made a mistake and did not disclose the incident. Ms. Chow said she did not know what will happen to her. Ms. Man said she did not feel great in the meeting, said this was affecting the unit and team. Ms. Man believed Ms. Chow did have good intention to call for this meeting.

**Carmen Yuen**

**July 18, 2014**

On Friday, July 11, 2014 before 9 am, Ms. Chow called for the unit meeting. Ms. Chow did lead the meeting and said she was caught and made the wrong decision, and she advised the unit not to make the same mistake because down the road it might affect them. Ms. Chow was crying and said she might lose her job, but Ms. Chow did not disclose the issues. Ms. Yuen said she did not say anything. Ms. Yuen said her supervisor, Mr. Tan, recently had a unit meeting regarding home visit, and he reminded the unit to make sure that they do see the client during face to face home visit assessment.

**Lai Ming Wong**

**July 18, 2014**

Ms. Wong said Ms. Chow called for the meeting at 9 am on Friday, July 11, 2014. Ms. Chow said in the meeting that she made a mistake. There is a fraud case that is not her fault, and her client had some fraud issues. The meeting was to remind her co-workers. Ms. Chow said she will loose her job and burst into tears. Ms. Chow did not give details about the fraud case, and no one in the meeting asked her. Ms. Wong said she does not know what will happen to her and saw her sad, depressed, and crying. Ms. Wong said she knew something serious because Mr. Tan had told the unit that she is on Administrative Leave.

**Winnie Lau**

**July 18, 2014**

On Friday, July 11, 2014, Ms. Chow came to her cubicle and asked for a meeting. In the meeting, Ms. Chow said she made a mistake and didn't say what happened. No one in the meeting asked her, and Ms. Lau did not want to say anything. However, someone in the meeting said everyone makes mistakes, and it was to comfort her. Ms. Lau guessed that Mr. Tan called for the unit to remind them about the face to face home visit, and Mr. Tan wanted to make sure that his staff does see the clients when conducting the home visit assessment.

**Sharon Lai**

**July 21, 2014**

On July 9, 2014 at around 2 pm, Ms. Lai was about to ring door for her 1<sup>st</sup> home visit, and she received a call from Ms. Chow. Ms. Chow contacted her and told her that she had something to ask her. Ms. Chow said she got into trouble but did not say it clearly. Ms. Chow said she went to a home visit to see her client, but her client was not home. The client family said her client went to see her doctor. She wrote up the reassessment and submitted the report and received an overpayment report. Ms. Chow submitted the overpayment referral to Joan Almeida. Ms. Almeida found a big discrepancy on the case. Ms. Chow admitted she had committed fraud on her case. Ms. Lai asked Ms. Chow whether she had

seen the client. Ms. Chow said no. Ms. Lai asked Ms. Chow whether she had submitted her reassessment for approval. Ms. Chow said yes. Ms. Lai indicated to Ms. Chow that she had made a mistake, and Ms. Chow needed to admit to it. Ms. Lai advised Ms. Chow don't lie and tell the true. She asked Ms. Chow not to make any excuse to cover herself.

On Friday, July 11, 2014, Ms. Chow called for a unit meeting. Ms. Chow felt stressed because Mr. Tan held a unit meeting a day before. In Mr. Tan's unit meeting, Mr. Tan addressed to his staff that when they don't see the client, they should not write up the case. Ms. Lai said the unit might have guessed what was going on. Ms. Lai thought that Ms. Chow wanted to release her stress and remind us what had happened to her. Ms. Chow said she made a mistake and hopefully, no one will copy what she had done. Ms. Chow reminded her co-workers to follow the books and regulations. Ms. Lai said everyone in the meeting did not ask her what had happened.

EMPLOYEE RESPONSIBILITY:  
CODE OF ETHICS AND CODE OF CONDUCT

**EMPLOYEE CODE OF ETHICS AND CONDUCT**

The reputation of DHS for its honesty, fairness and business integrity is vital to its success and therefore of paramount concern. The very nature of our client relationship, and the confidential nature of information provided in the course of our business places a special responsibility on each employee. This Code of Ethics and Conduct Policy is designed to maintain a spirit of honesty, integrity, courtesy, and fairness in all employment endeavors and to maintain an ethical work environment while remaining consistent with the law and City & County policy. In meeting these responsibilities, DHS expects its management, supervisory, and general staff to be free of influential interests and activities that are not in the best interest of the department or the clients we serve. This Code of Ethics and Code of Conduct Policy, along with Policy 9-13 "Discipline Policy and Procedures" should be used as guides by all employees of the Department in making work related ethical decisions. It is expected that supervisors and managers will set an example and serve as role models for their employees in adherence to these policies.

Employees failing to abide by these and other Departmental Policies are subject to disciplinary action.

**I. STATEMENT OF CODE OF ETHICS**

- A. Ethical and honest behavior, in accordance with standards of professional integrity and impartiality, shall be maintained at all times. Employees must not participate in illegal activities or misrepresentation in the performance of their duties.

Employees may not participate in any activity or enterprise with clients or providers where income, profit or other gain may be accrued; that could reflect on the honor or efficiency of the City and County service; or is or may be contrary to the best interests of the City and County.

**An employee may not act as a representative payee for a client in the employee's caseload. \***

*\* If an employee is asked to act as a representative payee for a person who is a client of the Department of Human Services (not in his or her caseload), he or she must discuss the request for this arrangement with their supervisor, to determine if such an arrangement is appropriate.*

- B. Even though an employee's personal beliefs or background may conflict with or differ from statutes and regulations, policies of the Department and the City and County of San Francisco shall be adhered to at all times.
- C. Employees shall not proselytize their own religious beliefs or practice any religious doctrine while on duty, and shall respect the beliefs of employees and clients that differ from their own.
- D. The confidentiality of client and departmental records concerning all information obtained in the course of performing duties shall be maintained. No person may publish, disclose, or use any

EMPLOYEE RESPONSIBILITY:  
CODE OF ETHICS AND CODE OF CONDUCT

confidential information pertaining to applicants or recipients without express authorization of the person, or pursuant to guidelines of recognized statutory exceptions; such as indicated in the W & I Code, Division 9, Public Social Services, Part 2, Administration, Chapter 5, Records, Section 10850, Concerning "Confidentiality; rules and regulations; violations; disclosure of confidential information regarding criminal act" (see Appendix for copy). Any questions about appropriate release of information shall be directed to the supervisor before the information is released.

However, to the extent permitted by confidentiality requirements and in order to insure coordinated service delivery, employees are encouraged to share client information with other employees on a need to know basis.

- E. Clients shall be provided with necessary and accurate information regarding available services and also be apprised of their associated rights, opportunities and obligations.
- F. The civil and legal rights of all clients and colleagues shall be respected and there shall not be any practice, facilitation, or collaboration with any form of discrimination on the basis of race, color, sex, sexual orientation, age, religion, national origin, ethnicity, marital or domestic partner status, gender identity, political belief, or mental or physical disability, condition or status.
- G. When working in the same office with a relative, partner, or spouse, a businesslike relationship in the workplace shall be maintained at all times (see Section 9-2.13, DHS No.Fraternization Policy for further information).
- H. The supervisor who has the responsibility for evaluating employee performance or administering discipline shall fulfill such responsibility in a considerate, fair and equitable manner and shall maintain the confidentiality of this review. (See Section 9-5, Performance Appraisal, and/or Section 9-13, Discipline, for further information).
- I. Confidentiality of Departmental personnel and exam records shall be maintained. Employees involved in exam preparation and administration shall keep all exam-related information in strictest confidence. (See Civil Service Rules 110 and 111 for more information on examinations, announcements and applicants.)
- J. An employee's Official Personnel file shall be stored in a secure area in Personnel with controlled access. (see Section 9-6 Personnel Records for further information) A "supervisor's file" is to be kept in a secure area, under lock and key (although the file should be accessible to the employee within a reasonable time of their request.) A supervisor's file is defined as: A file to maintain documentation about the performance or conduct of an employee and kept in a separate file by a supervisor on a short-term basis. This is not the employees "official file."
- K. Employees are prohibited from soliciting or accepting any gifts, gratuities, kickbacks or anything of monetary value from clients, providers, contractors, or potential contractors. Employees are

<b>HUMAN SERVICES AGENCY v PERSONNEL PROCEDURES HANDBOOK</b>	
<b>EMPLOYEE RESPONSIBILITY: CODE OF ETHICS AND CODE OF CONDUCT</b>	
<b>SECTION 9-12</b>	<b>Page 3 of 5</b>

prohibited from attempting to secure payment or any other benefit for services rendered as a City and County employee. In the conduct of DHS' business, no improper payments or considerations are to be given or offered to any individual or organization. Political contributions must not be made in a manner designed to circumvent the law.

PLEASE NOTE: Departmental solicitation of goods and services on behalf of clients is not prohibited. Acceptance of complimentary invitations to community functions as a Departmental or City and County representative is also not prohibited by this Section.

- L. No person shall use and/or misuse Departmental (change Departmental to City and County) resources or time for his/her own personal gain or benefit.
- M. DHS serves clients who are oftentimes vulnerable. The Department wishes to be sensitive to the public perceptions in regard to our clients. To avoid even the appearance of abuse or authority or conflict in relation to client services, good judgment and caution should be exercised in any personal relationship with any client of the Department. Employees are strictly prohibited from engaging in personal or sexual relationships with any client in their assigned caseload.

Whenever there is a personal or non-job related business or other relationship with a client, employees are prohibited from advocating on behalf of the client with the caseload worker or from working on the client's case. An employee must immediately notify his/her supervisor in-of cases where a client with whom there is a personal or non-job related business or other relationship is assigned to the employee's caseload.

- N. In its business activities, DHS engages in a vigorous but fair and ethical competition, stressing the merits of our service. DHS does not undertake to make disparaging statements about competitors or their services or to engage in unfair actions to intentionally damage competitors.

Employees engaged in staffing and administration of contracts are subject to Conflict of Interest, which includes:

1. The County's officers, employees and agents, including contractors and their agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors.
2. No employee, officer, or agent of the County shall participate in the selection, award, or administration of a contract subject to Chapter 23-600 where any of the following has a financial or other interest in that contract:
  - a. The employee, officer or agent
  - b. Any member of his or her immediate family
  - c. His or her business partner

EMPLOYEE RESPONSIBILITY:  
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- d. An organization in which any of the above is or has been during the previous 12 months, an officer, director, board member, employee, or consultant.
- e. A person or organization with whom any of the above individuals is negotiating employment or has any arrangement concerning prospective employment.
- f. Other interests as the City and County may elect to specify in its Conflict of Interest.

**II. IF YOU SUSPECT IMPROPER OR CRIMINAL ACTIVITY ON THE JOB**

- A. Employees, who in the performance of their duties, have knowledge of work-related illegal conduct, criminal activity or fraud by any colleague or other member of the Department of Human Services, or by clients, shall consult with their supervisor regarding appropriate reporting.
- B. All employees have a duty to report, verbally or in writing, promptly and confidentially, any evidence of any improper practice of which they are aware. As used here, the term "improper practice" means any illegal, fraudulent, dishonest, negligent, or otherwise unethical action arising in connection with DHS' operations or activities. Employees will not be subject to retaliation for having reported such actions.
- C. Reports of improper practice shall be submitted through the line of administrative supervision except when the alleged impropriety appears to involve a management employee. In such cases, reports should be referred to the next higher level management employee, or if this is not appropriate to the circumstance, to the Senior Personnel Officer, who will advise the Deputy Director and/or Executive Director of the situation. Reports will be investigated timely and with due diligence by the appropriate authority.
- D. The San Francisco Ethics Commission is also available to investigate improper Government activities. The identity of persons reporting alleged improper government activities is kept confidential to the extent necessary to conduct an adequate investigation. To contact the Ethics Commission call 554-6464.

**III. CODE OF CONDUCT**

The Department by its very nature serves a clientele who may be in stress. All employees are to be commended for their dedication to providing expeditious assistance to clients in crisis. As a part of the Department's Customer Service focus, employees are reminded that clients also include their co-workers, supervisors, section managers, program managers, etc.

Providing courteous service is included among the essential job functions for everyone in this Department and, as such, is included in every performance evaluation as a duty/responsibility of every employee. In order to provide good customer relations, employees must be polite to coworkers, supervisors, and the public. This includes the ability to accept constructive criticism, the ability to

EMPLOYEE RESPONSIBILITY:  
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follow work rules, the ability to interact well with co-workers and customers, and the ability to work effectively in a potentially stressful environment.

- A. The Department of Human Services' clients and colleagues shall be treated with respect, courtesy, and fairness.
- B. Disruptive work place behavior that interferes with the orderly operation of the work place will not be tolerated. This includes, but is not limited to the following:
  - Using loud or offensive language, including obscenities;
  - Threatening others or using "fighting words";
  - Damaging or destroying property;
  - Sending abusive, threatening, or obscene e-mail or voice-mail;
  - Physical proximity which the recipient finds intimidating, such as pointing your finger at someone while speaking with him/her, or invading a person's personal space, e.g., standing too close, looking over his/her shoulder, etc.
  - Rudeness; and/or
  - Other instances of unacceptable conduct and performance as described in Personnel Policy 9-13, "Progressive Discipline."
- C. Employees who are subjected to incivility in the work place (recipient, witness, etc.) may exercise in-house complaint or reporting procedures:
  - Report incident to your Supervisor, Section Manager, Program Manager, Deputy Director;
  - Report incident to the Civil Rights/EEO Unit in the Department when the incivility concerns discrimination or sexual harassment;
  - File a Workplace Violence Incident Form (See Policy 9-15 for information on Reports of Violence in the Workplace.)

**DISCIPLINE POLICY AND PROCEDURES****POLICY**

The policy of the Human Services Agency (HSA) is to correct and resolve conduct and performance problems, including those described below, at the lowest possible level in the organization. The Agency will use progressive disciplinary procedures only when stated expectations for conduct and performance are not met and corrective measures appropriate to the circumstances, such as additional training or supervision, and/or verbal and written counseling, have not brought about the desired change. "Progressive" discipline is taking the lowest level of discipline most likely to bring about the desired change in conduct and performance, taking into consideration the gravity of the offense and previous corrective or disciplinary measures. The principles of just cause will be applied in all disciplinary recommendations and decisions. Misconduct of a grievous nature (see Grievous Misconduct, below) may result in immediate disciplinary action, up to and including separation of the employee from her/his position.

It is also the policy of the Human Services Agency to ensure that the legal and procedural rights of employees are protected through the coordination of all disciplinary matters with the Senior Departmental Personnel Officer or his/her designee(s), the Employee/Labor Relations Manager, or Analysts in Employee and Labor Relations.

**AUTHORITY**

Sections A8.341 and A8.342 of the City Charter and various Memoranda of Understanding grant the Appointing Officer power to separate or to discipline employees under his/her jurisdiction. S/he may enact rules of conduct for employees under his/her supervision and indicate disciplinary action(s), which will result from the violation of such rules. The designated offenses for which discipline will be imposed should be sufficiently clear to permit an objective interpretation and application of the rule.

**PROCEDURES****Who Is Covered By These Procedures**

The procedures detailed below primarily apply to those employees who are permanent, non-probationary, or are provisional and have completed six months of service with the City and County of San Francisco. Supervisors with employees who are permanent and serving a probationary period; who are temporary (provisional) and have not yet completed six months of service; or who are "as-needed," should speak with the Labor Relations Analyst assigned to your program about the procedures to follow. Such cases will be treated on an individual basis.

**LABOR RELATIONS' ROLE**

The Labor Relations Unit role is to advise and assist the supervisor in assessing employee problems and to ensure consistency in the application of policies and procedures. This role includes reviewing evidentiary material, reviewing or preparing disciplinary letters, coordinating with the employee representatives and senior managers on disciplinary hearings, and serving as hearing officers.



### HEARING OFFICER'S ROLE

The hearing officer objectively listens to the employee's response during the hearing, considers that response and all of the evidence presented by the employee, and consults with management in arriving at a decision on the matter being heard.

### SUPERVISOR'S ROLE

The supervisor's first responsibility with employees is to clearly set out the expectations for performance and conduct on the job, and to act as a trainer, coach and a role model for conduct and performance on the job. The supervisor ensures that the employee has the necessary information and training to perform her/his job. The supervisor communicates to the employee where she/he is exceeding expectations, where expectations are being met, and where there is a need for an improvement or change. In matters of alleged misconduct, the supervisor also conducts investigations into allegations by gathering evidence and taking statements from witnesses (*alleged misconduct of a criminal nature should not be addressed or investigated by the supervisor, but should immediately be brought to the Program Manager's attention, as SIU involvement may be required.*) The supervisor must also maintain adequate information and documentation about an employee to effectively evaluate the employee's progress, performance and conduct.

### DOCUMENTATION: SUPERVISOR'S FILE

Each supervisor should maintain a "working file" for each employee. This file normally contains the employee's performance expectations, written summaries of performance review meetings, memos commending the employee, counseling memos, a current performance review, copies of case work or other work performance, a calendar that tracks attendance and other current and relevant information about an employee's conduct and performance. This information will assist the supervisor in writing performance reviews, in documenting the use of leave and in supporting any corrective or disciplinary action.

The information placed in the file should clearly identify the event by detailing who, what, when, where, and why. For example:

- Notations to be placed in a supervisor's file should be made whenever a supervisor explains an important job, work assignment, or responsibility to an employee. The notes should indicate that, on a certain date, the supervisor explained a performance objective or set of objectives for the employee to meet.
- Instances of employee training, both personal instruction and on-the-job training should also be written down and kept in the supervisor's file. The file should contain notes that record the subject of the training and the name of the person who conducted it.

- Each step of progressive counseling and/or discipline must be noted in the supervisor's file. (Even though the disciplinary actions will also be documented formally, and placed in the employee's Official Personnel file, it is also important to document them in the supervisor's file so that the supervisor for future reference keeps a clear, accurate and complete record.)

## I. CORRECTIVE ACTION

Prior to the implementation of discipline, *with the exception of grievous misconduct*, the initial action taken to address a performance issue or misconduct is to bring the issue to the employee's attention and then to take a corrective action. Corrective actions for conduct issues include counseling, and counseling confirmed in writing, and in the case of problem attendance, placement of an employee on a leave restriction letter. Corrective actions for performance issues include counseling, counseling confirmed in writing, and placement of an employee on a workplan. Except in unusual circumstances, formal disciplinary actions are to be taken only after every reasonable attempt has been made by counseling and instruction to develop the employee and therefore avoid the need for later stages of formal discipline. Remember that any employee problem can have personal causes; therefore, the supervisor should always make the employee aware of the services of the Employee Assistance Program (EAP).

### A. Counseling

Counseling is performed one-on-one with the employee, confidentially, and not in view or hearing of other employees. Should the employee request to have representation present, the supervisor should inform the employee that this is not intended as discipline and, therefore, representation is not necessary. An employee's right to representation (a "Weingarten Right,") is triggered when an employee is being questioned in connection with the potential for being disciplined, or if there is a reasonable fear of being disciplined. A meeting to conduct coaching, counseling, or simply to provide an employee a copy of a document where there is no questioning of the employee, is not discipline.

Prior to formal, written counseling, the supervisor should:

- Talk with the employee, pointing out the unsatisfactory element of job performance or conduct and engage the employee in a discussion that allows the employee to ask questions and to, present his/her perspective on the matter;
- Define the area(s) of needed improvement;
- Set goals for the achievement of improvement;
- Prior to the end of the meeting, always ensure that the employee is clear as to what is expected in the future, and schedule a date for the next meeting, if this is an ongoing discussion.
- Inform the employee that failure to improve may result in more serious actions, including disciplinary actions(s), up to and including discharge.

If this is a second meeting, the supervisor should provide the employee with more formal counseling. More formal action includes placing the employee on a workplan for a performance problem, or leave restriction letter for an attendance problem. The supervisor may also provide written counseling for other types of conduct problems, if they are not severe or if not corrected, which may warrant stronger action.

As before, the supervisor should schedule a follow-up meeting. The follow-up sessions should also be noted (documented in writing) in the supervisor's file and a copy given to the employee.

**B. Workplan**

An employee who has a problem in the performance of his/her job duties should be given a specific, written set of expectations that cover a 90 day period, which includes a specific description of what his/her deficiencies are, what you expect to see as improvement, what action you will take to assist the employee, and a follow-up date for an evaluation of his/her progress in meeting the workplan. Specific objectives or benchmarks on long-term objectives over a shorter period during the 90 days can be used to assess performance at regular intervals. Supervisors should meet with an employee on a work plan on a regular basis (once per week) and document that meeting in writing, and then provide the employee with an interim appraisal at the end of each 30 days in the 90 day period. Each workplan is tailored to the individual employee's job function, and should be developed in consultation with a Labor Analyst, who will assist with format and process. The supervisor, as the subject matter expert, will determine the specific actions the employee must take to meet the plan goals.

**C. Leave Restriction Letter**

An employee who has a problem with his/her attendance (including tardiness, patterned absences such as Monday/Friday absences, excessive use of sick leave with no medical or FMLA documentation, or habitual requests for "emergency" vacation or personal leave) should be given a specific, written set of expectations that outlines what he/she must do in order to request and have leave approved. Each leave restriction letter is tailored to the individual employee's leave issue, and should be developed in consultation with a Labor Analyst, who will provide you with a sample letter and assist in the format and process.

**II. CAUSES FOR DISCIPLINE**

The appropriate causes for discipline include but are not limited to:

**A. Conduct**

**1. Attendance**

Failure to follow procedures outlined in Policy # 9-8, "Attendance and Time-Keeping" policy, including:

DISCIPLINE POLICY AND PROCEDURES

- a. Improper or unauthorized use or abuse of paid leave.
- b. Excessive absenteeism and/or tardiness, including unexcused absences for full or partial days (including tardiness, late arrival/early departure or extended lunch periods), excessive, intermittent or patterned use of sick or vacation leave especially if it interferes with the employee's ability to perform his/her duties.

2. Other Misconduct:

- a. Fighting, physical aggression, physical contact for the purposes of threat or harm.
- b. Mistreatment of Persons: Written or verbal mistreatment, abuse, or discourtesy of an employee, client, or other member of the public.
- c. Substance Abuse: Intoxication due to alcohol or non-prescription controlled substances while on duty or on-call for duty.
- d. Insubordination: Failure of an employee to perform an assignment, when given a direct verbal or written lawful order to do so by someone responsible for making the assignment. In addition, insubordination will cover any employee who does not willingly assist in or who obstructs an investigation.
- e. Dishonesty: A willful perversion of the truth (i.e. lying or failing to provide accurate and complete information) in order to deceive, cheat or defraud, or a failure to disclose or provide information possessed about a matter of official interest when requested to do so, or when required to do so by these procedures, charter or law.
- f. Unethical Acts: Acts committed by an employee on duty in the capacity as a representative of the City and County of San Francisco/HSA which discredit the Agency and the public service. Also includes off-duty acts that directly relate to the employee's ability to adequately perform his/her duties and responsibilities.
- g. Gambling on the premises at any time.
- h. Misuse of public property: Unauthorized or careless, negligent or improper use of HSA property, equipment or funds, including unauthorized removal, or use for private purpose, or use involving damage or unreasonable risk of damage to property.
- i. Breach of confidentiality: Unauthorized release of confidential information or official records.
- j. Theft: Theft of public property, or of another's personal property on the public premises.
- k. Sleeping on duty.

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- l. Engaging in conflict of interest activity, per Civil Service Rule 18, Charter Section C8.105.
- m. Discrimination: Any act that is discriminatory in nature toward another person's race, creed, sex, national origin, ethnicity, ancestry, age, disability, political affiliation, sexual orientation, gender identity, marital status, color, retaliation, medical condition (cancer-related), acquired immune deficiency (AIDS/HIV) or AIDS related condition (ARC), domestic partner status, or parental status.
- n. Policy Violations: Violations of Policy 9-12, Employee Code of Ethics and Code of Conduct, or other policies and procedures of the Agency.

**B. Performance**

1. Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned tasks or training, or failure to discharge duties in a prompt, competent, and reasonable manner.
2. Inability to improve job performance in accordance with written or verbal direction after a reasonable time period.

**C. Grievous Misconduct**

Under the City Charter, the following performance or conduct problems may be considered most serious and possible grounds for immediate dismissal:

- Misappropriation of public funds or property.
- Misuse or destruction of public property.
- Drug addiction or habitual intemperance.
- Mistreatments of persons, either physical, written or verbal.
- Immorality.
- Acts which would constitute a felony or misdemeanor involving moral turpitude (inherent baseness or depravity).
- Acts which present an immediate danger to the public health and safety.

If one of the seven above incidents occurs, the incident should be documented by the supervisor and the Analyst in Labor Relations should be consulted immediately. The Analyst will prepare a letter to place the employee on administrative leave (30 days unpaid) while an investigation is conducted.

**III. JUST CAUSE - THE SEVEN TESTS**

All recommendations and decisions to impose discipline will be subject to the following "Just Cause Tests" if challenged in a third party proceeding (i.e, before an arbitrator or the Civil Service

## DISCIPLINE POLICY AND PROCEDURES

Commission) in determining if the action will stand. Therefore, any determination to recommend or impose discipline can be made only after full consideration of the following questions:

1. **Notice:** "Did the Employer give to the employee forewarning or foreknowledge of the possible or probable consequences of the employee's conduct?"
2. **Reasonable Rule or Order:** "Was the Employer's rules or managerial order reasonably related to (a) the orderly, efficient, and safe operation of the Employer's business, and (b) the performance that the Employer might properly expect of the employee?"
3. **Investigation:** "Did the Employer, before administering the discipline to the employee, make an effort to discover whether the employee did in fact violate or disobey the rule or order of management?"
4. **Fair Investigation:** "Was the Employer's investigation conducted fairly and objectively?"
5. **Proof:** "At the investigation, did the 'judge' (Hearing Officer) obtain substantial evidence or proof that the employee was guilty as charged?"
6. **Equal Treatment:** "Has the Employer applied its rules, orders and penalties even-handedly and without discrimination to all employees?"
7. **Penalty:** "Was the degree of discipline administered by the Employer in a particular case reasonably related to (a) the seriousness of the employee's proven offense and (b) the record of the employee in his/her service with the Employer?"

#### IV. CONDUCT BASED ACTION

After corrective action and/or counseling have not brought about the improvements or changes that the supervisor has outlined, or where an initial instance of misconduct is serious enough to warrant discipline, then formal discipline is appropriate.

A. Suspension and Dismissal always involve three steps:

1. **Notice of Intent:** All charges are defined and all of the information and evidence relied on is provided to the employee.
2. **Response:** Opportunity for the employee to respond (Conference or Skelly Hearing).
3. **Notice of Final Decision:** All charges are defined and all of the information and evidence relied on is provided to the employee. In addition to what was provided in the notice of intent, the notice of decision should address the employee's response and how it was considered, as well as the effective date(s) of any suspension or date of dismissal.

## DISCIPLINE POLICY AND PROCEDURES

## B. There are four levels of discipline\*:

1. Written Warning \*
2. Written Reprimand \*
3. Suspension
4. Dismissal

\*Please note that Written Warnings and Written Reprimands are considered "discipline" by agreement with SEIU. Written Warnings and Written Reprimands are not considered discipline for employees in any other union, and therefore can be issued without a notice or a conference. A memo to the employee with Written Warning or Written Reprimand as the subject, along with citing the issue and the evidence in the body of the memo, is all that is necessary.

## C. Written Warnings And Written Reprimands

## 1. Notice of Action on Written Warnings and Written Reprimands (Procedure for SEIU ONLY)

After corrective action and/or counseling have not brought about the improvements or changes that the supervisor has outlined, or where an initial instance of misconduct is serious enough to warrant Written Warnings or Written Reprimands; the supervisor has consulted with a Labor Analyst, a Written Warning or Reprimand will be prepared by the manager or supervisor, based on the facts of the case and the documentation. The manager hand delivers the Written Warnings or Written Reprimands to the employee in a confidential environment. In cases where an employee is not expected to be at work for a period of time, Written Warnings or Written Reprimands may be sent by mail with delivery confirmation to employees' home address. A Notice of Intent and a skelly/conference is not required prior to issuing a Written Warnings and Written Reprimands.

## 2. Skelly Rights (PROCEDURE FOR SEIU ONLY)

Written Warnings and Written Reprimands are subject to the grievance procedures, but not subject to a notice of intent and skelly requirements.

## D. Suspensions And Dismissals (All unions)

## 1. Notice of Intent/Suspensions and Dismissals

If an employee has received previous discipline, or has engaged in serious misconduct, she/he may be suspended or separated from her/his position. Program managers and supervisors should consult with a Labor Analyst both before and after investigation and gathering of documentation. If after this consultation and consideration of the evidence, the Program Manager decides a suspension or termination is in order, he/she will write a memo to the Employee/Labor Relations Manager recommending what action should be taken, with a brief description of the causes for the recommendation. The Labor Analyst will prepare the letter

## DISCIPLINE POLICY AND PROCEDURES

notifying the employee of the intent to suspend or separate. This letter will be sent both with delivery confirmation and first class mail to the employee's home address. The letter will contain information about the date, time and location of the Skelly hearing. The Skelly hearing should be scheduled no less than five days from the date of the Notice of Intent. \*\*

The Skelly Hearing will be conducted by the Labor Relations Manager. The Labor Relations Manager has the responsibility to hear both the evidence supporting the charges and the response to the charges from the employee.

\* *Emergency Circumstances Exception*

*A public employee may be removed from the worksite prior to a Skelly hearing when the conduct related to job performance constitutes such an extraordinary (emergency) circumstances that immediate removal is required. Such employees are placed on paid and unpaid Administrative Leave (see Section II C., "Grievous Misconduct") while an investigation is conducted and, where applicable, the employee's Skelly Hearing will occur while the employee is out on leave.*

2. Response: The Skelly Hearing:

The Deputy Director of the Program and/or the employee's immediate Supervisor, the Labor Relations Manager and/or Labor Analyst, the employee and his/her representative (if the employee chooses to have one present) attend the hearing, with the Labor Relations Manager and/or Labor Analyst serving as the "hearing officer." The hearing officer's role is to present the case. The employee then has the opportunity to present their information in response to the charges. In addition to the employee's verbal or written response to the charges, the employee may present statements, documents or other physical evidence regarding the events that form the basis for the charges. The employee may present a written response in lieu of attending the Skelly Hearing.

3. Notice of Decision on Suspension or Dismissals

The hearing officer, along with the Deputy Director, will consider the employee's response and all other evidence presented by the employee and arrives at a decision on whether to take the action as intended, to overturn the action, or to impose a lesser discipline than that which was originally recommended. The decision letter should state what the employee's responses were to the intended action, and how this information was considered to arrive at a final decision.

The hearing officer prepares and signs the letter of decision, which requires a signature approval by the Executive Director or his/her designee. The decision letter is then delivered with delivery confirmation and first class mails to the employee's home address.

## V. PERFORMANCE BASED ACTION



If corrective action (counseling and workplans) has not brought about the improvements or changes that the supervisor has outlined as necessary for acceptable performance, the first action taken by the supervisor is to issue a letter of warning. The letter of warning will contain a statement that the employee is not meeting performance standards, and attach the documentation from the first 90-day period as evidence to support the letter. The letter of warning must also state that the employee will be given another 90-day period to exhibit acceptable performance, or a recommendation to dismiss him or her from the position will result.

The supervisor may decide during the second 90-day period that the employee's improvement is significant enough to extend the second 90-day period. This decision should not be made before the employee has completed at least 60 days of the second 90-day period. This is an individual decision based on the facts of the case, and should be made after discussion with the Labor Analyst.

If at the end of the second 90-day period, the employee is not meeting performance standards, a recommendation to dismiss the employee from his or her position should be prepared, using the documentation from the first 90-days period, the Letter of Warning and the documentation from the second 90-day period as evidence.

All procedures utilized to issue the Letter of Warning and the Dismissal notices are as described in CONDUCT BASED ACTIONS, above.

In some cases, conduct based actions may be taken to deal with employees' performance problems.

#### **VI. DECISIONS TO DISMISS: RESTRICTIONS ON FUTURE EMPLOYMENT**

At the time the Program Manager sends the Personnel Labor/Employee Relations Unit, his/her recommendation for separation, s/he should decide what future employability restrictions the Program would like. Examples are as follows:

- No restrictions on future employability
- Cancel any current examination and eligibility status
- No future employment with this Agency
- No future employment with the City and County of San Francisco
- Return name to the eligibility list from which appointed to the position
- Future employment subject to the review and approval of the Human Resources Director after satisfactory completion of 1 or 2 year(s) of work experience outside the City and County service



CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF HUMAN RESOURCES

INSTRUCTIONS: Please complete the Separation Report to:

- 1. Document internal departmental processes. Please do not send to DHR.- exceptions follow.
2. Document that the separation is not a complete separation from City service. Please attach completed Separation Report along with the AP ESR to DHR.
3. To process a layoff action. Please send to the DHR- attn.: Layoff Coordinator.
4. To administer a settlement agreement involving a separation action. Please send copy of settlement agreement and related documentation to DHR- attn.: Client Services Rep (ref. TER\_RZA)\*

Date of Request: December 30, 2014

Department Contact: Laurie Juengert Email: Laurie.Juengert@sfgov.org Phone: (415) 557-5712

SECTION I: PERSONAL AND JOB INFORMATION

Name (Last, First, M.I.): Chow, Crystal, W. Employee I.D: [Redacted]

Job Code: 2918 Job Title: HSA Social Worker

Position Number: 01086659 Date Issued: 12/30/2014 Effective Date: 12/31/2014

Empl. Class: PCS Work Schedule: Full-Time

Is the employee serving a probationary period at the time of the separation? [ ] Yes [X] No

Is this a complete separation from City and County Service? [X] Yes [ ] No

If no, continuing in:

Department Code: (Select One) Status: Job Code: Effective Date:

Is employee granted leave pursuant to Civil Service Rule 120.31? [ ] Yes [ ] No

If no, is employee a transfer? [ ] No [ ] Yes, type of Transfer: (Select One)

SECTION II: SEPARATION INFORMATION

[ ] Resignation

[ ] Satisfactory Services (TER\_RSS)

[ ] Unsatisfactory Services (TER\_RUS) (Form DHR 1-13 must be on file)

By the appointee: I hereby freely and voluntarily resign from the above position. I request approval of this resignation as of the effective date with the full understanding that once approved, I may acquire another position in this class only as provided in the rules of the Civil Service Commission (see employee copy and CSC Rules 114&119).

Employee Signature Date

[ ] Lay-off

[ ] Involuntary Leave (PCS\_LIL) [ ] Elective Involuntary Leave (PCS\_EIL)

[ ] Involuntary Lay-off (PCS\_LIO) [ ] Voluntary Lay-off (PCS\_LVO)

[ ] (PV & EX Only): (Select One)

Reason for lay-off: (Select One)

Employee acknowledges receipt of the DHR information leaflet.

Employee Signature Date

SEPARATION REPORT

DEPARTMENT USE ONLY

Termination

Settlement Agreement (TER\_RZA)  
\*(Separation Report and Settlement Agreement must be forwarded to Client Services Rep.)

Release from appointment: (Select One) \_\_\_\_\_

Release from probation: (Select One) \_\_\_\_\_

Dismissal: PCS (DPE) \_\_\_\_\_

Terminated for cause (TFC) (TPV, NCS, & Exempts only)

Automatic Resignation (ARS)

Never Reported to Work (DSH)

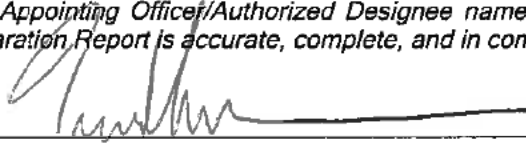
Death of an employee (DEA)

Other (Specify): \_\_\_\_\_

Retirement: (Select One) \_\_\_\_\_

DEPARTMENT CERTIFICATION

*The Appointing Officer/Authorized Designee named below hereby certifies that the information provided on this Separation Report is accurate, complete, and in compliance with applicable CCSF rules and policies.*



Appointing Officer/Authorized Designee Signature

(415) 557-5712  
Telephone

Name/Title: Trent Rhorer \_\_\_\_\_

Department Number: 45 \_\_\_\_\_ Department Name: Human Services Agency \_\_\_\_\_

Personnel File Forwarded?  Yes  No

Forwarded to:  
Department: \_\_\_\_\_ Contact: \_\_\_\_\_

DHR USE ONLY

Action Pending?  Yes  No

Analyst Name \_\_\_\_\_ Telephone \_\_\_\_\_

SR Ref Number: \_\_\_\_\_ Holdover Canvass: \_\_\_\_\_

Reference Number used for layoff actions: \_\_\_\_\_

**CITY AND COUNTY OF SAN FRANCISCO  
NOTICE OF FUTURE EMPLOYMENT RESTRICTIONS**

Via Certified Mail

**Status of Action:**

- Pending  
 Final

Crystal Chow  
Name of Employee

December 30, 2014  
Mailing Date

[REDACTED]  
Street Address

Human Services Agency/In Home Supportive Services  
Department/Division

[REDACTED]      [REDACTED]      [REDACTED]  
City                      State                      Zip

PCS  
Type of Appointment

This notice is to inform you that a future employment restriction is being imposed along with your separation action, or with the action of automatic resignation, reported to the Department of Human Resources separating you from your position in Class 2918, Title HSA Social Worker, effective(\*) December 31, 2014, for the reasons outlined in the attached document(s).

You may request a hearing before the Civil Service Commission on your future employability with the civil service system of the City and County of San Francisco. The Civil Service Commission has the authority to remove restrictions or impose additional restrictions on your future employability.

You may request a hearing for review of any restrictions on your future employability with the Civil Service Commission within 20 calendar days of the mailing date of this notice or from the date of separation, whichever is later. The request must be submitted in writing to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102 by 1/20/2015. Requests received after this date will not be considered and your right to a hearing will be forfeited. If you do not request a hearing or file an appeal, the Human Resources Director will take final administrative action to confirm the restriction(s) in effect on the date of separation (\*).

The items checked below are the restrictions made by the department on your future employability for positions covered by the San Francisco civil service system:

<input type="checkbox"/>	No restrictions on future employability.	<input type="checkbox"/>	Cancel any current examination and eligibility status.
<input type="checkbox"/>	No future employment with this department.	<input checked="" type="checkbox"/>	No future employment with the City and County of San Francisco.
<input type="checkbox"/>	Future employment subject to the review and approval of the Human Resources Director after satisfactory completion of _____ year(s) work experience outside the City and County service.		
<input type="checkbox"/>	Other (specify):		

(\*) Note: Future Employment Restriction(s) effective immediately.

If this matter is subject to the Code of Civil Procedures (CCP) Section 1094.5, the time by which judicial review must be sought is set forth in CCP Section 1094.6.

(SEE REVERSE SIDE)

**MUST BE COMPLETED BY DEPARTMENT:**

Rank: 25      List #: 052907  
SSN: [REDACTED]  
Employee Organization: SEIU 1021

**METHOD OF SERVICE:**

Certified Mail       Hand Delivered   
Certified Mail #: 7011-1150-0000-6958-4707

Attachment(s)

DHR 1-13e (Revised 6-2004)

Trent Rhorer by [Signature]  
SIGNATURE OF APPOINTING OFFICER  
Trent Rhorer  
NAME  
Executive Director, Human Services Agency  
TITLE

## INFORMATION FOR FORMER EMPLOYEE FOLLOWING SEPARATION

1. This document serves as an official notice of future employment restrictions imposed with the Notice of Automatic Resignation From Employment to the former employee or with a Separation Action that is subject to the provisions of a collective bargaining agreement, to the Civil Service Commission, and the Department of Human Resources.
2. If there are no restrictions imposed with the separation, the box indicating "*no restrictions on future employability*," would be checked.
3. A separated employee may request a hearing before the Civil Service Commission only for review of any restrictions on their future employability with the City and County of San Francisco.
4. Such appeals or requests for hearing must be in writing and received from the employee or the employee's representative by the date specified on this notice, or within twenty (20) calendar days from the mailing date of this notice, or the effective date of the separation whichever is later. The request must be submitted to the Executive Officer, Civil Service Commission, 25 Van Ness Avenue, Suite 720, San Francisco, CA 94102.
5. An employee who requests a hearing within the time limits is entitled to:
  - a. Representation by an attorney or authorized representative of her/his own choice.
  - b. Notification of date, time, and place of hearing at a reasonable time in advance.
  - c. Inspection by the employee's attorney or authorized representative of those records and materials on file with the Civil Service Commission which relate to the restrictions on future employability.
6. Any interested party may request that the hearing be continued or postponed.
7. The decision of the Civil Service Commission is final and not subject to reconsideration.
8. In the absence of a timely request for a hearing as provided above, no later request for a hearing will be considered.

**Crystal Chow - Response to additional questions.**

When I submitted the Overpayment Referral in April 2014, I treated this case like any other overpayment. I immediately contacted the son to find out the date client was hospitalized and put client on "Leave Status", "Terminate the Case after 10 Days' Notice" and sent the case folder to Close Files. It is quite often families or providers do not report to IHSS when client admit to hospital. I did not realize this was the client of the companion case of the brother.

Clarification for "every attempt to see":

It has been very stressful for the past few months. I did not remember what I wrote in the notes until I see your attachment.

When QA reviewed the Overpayment Referral in July 2014, QA found out the client's hospitalization date and home visit date did not match. I was asked to explain. When QA pointed out that I made a mistake, I reviewed the client's information and I found out that I had already submitted the assessment. It took me a while to remember what happened. When I realized, it was the client of the companion case of the brother, I was shocked. I was panicking and was quite nervous because I realized I made a mistake. QA suggested that I write a note. I did not remember what I wrote in the note until you sent the attachment to me for review. English is my second language.

Laurie's last statements stated "During the Skelly she stated that she never went back to try to visit again. If she had she would have known the client was not just at the doctor, rather she was in a long-term hospital setting."

All providers have to sign a contract and watch a provider video training in their own languages at the Enrollment Center. All providers have agreed and have the responsibility to notify the IHSS Social Worker about their hospitalization, or any changes with their conditions. It is also my standard at the end of every visit, I always inform the client or family to notify me when there are any changes: which include hospitalization, move or changes with client's conditions. The family should have let me know the client was hospitalized and not just going to visit the doctor. In this case, the provider is the sister-in-law and lives in the same address as client. She has the obligation and responsibility to report to me. Then I would have put the client on "Leave Status" sooner and terminate the case if the client was admitted to Long Term Care. All of this would not have happened.

During home visit, I didn't have the file in front of me. I did not know the brother was not the authorized person to sign.