



CIVIL SERVICE COMMISSION

City of Tucson

Minutes

Frank Yanez
Appeal of Termination Hearing
Information Technology Department
September 9, 2024

A quorum of the Civil Service Commission (CSC) of the City of Tucson met at 9:00 AM on Monday, September 9, 2024, at the Tucson Police Department, 270 S. Stone Avenue in Tucson, Arizona, for the Appeal of Termination filed by Frank Yanez with the City of Tucson's Information Technology Department. The hearing was made accessible remotely through technological means as permitted under Arizona law as well as in person.

Those present from the Civil Service Commission were Chairperson Paul Fimbres, Commissioner Rebecca Montañó and Commissioner Carol West. Also present was Donna Aversa, attorney for the Commission.

The staff present were Teri Traaen, Interim Human Resources Director, Elsa Quijada, Human Resources Deputy Director, CSC Designated Secretary, and Reina Gallego, Executive Assistant for Human Resources & Recording Secretary all in support of the Commission.

Appellant Frank Yanez was present representing himself.

Jennifer Bonham and Jennifer Stash, Principal Assistant City Attorneys representing the City and the Information Technology Department and Chris Mazzerella, Director of the Information Technology Department was present at the Department representative.

This appeal was held in Open Session; and the rule to exclude witnesses was not invoked by either party.

The following witnesses were sworn in as a group at the start of the hearing, per the Chairperson's request:

1. Ricardo "Rick" Majalca
2. Ashley Tellez
3. Armida "Mia" Amaro
4. Chris Mazzarella
5. Karen Hochede
6. Appellant Frank Yanez
6. Dylan Jose
7. Manual Campas

City's Exhibits Admitted

Exhibit A Tabs 1 – 6

Tab 1 – Notice of Decision (Appealable Action) (COT00001)

Tab 2 – Employee's Right to Civil Service Appeal (COT00002)



- Tab 3 – Notice of Intent to Discharge (COT00003 – COT00004)
- Tab 4 – Exhibit A (COT00005 – COT00037)
- Tab 5 – Affidavit of Service (COT00038)
- Tab 6 – Frank Yanez Appeal Letter (COT00039 – COT00043)

Exhibit B Tabs 1 – 14

- Tab 1 – Information Technology (IT) Department Personnel File (COT00044-COT00076)
- Tab 2 – Human Resources Personnel File (COT00077 – COT00129)
- Tab 3 – Work Improvement Plan (COT00130-COT00132)
- Tab 4 – Timecards (COT00003-COT00008)
- Tab 5 – IT Supervisor File (COT00157 – COT00219)
- Tab 6 – Correspondence with Frank Yanez (COT00220 – COT00231)
- Tab 7 – IT Call in Policy (COT00232-COT00233)
- Tab 8 – Medical Leave Helpful Reminders (COT00234-COT00235)
- Tab 9 – Definition of Just Cause, Tucson City Code §10-3 (COT00236)
- Tab 10 – Administrative Directive 2.02-5, Rules of Conduct (COT00237-COT240)
- Tab 11 – Administrative Directive 2.01-7, Employee Leaves (COT00241-COT00248)
- Tab 12 – Administrative Directive 2.01-7C, Employee Medical Leave (FML) (COT00249-COT00260)
- Tab 13 – Administrative Directive 2.01-19, Telecommuting (COT00261-COT00266)
- Tab 14 – Administrative Directive 2.02-16, Disciplinary Review Process (COT00267-COT00276)

Appellant’s Exhibits Admitted

Exhibits 1 -2

- Exhibit 1 – Desert Health Clinic – Doctor’s Note dated 8/1/2024
- Exhibit 2 – Desert Health Clinic - Doctor's Note dated 9/4/2024

- 9:03 AM – 9:11 AM The hearing was called to order and roll call was taken. Chairperson Fimbres read the Opening Statement. The Rule was not invoked. At the Chairman’s request, Ms. Aversa sworn in all the witnesses present.
- 9:11 AM A motion was made by Chairman Fimbres for the Commission to move into Executive Session for legal advice pursuant to A.R.S. §38-431.03(A)(3). The motion was duly seconded and passed with an oral vote of 3-0. The Commission returned to regular session at 9:39a.m. at which time Chairman Fimbres read the executive session disclaimer.
- 9:42 AM – 9:47 AM The City made a statement regarding the Motion in Limine filed by the City.



- 9:47 AM – 9:55 AM The Appellant, Mr. Yanez, made a rebuttal statement. The Commission asked for a copy of his witness list, which he provided.
- 9:56 AM – 9:57 AM The City gave a response to the Appellant’s rebuttal.
- 9:58 AM – 10:00 AM The Commission made clarifying statements as to Mr. Yanez’s argument and the issues before the Commission. Commissioner West asked a clarifying question.
- 10:00 AM Chairman Fimbres, with no objection from the rest of the Commission, granted the City’s motion in limine to exclude witnesses.
- 10:01 AM – 10:04 AM Mr. Yanez made a statement regarding his motion to continue.
- 10:04 AM – 10:06 AM The City made a rebuttal statement regarding the motion to continue.
- 10:06 AM – 10:10 AM Mr. Yanez gave a response to the City’s rebuttal at which time Commissioner Montaña asked a clarifying question.
- 10:11 AM Chairman Fimbres, with no objection from the rest of the Commission, denied the Appellant’s Motion to Continue.
- 10:11 AM – 10:17 AM The exhibits were read into the record by Ms. Quijada. An objection was made by the City regarding the Appellant’s exhibits. The Commission ruled the exhibits were precluded.
- 10:17 AM – 10:21 AM The City made its opening statement.
- 10:21 AM – 10:24 AM Mr. Yanez made his opening statement.
- 10:24 AM – 10:40 AM BREAK
- 10:40 AM Returned to regular session.
- 10:40 AM – 10:46 AM Ms. Quijada informed the Commission that the Appellant had decided to leave the hearing during the break. Chairman Fimbres had Ms. Aversa swear in Ms. Quijada at which time Ms. Quijada gave testimony regarding the conversation and the events that occurred in which Mr. Yanez, the Appellant, decided to leave the hearing.



The Commission asked clarifying questions and Commissioner Montaña asked how the City would like to proceed. Ms. Bonham advised the Commission that the City was ready to proceed. Ms. Quijada was excused from further testimony.

The Chairman directed the City to proceed with its case.

The City called its first witness, Rick Majalca, IT Manager, Information Technology Department.
10: 46 AM – 11:20 AM Mr. Majalca gave testimony on direct examination. Commission asked clarifying questions. Witness was excused from testifying.

The City called its second witness, Chris Mazzerella, Information Technology Dept Director.
11:20 AM - 11:36 AM Mr. Mazzerella gave testimony on direct examination. The Commission asked clarifying questions. Witness was excused from testifying.

11:36 AM – 11:38 AM The City made its closing statement.

11:39 AM Ms. Aversa requested the Chairman address the City's Exhibit C which was neither offered nor admitted by the City but distributed to the Commission under seal due to content of confidential information in anticipation of potential admission. The Chairman directed that all copies of the exhibit be returned unexamined to the City for destruction.

Chairman Fimbres moved to deny Appellant Yanez's appeal and affirm the disciplinary action for the reason that there was just cause for the discipline imposed. Commissioner West seconded the motion. The Motion passed 3-0.

The Chairperson directed the attorney for the Commission to work with the Chairperson to finalize the Commission's written decision.

The Chairman adjourned the meeting.

Paul Fimbres, Chairperson
Civil Service Commission