

COUNTY OF LOS ANGELES
CIVIL SERVICE COMMISSION

COMMISSIONERS:

DENNIS F. HERNANDEZ
NAOMI NIGHTINGALE
STEVEN AFRIAT
JOHN DONNER
Z. GREG KAHWAJIAN

2015 ANNUAL REPORT



Lawrence D. Crocker, Executive Director

I. INTRODUCTION

The Civil Service Commission (“Commission”) is the only County Charter mandated independent Commission, and serves as the quasi-judicial appellate body for classified employees who have been disciplined, *i.e.*, discharged, reduced, and/or suspended in excess of five days. The Commission has jurisdiction regarding allegations of discrimination in the imposition of discipline or the treatment of persons seeking employment in the classified service of the County. The Commission also hears appeals of employees, and persons seeking employment, of the scored portions of examinations. Additionally, the Commission serves as the administrative appeals body for a number of cities that directly contract with the County.

The Commission is comprised of five (5) Commissioners appointed by the Board of Supervisors. The current Commissioners are:

Dennis F. Hernandez	First District
Naomi Nightingale	Second District
Steven Afriat	Third District
John Donner	Fourth District
Z. Greg Kahwajian	Fifth District

During early 2015, Evelyn Martinez and Carol Fox served as the First and Third Supervisorial Districts’ appointees on the Commission, respectively.

The Commission’s day-to-day operations are overseen by the Executive Director, Lawrence D. Crocker, who manages a staff of seven (7) full-time employees and two (2) Student Workers:

Steve Cheng	Head, Civil Service Commission
Lupe Castellanos	Custodian of Records
Luz Delgado	Head Commission Specialist
Harry Chang	Head Commission Specialist
Vacant	Intermediate Commission Specialist
Juan Mendoza	Commission Specialist
Meagan Alday	Commission Specialist
Svetlana Vardanyan	Student Worker
Cameron Binion	Student Worker

II. APPEALS PROCESS

The appeals process commences with the filing of a petition for hearing. In 2015, the Commission received 362 Petitions for Hearing (222 disciplinary and 140 discretionary). The disciplinary matters include 88 discharges, 126 suspensions, and 8 reductions. The Commission granted hearings in 215 cases filed in Calendar Year 2015. By comparison, in 2014, the Commission received 411 Petitions for Hearing (269 disciplinary and 142 discretionary). The 2014 disciplinary matters included 83 discharges, 177 suspensions, and 9 reductions. The Commission granted hearings in 235 cases filed in Calendar Year 2014.

When a matter is granted a hearing, the case is assigned to one of the Commission's hearing officers. The hearing officers serve as the trier of fact and preside over evidentiary hearings. Parties to hearings have the opportunity to present, subpoena, and cross-examine witnesses. In disciplinary matters, the Los Angeles County Civil Service Rules provide that the burden of proof is on the Department. In all other cases, the burden of proof is on the petitioner. Subsequent to the close of hearings, the hearing officers submit reports and recommendations for the Commission's consideration. Hearing officers' reports must include findings of fact, conclusions of law and recommendations for discipline. If the Commission adopts a hearing officer's recommendation, the parties may file objections. The Commission considers objections and if the Commission adopts a new proposed decision based upon objections, any party who has not previously filed objections may do so. After all parties have been provided an opportunity to submit objections and present them orally at the Commission's regular meeting, the Commission renders its final decision.

During 2015, 414 matters were closed. The Commission granted 5 appeals based upon the written pleadings and 9 matters were deemed withdrawn because the Petitioner did not appear at the hearing. The Commission denied the requests for hearings in 105 matters, consolidated 9 appeals and dismissed 3 cases without hearing. 161 matters were withdrawn or settled. The Commission closed 122 matters after completion of the evidentiary hearing process. Of the 122 cases where a hearing was granted, the Departments' actions were upheld in 93 cases (76%). The Departments' discipline was modified in 18 cases (15%), and not sustained in 11 matters (9%).

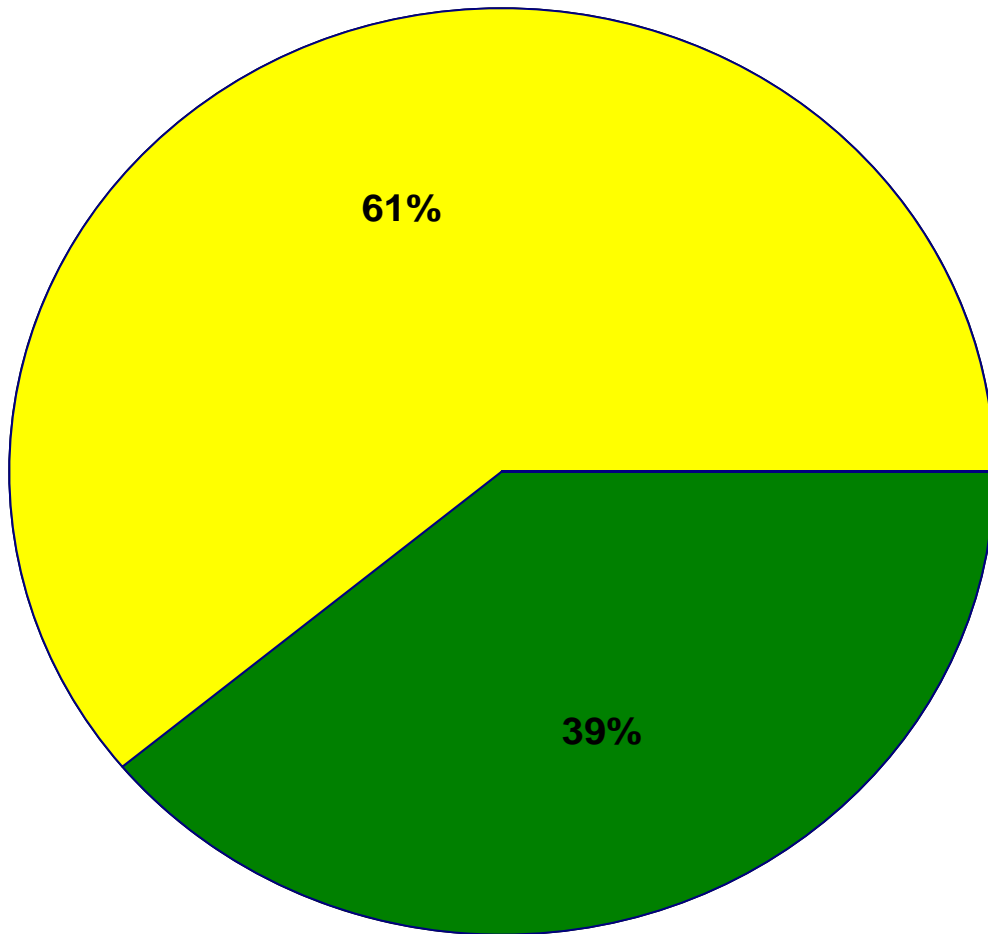
The following pages contain statistical and graphical breakdowns of the petitions that were filed and the decisions rendered post-hearing by the Commission.

2015 Petitions for Hearing

Department	Disciplinary	Discretionary	Total
Agricultural Commission	1	0	1
Beaches & Harbors	2	1	3
Chief Executive Office	0	3	3
Child Support Services	6	0	6
Children and Family Services	11	7	18
Community and Senior Services	1	1	2
Coroner	0	1	1
Fire	11	4	15
Health Services	20	4	24
Human Resources	1	68	69
Internal Services	4	0	4
Mental Health	3	3	6
Parks and Recreation	9	0	9
Probation	41	9	50
Public Defender	0	3	3
Public Health	1	2	3
Public Social Services	30	12	42
Public Works	5	4	9
Regional Planning	0	1	1
Registrar-Recorder / County Clerk	0	1	1
Sheriff	76	14	90
Treasury & Tax Collector	0	2	2
Grand Totals	222	140	362

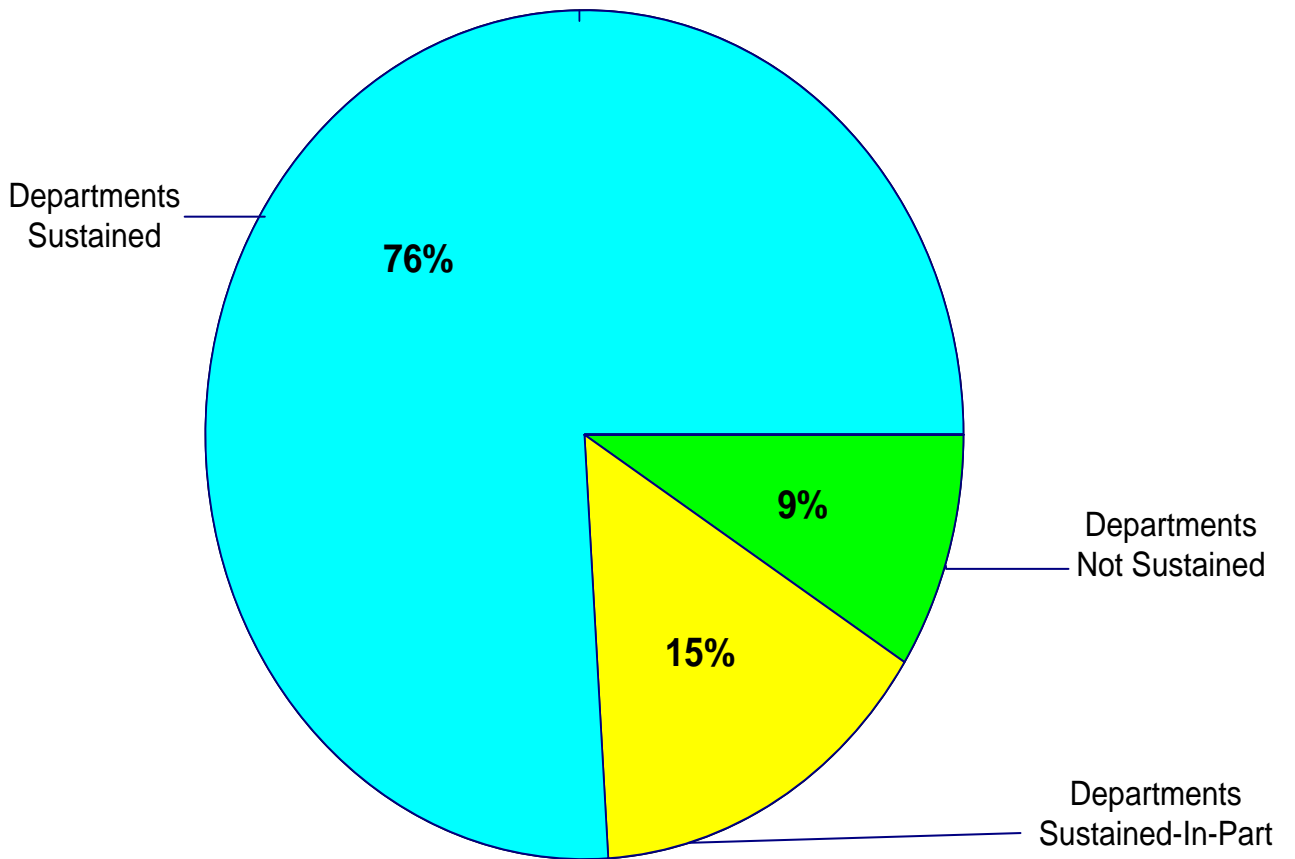
Civil Service Commission 2015 Case Data

Disciplinary Cases
222



Discretionary Cases
140

CIVIL SERVICE COMMISSION 2015 POST-HEARING OUTCOMES



DISCIPLINE OVERTURNED OR MODIFIED BY THE COMMISSION

1. Case No. 14-199, Peace Officer (Dept. not sustained) – The Department suspended the employee for 15 days from the position of Deputy Sheriff for failing to follow tactical procedures that “evolved into a deputy involved shooting” The Commission adopted the findings and recommendation of its Hearing Officer who found that the Department failed to prove any of the charges by a preponderance of the evidence. **Commissioner Hernandez dissented. Commissioner Donner was absent.**
2. Case No. 13-582, Peace Officer (Dept. not sustained) – The Department suspended the employee for 15 days from the position of Detention Services Officer for inappropriate conduct and providing false information during an investigation. The Commission adopted the recommendation of the Hearing Officer who found, “the alleged violations of policy were not supported at the hearing by a preponderance of the credible evidence, cause for discipline was not established.” **Commissioner Nightingale dissented.**
3. Case No. 14-2, Nona Ewell (Dept. not sustained) – The Department suspended the employee for 8 days from the position of Custody Assistant for misuse of force. The Commission adopted the recommendation of the Hearing Officer who found that the Department failed to sustain its burden of proof by a preponderance of the evidence. **Commissioner Nightingale was absent.**
4. Case No. 13-503, Yogesh Shah (Dept. not sustained) – The Department suspended the employee for 15 days from the position of Pharmacist Supervisor I for improperly disposing of medications and making false statements during an investigation. The Commission adopted the recommendation of the Hearing Officer who found that the weight of the evidence did not support the allegations against the employee.
5. Case No. 13-507, Peace Officer (Dept. not sustained) – The Department suspended the employee for 20 days from the position of Deputy Sheriff for failing to properly safeguard a prisoner in custody. The Commission adopted the recommendation of the Hearing Officer who found that the Department had not completed its investigation within the one year prescribed by Government Code Section 3304(d) and, thus, was precluded from taking disciplinary action against this employee.
6. Case No. 12-227, Peace Officer (Dept. not sustained) – The Department discharged the employee from the position of Deputy Sheriff for improperly pursuing a vehicle and providing false statements regarding the pursuit. The Commission adopted the recommendation of the Hearing Officer who found the Department failed to prove that the allegations were true. **Commissioner Nightingale abstained.**

7. Case No. 13-261, Peace Officer (Dept. not sustained) – The Department discharged the employee from the position of Deputy Probation Officer I, for negligent supervision resulting in serious injury to a minor, failing to perform job duties, and failing to follow established rules, regulations and policies. The Commission adopted the recommendation of the Hearing Officer who found that Department failed to prove any of the allegations were true.
8. Case No. 14-9, Peace Officer (Dept. not sustained) – The Employee appealed his appraisal of promotability score received in the examination for Senior Detention Services Officer. The Commission adopted the recommendation of the Hearing Officer who found that the Department did not assess the employee pursuant to the proper procedures. No objections were timely filed.
9. Case No. 14-210, Linda Hoa (Dept. not sustained) – The employee appealed the Department's refusal to medically re-evaluate her in order for her to return to work. The Commission adopted the recommendation of the Hearing Officer that the employee should be re-evaluated and should submit any additional information as required to complete the re-evaluation.
10. Case No. 13-110, Johnetta Williams (Dept. not sustained) – The Department discharged the employee from the position of Custody Assistant for being under the influence of alcohol at work and admitting to driving under the influence to work in violation of the terms of her suspension for an earlier D.U.I. The Commission adopted the recommendation of the Hearing Officer who found that the evidence presented did not establish that the allegations were true.
Commissioner Donner dissented.
11. Case No. 13-333, Peace Officer (Dept. not sustained) – The Department discharged the employee from the position of Deputy Sheriff for participating in a vending card scam with an inmate. The Commission adopted the recommendation of the Hearing Officer who found that Department failed to prove any of the allegations by a preponderance of the evidence.
Commissioner Nightingale dissented.
12. Case No. 13-165, Mike Soto (Dept. sustained, in part) – The Department discharged the employee from the position of Senior Clerk for testing positive for alcohol on a random drug/alcohol test. The Commission agreed with the Hearing Officer that the employee's tested level did not violate County policy but only a Departmental agreement with the employee, which the Department had since stopped requiring of employees. The Commission adopted the Hearing Officer's recommendation to reduce the discharge to a 15 day suspension.
Commissioner Kahwajian dissented.
13. Case No. 13-481, Shirley Flournoy (Dept. sustained, in part) – The Department suspended the employee for 30 days from the position of Mental Health Clinical Program Head for bad behavior and unprofessional conduct. The Commission

adopted the Hearing Officer's Findings and recommendation to reduce the suspension to 20 days because the Department failed to prove all of the allegations against the employee.

14. Case No. 13-096, Peace Officer (Dept. sustained, in part) – The Department suspended the employee for 30 days from the position of Detention Services Officer for abusive practices and discourtesy to clients. The Commission accepted the Hearing Officer's findings of fact and conclusion that the Department had proven all but one of the allegations, but rejected the recommendation to sustain the Department and instead imposed a 20 day suspension. **Commissioner Afriat was absent.**
15. Case No. 13-364, Peace Officer (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Probation Officer I for threatening workplace violence. The Commission adopted the recommendation of the Hearing Officer to reduce the discharge to a 30 day suspension but added no back pay. The Hearing Officer found that the employee did not threaten bodily harm to co-workers but was discourteous.
16. Case No. 13-524, Peace Officer (Dept. sustained, in part) – The Department suspended the employee for 25 days from the position of Deputy Probation Officer I for restraining a minor. The Commission agreed with the Hearing Officer that this was a case of a good employee having a momentary lapse of judgment; however, the Commission rejected the Hearing Officer's recommendation to reduce the suspension to 2 days and instead imposed a 20 day suspension. **Commissioner Afriat was absent.**
17. Case No. 13-560, Peace Officer (Dept. sustained, in part) – The Department suspended the employee for 15 days from the position of Deputy Probation Officer II for, among other things, failing to supervise minors under his care and abandonment of post. The Commission adopted the finding and recommendation of the Hearing Officer who found that while the allegations were proven, a 10 day suspension was appropriate. **Commissioner Donner was absent.**
18. Case No. 11-312, Peace Officer (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Sheriff for associating with known felons. The Commission adopted the Findings and recommendation of the Hearing Officer who found that the Department failed to prove all the allegations against the employee, or timely bring charges related to some of the allegations.
19. Case No. 12-240, Peace Officer (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Sheriff for falsifying an incident report that resulted in the arrest of an individual. In addition, the employee pled no contest to a misdemeanor charge of falsifying a police report. The Commission rejected the Hearing Officer's recommendation to overturn the

discharge despite having found all of the allegations to be true. The Commission imposed a 30 suspension instead. **Commissioner Donner dissented.**

20. Case No. 13-090 (consolidated), Peace Officers (Dept. sustained, in part) – The Department discharged 5 employees from the positions of Deputy Sheriffs for belonging to a “clique” in violation of Departmental policy. The Commission adopted the findings and recommendations of its Hearing Officer who found discharge was appropriate for 2 of the employees but that the discharges of other 3 employees should be reduced to 30 day suspensions due to mitigating circumstances.
21. Case No. 13-162, Joshua Bowman (Dept. sustained, in part) – The Department discharged the employee from the position of Custody Assistant for misappropriating Department property, e.g., blankets and toilet paper. The Commission adopted the findings of the Hearing Officer that the Department did not follow its disciplinary procedures, but rejected the Hearing Officer recommendation to reduce the discharge to 5 days, and imposed a 30 day suspension instead.
22. Case No. 13-186, Peace Officer (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Sheriff for failing to follow proper procedures in handling property and making false statements regarding the property during an investigation. The Commission adopted the Hearing Officer’s findings of fact and conclusion that the Department did not prove by a preponderance of the evidence the more serious allegations; however, the Commission rejected the Hearing Officers recommendation to reduce the discharge to a 10 day suspension, and instead imposed a 30 day suspension. **Commissioner Afriat was absent.**
23. Case No. 13-286, Peace Officer (Dept., sustained, in part) – The Department suspended the employee for 15 days from the position of Deputy Sheriff for mishandling and failing to properly document a domestic violence crime. The Hearing Officer concluded that the Department did not prove by a preponderance of the evidence all of the allegations against the employee and recommended a reduction of the discipline to a 5 day suspension, which the Commission adopted. **Commissioners Donner and Nightingale dissented.**
24. Case No. 13-321, Peace Officer (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Sheriff for failing to report a use of force by another deputy and providing false statements during an investigation. The Commission adopted the recommendation of the Hearing Officer reduce the discipline to a 30 day suspension with no back pay based on the employee’s prior record of no prior discipline, very good performance evaluations, and having received a couple of commendations. **Commissioners Donner and Kahwajian dissented.**

25. Case No. 13-330, Peace Officer (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Sheriff for placing false information in his application for the position. The Commission agreed with the Hearing Officer, who recommended a 15-day suspension, that Department had imposed discipline of 15-day suspensions on other employees for the same or more egregious conduct. No objections were timely filed in this matter.
26. Case No. 13-360, Peace Officer (Dept. sustained, in part) – The Department suspended the employee for 20 days from the position of Deputy Sheriff for failing to report and incident of dishonesty by his supervisor. The Hearing Officer, recommending a 5-day suspension, noted that although there was a violation of the reporting requirement, the Department did not discipline other employees who were aware of the infraction. The Commission accepted the findings of the Hearing Officer but imposed a 4-day suspension. **Commissioner Nightingale abstained.**
27. Case No. 13-531, Peace Officer, (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Sheriff for rude and disrespectful conduct towards an individual with whom the employee had an automobile accident. The Hearing Officer stated that although the allegations were proven true, they did not justify a discharge. The Commission accepted the findings and recommendation of the Hearing Officer to reduce the discharge to a 30-day suspension but the Commission directed that the employee receive no back pay.
28. Case No. 14-257, Peace Officer, (Dept. sustained, in part) – The Department suspended the employee for 15 days from the position of Deputy Sheriff for failing to report the use of appropriate force. The Hearing Officer asserted that the employee’s conduct was a violation of the Department’s policy but that the employee “had a legitimate belief that the contact did not rise to the level of reportable force as no arrest was made and no crime committed at the scene.” The Commission adopted the Hearing Officer’s findings and recommendation to reduce the suspension to 10 days. No objections were timely filed in this case.
29. Case No. 14-80, Peace Officer (Dept. sustained, in part) – The Department discharged the employee from the position of Deputy Sheriff for using excessive force against someone in custody, failing to report the use of force, and making false statements during an investigation. The Hearing Officer found that while the allegations were true, the policies involved were not consistently enforced. The Commission adopted the recommendation of the Hearing Officer to impose a 30-day suspension but added that no back pay be awarded. **Commissioner Nightingale was absent.**

POST-HEARING DECISIONS 2012 – 2015

Department	Year	Sustained	Not Sustained	Sustained In Part
Child Support Services	2015	1	0	0
	2014	2	0	0
	2013	1	0	0
	2012	1	0	1
Children & Family Services	2015	5	0	0
	2014	5	1	2
	2013	5	1	0
	2012	9	2	1
Fire	2015	5	0	0
	2014	0	0	0
	2013	1	0	0
	2012	1	1	3
Health Services	2015	4	1	0
	2014	5	2	1
	2013	12	0	1
	2012	17	0	3
Internal Services	2015	0	0	1
	2014	3	0	0
	2013	1	0	1
	2012	3	0	0
Mental Health	2015	2	0	1
	2014	7	0	0
	2013	5	0	0
	2012	7	0	1
Parks & Recreation	2015	4	0	0
	2014	2	1	1
	2013	4	2	1
	2012	1	0	0
Probation	2015	26	3	4
	2014	9	2	5
	2013	10	2	3
	2012	10	4	7
Public Social Services	2015	6	1	0
	2014	10	1	1
	2013	9	1	2
	2012	10	0	0
Public Works	2015	2	0	0
	2014	2	0	1
	2013	9	0	4
	2012	7	0	1
Sheriff	2015	38	6	12
	2014	14	1	8
	2013	17	2	3
	2012	20	0	2

***No cases were closed post-hearing:** Agricultural Commission, Animal Control, Assessor, Beaches and Harbor, Consumer Affairs, Coroner, District Attorney, Public Defender, Public Health, Public Library, Registrar-Recorder and Treasure and Tax Collection.

III. OBSERVATIONS AND RECOMMENDATIONS

Two new members joined the Commission during the first quarter of 2015 as appointees of the First and Third Districts respectively. With four of five Commissioners possessing one year or less of experience with Civil Service Rules and procedures, the Commission's work for Commissioners and staff was challenging.

The Commission concluded that orientation and training for new members could be improved. The new Commissioners also made recommendations to improve Commission processes. Building on previous efforts to improve efficiency, the Commission formed a subcommittee comprised of two of its members to review practices and procedures and work with staff to implement proposed changes.

The contract for hearing officers was about to expire and, in anticipation of a new contract, the Commission invited public comment from current and former hearing officers as well as all parties with regular business before the Commission. In response to the input received, the Commission also changed practices relating to scheduling of hearing dates to accelerate final decisions.

During the year, the Commission identified an increase in the number of appeals from candidates for employment or promotion due to the changes in the Appraisal of Promotability (AP) rating process. The new "commentless" APs did not appear to provide sufficient feedback to candidates as to their ratings and made the ratings much more susceptible to challenge before the Commission. Additionally, the new "Workstyle" and or "Writing Assessments" appeared to the Commission to be based on purely subjective standards which could be abused by raters if not monitored closely. The Commission also identified a noticeable increase in cases relating to medical releases and reevaluations under Civil Service Rule 9.

The Commission notes that these and other issues that arise before the Commission could be addressed more effectively through more thoughtful evaluation of these issues by the Department of Human Resources (DHR) and more meaningful communication between DHR and the employees of the County who file appeals. As the tribunal of last resort for county employees, the Commission is, in many cases, a direct witness to the frustration and despair some employees experience during the hiring and promotion process.

The Commission improved its review of appeals by initiating electronic filing by petitioners and respondents and by working with the Executive Office of the Board to improve staffing and IT support. Use of personal computers and tablets has greatly improved the lives of Commissioners who regularly receive and read over 1,000 pages in preparation for the weekly calendar. The Commission continues to look for ways to improve the hearing process through the use of technology.

As a quasi-judicial board created by the County Charter, our task is to review disciplinary and discretionary appeals. In discipline cases, the burden rests with the department to prove by a preponderance of the evidence that the allegations are true and that the level of discipline is appropriate. For discretionary appeals (relating to hiring and promotion and discrimination cases), the burden rests with the petitioner.

If either party disagrees with our decisions, they have the right to seek a *Writ* of Mandamus from the Superior Court. A review of the records maintained by the Labor and Employment Division of the County Counsel reveals that a total of 69 *Writs* were filed between January 1, 2013 and December 31, 2015: ten (10) *Writs* were filed by the County and fifty-nine (59) were filed by employees. As of December 22, 2015, *Writs* challenging the Commission's decisions were denied twenty-four (24) times while only eight (8) were granted. Of the eight (8) *Writs* granted, four (4) were for technical imperfections which did not alter the outcome decided by the commission while three (3) led to a change in the discipline imposed by the Commission. One (1) of those decisions is currently on appeal. The balance of the *Writs* are either awaiting trial or have been dismissed.

In 2015, the refreshed Commission embarked on an effort to improve the efficiency and operation of the Civil Service Commission and the hearing process for petitioners and respondents. The Commission made some progress in this endeavor and will continue to look for ways to make the process more efficient and effective.