SSEU LOCAL 371

Grievances & Legal Services

About Grievances & Legal Services

The Grievances and Legal Services Section administers grievances and arbitration in enforcing union contracts, resolving disputes between members and employers, and in defending members in employment-related problems. Members are also afforded representation in hearings, disciplinary and arbitration proceedings.

Grievance Main Number: (212) 677-4414

Number to call if arrested: (212) 677-5252
General Number: (212) 677-3900
Fax: (212) 477-9161

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After Today's Session You Will Be Able To:

- Identify a Grievance -vs- Gripe.
- Investigate a Potential Violation Against the Collective Bargaining Agreement.
- Know What Questions to Ask to Collect Accurate Information (ex: Who, What, When, Where, and Why).
- Understand the Grievance Process. (Steps 1-3, Arbitration).
- Know How to Support Our Members. (Refer to Crisis Intervention if Necessary)
- Ensure management comply with the District Council (DC) 37 Citywide Contract as well as the Social Services & Related Titles (SSRT) and Local 371 Contracts.

What Is a Grievance?

A Violation, Misinterpretation, or Misapplication of the:

- District Council (DC) 37 Citywide Contract
- Social Services & Related Titles (SSRT) Local 371 Contract
- Agency Rules and Regulations
- Agency Policies and Procedures

Note: There are 3 Grievances that go directly to Step 3:

Group Grievances

Union Grievances

Recoupment Grievances

Common Types of Grievances

Unprofessional Behavior

Local 371 Contract Article VIII Section 11

A member can request to file for a grievance due to "Unprofessional Behavior" from management. The SSRT Contract clearly states " The parties agree that the relationship between Employer and Employee shall be dignified and professional at all times. This means that the Employer and Employees shall not use indecent, abusive, profane language and/or behavior. Claimed violations of this provision are limited to such language and/or behavior".

In the event Unprofessional Behavior occurs from either party, the Union can request a "Conflict Resolution" meeting to help resolve the issues presented.

Common Types of Grievances Recoupment

SSRT SSEU Local 371

Article IX Section 8 (a) ,(c)

In the event of an overpayment to an employee and it is agreed by both parties the overpayment is indeed an error, the employer can recoup according to the employee's salary. (ex: 10%-Less than 17,500, 15%-Less than 32,000, and 25%-32,500 or more.

In the event the employee disputes the alleged overpayment the employee/union may appeal to the Office of Labor and Relations (OLR) with "20 days" of notice from the employer. Use the Step 3 process and quote SSRT Citywide Contract "Article IX Section 8 (a), (c)" on grievance form".

Recoupment will be put on hold until OLR renders a decision, OLR decision shall be final.

Note: Any recoupment must be made within a (6) year period.

NOTE: HHC-Send notice of appeal to OLR and Office of VP in HR with 20 days. HHC will attempt to the dispute within the 21 days window (Article IX section (b))

Common Types of Grievances
Out of Title

[Out of Title: SSEU Local 371 Contract - Article VI Section 1C]

Any duties and responsibilities assigned that are substantially different from the Tasks and Standards of the member's title.

- A grievance must be filed within a 30 days of assignment for full back pay if grievance filed is upheld. If grievance is filed after 30 days of assignment, back pay will be on the date it was filed.
- For example: The member started working "Out of title on January 1st, the member filed the grievance with 30 days to be paid from January 1st. If the member filed the grievance on March 30th, the member will be paid from March 30th instead.

"Wow! Now that's what I call a grievance!"

Step One

- Complete the Grievance form and submit to the location head or Program Director.
- Location head or Program Director has a (5) day grace period to respond in writing to the grievance.
- The member should submit the original to the Location head or Program Director, send a copy to Union office, and keep a copy for themselves.

Step Two

Send the original Step II grievance form to the

Director of Labor Relations at the agency.

Attach a copy of the Step I grievance and any written response received to the Step II appeal.

- Send a copy to the Union office and keep a personal copy.
- After ten (10) business days the grievant may file to Step III if the response to Step II was unsatisfactory.

**NYCHA Step III are submitted to General Counsel 250 Broadway, 12th Floor, New York, N.Y.10007

Step Three

Send the Appeal from Step II determination TO:

- Cheryl Griffith Chief Review Officer, NYC Office of Labor and Relations 22 Cortlandt Street 15th floor New York, NY 10007
- Attach a copy of the Step I and Step II grievances along with the response, if you receive one.
- Attach them to the Step III appeal.
- OLR has fifteen (15) business days to respond in writing to the appeal. The members should send a copy the union office and keep a copy for themselves.

Social Service Employees Union Local 371

AFSCME AFL-CIO

1501 Broadway, Suite 450
New York, NY 10036

Main No: (212) 677-3900
Fax No: (212) 477-9161

General Grievance Form

Not to be used for Health & Safety Grievance

Type of Grievance (Check appropriate box)

Individual	Group	Union	Distribution Point: (if salary grievance)

Member's Name (First, M Last)			Employee I.D. Number
Member's Home Address	City	State	Zip
Member's Home Phone	Member's Work Phone	Member's Mobile Phone	
Department	Work Location Address		
Job Title	Work Hours		

Administrative Officers

☐ Step 1:	☐ Step Omitted:
☐ Step 2:	☐ Step Omitted:
☐ Step 3:	☐ Step Omitted:

Statement of Grievance (attach additional sheets if necessary): There has been a violation, misinterpretation or misapplication of:

☐ The DC 37 Citywide Contract, including, but not limited to Article(s):

☐ The SSEU Local 371 Contract, including, but not limited to Article(s):

☐ Rules and regulation, policy or orders applicable to (cite agency: e.g., HRA, HHC, etc.):

Including, but not limited to (cite rule(s), procedure(s) violated):

STATEMENT:

Signature of staff or member: Date	Signature of Representative: Date:

Prepare to appropriate step of grievance procedure: Original to appropriate step of Grievance; Copy to SSEU Local 371; Copy to Grievant; Copy to previous Step of Grievance Procedure, if appeal is involved.

https://mightyunion.org/downloadable-forms

STEP I OUT OF TITLE

Social Service Employees Union Local 371
AFSCME AFL-CIO
817 Broadway
New York, NY 10003
Main No: **(212) 677- 3900**
Fax No: **(212) 477-9161**

General Grievance Form
Not to be used for Health & Safety Grievance

Type of Grievance (Check appropriate box)

X			
Individual	Group	Union	Distribution Point: (if salary grievance)

Member's Name (First, M Last)			Employee I.D. Number
Jane Doe			123-45-6789
Member's Home Address	**City**	**State**	**Zip**
1501 Broadway 4FL	New York	NY	10026
Member's Home Phone	**Member's Work Phone**	**Member's Mobile Phone**	
212-333-3333		917-333-3333	
Department	**Work Location Address**		
ACS	150 William Street New York NY 10038		
Job Title	**Work Hours**		
WORKER	9:00AM to 5:00PM		

Administrative Officers

X	Step 1: Director		Step Omitted:
	Step 2:		Step Omitted:
	Step 3:		Step Omitted:

Statement of Grievance (attach additional sheets if necessary): There has been a violation, misinterpretation or misapplication of:

	The DC 37 Citywide Contract, including, but not limited to Article(s):
X	The SSEU Local 371 Contract, including, but not limited to Article(s): Article VI Section 1C
	Rules and regulation, policy or orders applicable to (cite agency: e.g., HRA, HHC, etc.):
	Including, but not limited to (cite rule(s), procedure(s) violated):

STATEMENT:

There has been a violation, misinterpretation or misapplication of the SSRT (Local 371) Contract including, but not limited Article VI Section 1C as much grievant was hired to do the duties of a _____, but has been doing the duties of a _____since _____.
Remedy sought: Pay grievant the difference between that of a _____ and a_____, and any other appropriate remedies deemed just & proper.

Signature of staff or member:	Date	Signature of Representative:	Date:

Prepare to appropriate step of grievance procedure: Original to appropriate step of Grievance; Copy to SSEU Local 371; Copy to Grievant; Copy to previous Step of Grievance Procedure, if appeal is involved.

STEP II OUT OF TITLE

Social Service Employees Union Local 371
AFSCME AFL-CIO
817 Broadway
New York, NY 10003
Main No: (212) 677-3900
Fax No: (212) 477-9161

General Grievance Form
Not to be used for Health & Safety Grievance

Type of Grievance (Check appropriate box)

X			
Individual	Group	Union	Distribution Point: (if salary grievance)

Member's Name (First, M Last)			Employee I.D. Number
Jane Doe			123-45-6789
Member's Home Address	**City**	**State**	**Zip**
1501 Broadway 4FL	New York	NY	10026
Member's Home Phone	**Member's Work Phone**	**Member's Mobile Phone**	
212-333-3333		917-333-3333	
Department	**Work Location Address**		
ACS	150 William Street New York NY 10038		
Job Title	**Work Hours**		
WORKER	9:00AM to 5:00PM		

Administrative Officers

[ ] Step 1:	[ ] Step Omitted:
[X] Step 2: Director, Labor Relations	[ ] Step Omitted:
[ ] Step 3:	[ ] Step Omitted:

Statement of Grievance (attach additional sheets if necessary): There has been a violation, misinterpretation or misapplication of:

[ ] The DC 37 Citywide Contract, including, but not limited to Article(s):
[X] The SSEU Local 371 Contract, including, but not limited to Article(s): Article VI Section 1C
[ ] Rules and regulation, policy or orders applicable to (cite agency: e.g., HRA, HHC, etc.):
Including, but not limited to (cite rule(s), procedure(s) violated):

STATEMENT:

Member is appealing an unsatisfactory or no response to Step I. (see attached)
Remedy sought: Pay grievant the difference between that of a _____ and a _____,
and any other appropriate remedies deemed just & proper.

Signature of staff or member:	Date	Signature of Representative:	Date:

Prepare to appropriate step of grievance procedure: Original to appropriate step of Grievance; Copy to SSEU Local 371; Copy to Grievant; Copy to previous Step of Grievance Procedure, if appeal is involved.

STEP III OUT OF TITLE

Social Service Employees Union Local 371
AFSCME AFL-CIO

817 Broadway
New York, NY 10003
Main No: (212) 677-3900
Fax No: (212) 477-9161

General Grievance Form
Not to be used for Health & Safety Grievance

Type of Grievance (Check appropriate box)

Individual	Group	Union	Distribution Point: (if salary grievance)
X			

Member's Name (First, M Last): Jane Doe			Employee I.D. Number: 123-45-6789
Member's Home Address: 1501 Broadway 4FL	City: New York	State: NY	Zip: 10026
Member's Home Phone: 212-333-3333	Member's Work Phone:	Member's Mobile Phone: 917-333-3333	
Department: ACS	Work Location Address: 150 William Street New York NY 10038		
Job Title: WORKER	Work Hours: 9:00AM to 5:00PM		

Administrative Officers

[ ] Step 1:	[ ] Step Omitted:
[ ] Step 2:	[ ] Step Omitted:
[X] Step 3: Chief Review Officer	[ ] Step Omitted:

Statement of Grievance (attach additional sheets if necessary): There has been a violation, misinterpretation or misapplication of:

- [ ] The DC 37 Citywide Contract, including, but not limited to Article(s):
- [X] The SSEU Local 371 Contract, including, but not limited to Article(s): Article VI Section 1C
- [ ] Rules and regulation, policy or orders applicable to (cite agency: e.g., HRA, HHC, etc.):

  Including, but not limited to (cite rule(s), procedure(s) violated):

STATEMENT:

Member is appealing an unsatisfactory or no response to Step II. (see attached)
Remedy sought: Pay grievant the difference between that of a _____ and a _____,
and any other appropriate remedies deemed just & proper.

Signature of staff or member:	Date	Signature of Representative:	Date:

Prepare to appropriate step of grievance procedure: Original to appropriate step of Grievance; Copy to SSEU Local 371; Copy to Grievant; Copy to previous Step of Grievance Procedure, if appeal is involved.

PERFORMING OUT-OF-TITLE WORK

SSEU LOCAL 371 CONTRACT ARTICLE VI SECTION 1 (C)

There has been a violation, misinterpretation, or misapplication of the SSEU Local 371 Contract including but not limited to Article VI, Section 1 (c), in that the grievant, (name), who is (title) has been doing the duties and responsibilities of a (title) since (date) to (date/present).

As a remedy, the grievant is seeking the difference in salary between (title) and (title) and all other remedies deemed to be just and proper.

Bereavement: Citywide Contract Article V Section 21(a)

There has been a violation, misinterpretation, or misapplication of the DC 37 Citywide contract, including but not limited to Article V Section 21 (a), In as much the grievant, Jane Doe who is a (Title) was denied on (Date) bereavement leave for the period of (Date) to (Date) for the death of (legal guardian/parent, etc). The grievant provided the agency with the required documentation for the bereavement leave to be approved and the agency erroneously misapplied the definition of qualifying relative.

As a remedy, the grievant seeks the approval of the bereavement leave and any further relief determined to be just and proper.

SSEU LOCAL 371 CONTRACT

ARTICLE 8 SECTION 11

UNPROFESSIONAL BEHAVIOR

There has been a violation, misinterpretation, or misapplication of the SSEU Contract including but not limited to Article 8 Section 11, in as much (name the person) has engaged in indecent, abusive harassing, intimidatory, undignified and unprofessional behavior and language towards the grievant, (name) and management has failed to address the matter and supervisor's behavior and conduct.

As a remedy, the grievant is seeking that (name) ceases and desists from engaging in any unprofessional and indecent behavior; an immediate in-house location transfer and reassignment for grievant (name); supervisor (name) to be set to EEO and supervisory training and all other remedies to be just and proper.

TRANSFER REQUESTS

SSEU LOCAL 371 CONTRACT ARTICLE VII SECTION 1 (b)

There has been a violation, misinterpretation, or misapplication of the SSEU Local 371 contract, including but not limited to Article VII Section 1(b), in as much the grievant (name), submitted transfer requests to the Agency numerous times during the past ( ) years and the transfer request has not been approved. The Agency transfer request system has arbitrarily withdrawn members' requests and failed to process transfer requests properly.

As a remedy, the grievant is requesting that the transfer request be honored and be granted a timely transfer to (location) and all other remedies deemed to be just and proper.

Wrongful Disciplinary Action. Ex: suspension/termination

Article VI Section 1(f) (non-competitive titles, full-time with 6 months of service.)

Section (g) (eligible provisional employee with two years of continuous service.); (e) a permanent employee covered by Section 75(1)

There has been a violation, misinterpretation, or misapplication of the SSEU Local 371 contract, including but not limited to Article VI Section 1(f), in that a wrongful disciplinary action was taken against the grievant, John Doe-caseworker, in the form of (30) days suspension without pay for the period of (date) to (date).

As a remedy, the grievant is seeking reinstatement with full back-pay, including for the period of the suspension without pay, full leave accruals and all other contractual benefits, full seniority credits, and all other relief determined to be just and proper.

Unpaid Overtime: Article IV

There has been a violation, misinterpretation, or misapplication of the DC 37 Citywide contract, including but not limited to Article IV, in as much the grievant, Jane Doe who works as a (Title), Has not been paid for overtime worked voluntarily or involuntarily Compensation in cash or compensatory time he/she was due since (date) (Please see attached).

As a remedy, the grievant is seeking payment for overtime worked immediately and retroactively and any other further relief will be deemed just and proper.

What is a Gripe?

A complaint that is not a contract violation.

Member has been allowed by location Director to take an additional half-hour during lunch break to cash paycheck on payday.

Director retires and a new director is assigned to a location. The new director will not allow an additional half-hour on payday for a member to cash paycheck. Member is upset and wants to file a
grievance.

Member is not entitled to additional half hour to cash check.

Grievance or Gripe

A member was changed to a different group or unit at the same location with the same director. The member called the Delegate and stated he/she wants to file a grievance. Should the Delegate file this grievance?

A. Yes, because the member has seniority and should not be moved.

B. Yes, because this is a violation of the transfer policy in the SSEU Local 371 Contract Agreement Article VII.

C. No, this is considered a gripe, reassignment of seats at location is not a violation of the SSEU Local 371 Contract Article VII, Agencies policies, and or procedures.

D. A. and B.

The member is a JOS worker in title for 2 years. During the Pandemic member decided to work remotely from her hometown in Georgia State as oppose to the address she was registered with at HRA/HR.

The member told her supervisor that she can work from Georgia state because her title "JOS" is exempt from the Residency Requirements. However, the member is not showing up for work on her scheduled days of one day a month.

The member filed for reasonable accommodations with HR and called union to file for a grievance because she was asked to come into the office.

Does the member have the right to file a grievance to continue working in Georgia State?

Answer: Member is allowed to apply for reasonable accommodations that is separate from her dilemma.

According to the NYC Administrative code section 12-120 members in many titles are required to be residents of NYC. Member is an AJOS and her title is exempt, however member has to work remotely at the address listed in her personnel file. Furthermore, it is the member's responsibility to update her change of address at HR. Moreover, member was not showing up for her rotation at work which can lead to time of leave violation.

New York State

CIVIL SERVICE LAWS

Sections 71, 72,73 and 75

Article V Section 10-LINE OF DUTY ASSAULT GRANT:

Upon the determination by the head of an agency that an employee has been physically disabled, because of an assault arising out of and in the course of the employee's workplace, the agency head will grant the injured employee a leave of absence with pay not to exceed 18 months.
This can't happen unless the Worker's Compensation Division at The Law Department advises the head of the agency in writing that the employee's injury has been accepted.

Article V Section 11- LINE OF DUTY OTHER THAN ASSAULT WORKER COMPENSATION:
Employees who are injured in the course of employment, upon the determination by the head of an agency that employee has been physically disable, because an injury arising out and in the course of the employee's workplace. The agency head will grant the injured employee an extended sick leave with pay not to exceed three (3) months after the employee's sick and annual leave have been exhausted.

Section 71

- Section 71
- Reinstatement after separation for disability
- Civil Service (CVS)
- Where an employee has been separated from the service by reason of a disability resulting from occupational injury or disease as defined in the workmen's compensation law, he or she shall be entitled to a leave of absence for at least one year, unless his or her disability is of such a nature as to permanently incapacitate him or her for the performance of the duties of his or her position. Notwithstanding the foregoing, where an employee has been separated from the service by reason of a disability resulting from an assault sustained in the course of his or her employment, he or she shall be entitled to a leave of absence for at least two years, unless his or her disability is of such a nature as to permanently incapacitate him or her for the performance of the duties of his or her position. Such employee may, within one year after the termination of such disability, make application to the civil service department or municipal commission having jurisdiction over the position last held by such employee for a medical examination to be conducted by a medical officer selected for that purpose by such department or commission. If, upon such
- medical examination, such medical officer shall certify that such person is physically and mentally fit to perform the duties of his or her former position, he or she shall be reinstated to his or her former position, if vacant, or to a vacancy in a similar position or a position in a lower grade in the same occupational field, or to a vacant position for which he or she was eligible for transfer. If no appropriate vacancy shall exist to which reinstatement may be made, or if the work load does not warrant the filling of such vacancy, the name of such person shall be placed upon a preferred list for his or her former position, and he or she shall be eligible for reinstatement from such preferred list for a period of four years. In the event that such person is reinstated to a position in a grade lower than that of his or her former position, his or her name shall be placed on the preferred eligible list for his or her former position or any similar position. This section shall not be deemed to modify or supersede any other provisions of law applicable to the re-employment of persons retired from the public service on account of disability.

Section 72

- Section 72
- Leave for ordinary disability
- 1. When in the judgment of an appointing authority an employee is unable to perform the duties of his or her position by reason of a disability, other than a disability resulting from occupational injury or disease as defined in the workers' compensation law, the appointing authority may require such employee to undergo a medical examination to be conducted by a medical officer selected by the civil service department or municipal commission having jurisdiction. Written notice of the facts providing the basis for the judgment of the appointing authority that the employee is not fit to perform the duties of his or her position shall be provided to the employee and the civil service department or commission having jurisdiction prior to the conduct of the medical examination. If, upon such medical examination, such medical officer shall certify that such employee is not physically or mentally fit to perform the duties of his or her position, the appointing authority shall notify such employee that he or she may be placed on leave of absence. An employee placed on leave of absence pursuant to this section shall be given a written statement of the reasons therefor. Such notice shall contain the reason for the proposed leave and the proposed date on which such leave is to commence, shall be made in writing and served in person or by first class, registered or certified mail, return receipt requested, upon the employee. Such notice shall also inform the employee of his or her rights under this procedure. An employee shall be allowed ten working days from service of the notice to object to the imposition of the proposed leave of absence and to request a hearing. The request for such hearing shall be filed by the employee personally or by first class, certified or registered mail, return receipt requested. Upon receipt of such request, the appointing authority shall supply to the employee, his or her personal physician or authorized representative, copies of all diagnoses, test results, observations and other data supporting the certification, and imposition of the proposed leave of absence shall be held in abeyance until a final determination is made by the appointing authority as provided in this section. The appointing authority will afford the employee a hearing within thirty days of the date of a request by the employee to be held by an independent hearing officer agreed to by the appointing authority and the employee except that where the employer is a city of over one million in population such hearing may be held by a hearing officer employed by the office of administrative trials and hearings. If the parties are unable to agree upon a hearing officer, he or she shall be selected by lot from a list of persons maintained by the state department of civil service. The hearing officer shall not be an employee of the same appointing authority as the employee alleged to be disabled. He or she shall be vested with all of the powers of the

Cont'd Section 72

- appointing authority, and shall make a record of the hearing which shall, with his or her recommendation, be referred to the appointing authority for review and decision and which shall be provided to the affected employee free of charge. A copy of the transcript of the hearing shall, upon request of the employee affected, be transmitted to him without charge. The employee may be represented at any hearing by counsel or a representative of a certified or recognized employee organization and may present medical experts and other witnesses or evidence. The employee shall be entitled to a reasonable period of time to obtain such representation. The burden of proving mental or physical unfitness shall be upon the person alleging it. Compliance with technical rules of evidence shall not be required. The appointing authority will render a final determination within ten working days of the date of receipt of the hearing officer's report and recommendation. The appointing authority may either uphold the original proposed notice of leave of absence, withdraw such notice or modify the notice as appropriate. In any event, a final determination of an employee's contest of a notice of leave shall be rendered within seventy-five days of the receipt of the request for review. An employee on such leave of absence shall be entitled to draw all accumulated, unused sick leave, vacation, overtime and other time allowances standing to his or her credit. The appointing authority in the final determination shall notify the employee of his or her right to appeal from such determination to the civil service commission having jurisdiction in accordance with subdivision three of this section.

- 2. An employee placed on leave pursuant to subdivision one of this section may, within one year after the date of commencement of such leave of absence, or thereafter at any time until his or her employment status is terminated, make application to the civil service department or municipal commission having jurisdiction over the position from which such employee is on leave, for a medical examination by a medical officer selected for that purpose by such department or commission. If, upon such medical examination, such medical officer shall certify that such employee is physically and mentally fit to perform the duties of his or her position, he or she shall be reinstated to his or her position.

Cont'd Section 72

- 3. An employee who is certified as not physically or mentally fit to perform the duties of his or her position and who is placed on leave of absence pursuant to subdivision one of this section, or who is denied reinstatement after examination pursuant to subdivision two of this section, may appeal from such determination to the state or municipal civil service commission having jurisdiction over his or her position. Such employee and appointing officer or their representatives shall be afforded an opportunity to present facts and arguments in support of their positions including medical evidence at a time and place and in such manner as may be prescribed by the commission. Provided however, that in considering appeals pursuant to subdivision two of this section where a hearing has not been held within nine months from the date of notification pursuant to subdivision one of this section, the commission shall designate an independent hearing officer who shall hold a hearing and report thereon. The commission shall make its determination on the basis of the medical records and such facts and arguments as are presented to it. The final determination of the commission shall be binding on both the employee and the appointing authority; provided, however, that an employee or appointing authority may seek review of a final determination of a commission in accordance with the provisions of article seventy-eight of the civil practice law and rules.

- 4. If an employee placed on leave pursuant to this section is not reinstated within one year after the date of commencement of such leave, his or her employment status may be terminated in accordance with the provisions of section seventy-three of this article.

- 5. Notwithstanding any other provisions of this section, if the appointing authority determines that there is probable cause to believe that the continued presence of the employee on the job represents a potential danger to persons or property or would severely interfere with operations, it may place such employee on involuntary leave of absence immediately; provided, however, that the employee shall be entitled to draw all accumulated unused sick leave, vacation, overtime and other time allowances standing to his or her credit. If such an employee is finally determined not to be physically or mentally unfit to perform the duties of his or her position, he or she shall be restored to his or her position and shall have any leave credits or salary that he or she may have lost because of such involuntary leave of absence restored to him or her less any compensation he or she may have earned in other employment or occupation and any unemployment benefits he or she may have received during such period.

Section 73

- Section 73
- Separation for ordinary disability; reinstatement
- When an employee has been continuously absent from and unable to perform the duties of his position for one year or more by reason of a disability, other than a disability resulting from occupational injury or disease as defined in the workmen's compensation law, his employment status may be terminated and his position may be filled by a permanent appointment. Such employee may, within one year after the termination of such disability, make application to the civil service department or municipal commission having jurisdiction over the position last held by such employee for a medical examination to be conducted by a medical officer selected for that purpose by such department or commission. If, upon such medical examination, such medical officer shall certify that such person is physically and mentally fit to perform the duties of his former position, he shall be reinstated to his former position, if vacant, or to a vacancy in a similar position or a position in a lower grade in the same occupational field in his former department or agency. If no appropriate vacancy shall exist to which such reinstatement may be made, or if the work load does not warrant the filling of such vacancy, the name of such person shall be placed on a
- preferred list for his former position in his former department or agency, and he shall be eligible for reinstatement in his former department or agency from such preferred list for a period of four years. In the event that such person is reinstated to a position in a grade lower than that of his former position, his name shall be placed on the preferred eligible list for his former position or any similar position in his former department or agency. This section shall not be deemed to modify or supersede any other provisions of law applicable to the re-employment of persons retired from the public service on account of disability.

Section 75

- Section 75
- Removal and other disciplinary action
- Civil Service (CVS)
- 1. Removal and other disciplinary action. A person described in paragraph (a) or paragraph (b), or paragraph (c), or paragraph (d), or paragraph (e) of this subdivision shall not be removed or otherwise subjected to any disciplinary penalty provided in this section except for incompetency or misconduct shown after a hearing upon stated charges pursuant to this section.
- (a) A person holding a position by permanent appointment in the competitive class of the classified civil service, or
- * (b) a person holding a position by permanent appointment or employment in the classified service of the state or in the several cities, counties, towns, or villages thereof, or in any other political or civil division of the state or of a municipality, or in the public school service, or in any
- public or special district, or in the service of any authority, commission or board, or in any other branch of public service, who was honorably discharged or released under honorable circumstances from the armed forces of the United States having served therein as such member in time of war as defined in section eighty-five of this chapter, or who is an exempt volunteer firefighter as defined in the general municipal law, except when a person described in this paragraph holds the position of private secretary, cashier or deputy of any official or department, or
- * NB Effective until November 12, 2020
- * (b) a person holding a position by permanent appointment or employment in the classified service of the state or in the several cities, counties, towns, or villages thereof, or in any other political or civil division of the state or of a municipality, or in the public school service, or in any public or special district, or in the service of any authority, commission or board, or in any other branch of public service, who was honorably discharged or released under honorable circumstances from the armed forces of the United States including (i) having a qualifying condition as defined in section three hundred fifty of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, or (ii) being a discharged LGBT veteran, as defined in section three hundred fifty of the executive law, and receiving a discharge other than bad conduct or dishonorable from such service, having

Cont'd Section 75

- 3-a. Suspension pending determination of charges and penalties relating to police officers of the police department of the city of New York. Pending the hearing and determination of charges of incompetency or misconduct, a police officer employed by the police department of the city of New York may be suspended without pay for a period not exceeding thirty days. If such officer is found guilty of the charges, the police commissioner of such department may punish the police officer pursuant to the provisions of sections 14-115 and 14-123 of the administrative code of the city of New York.

- 4. Notwithstanding any other provision of law, no removal or disciplinary proceeding shall be commenced more than eighteen months after the occurrence of the alleged incompetency or misconduct complained of and described in the charges or, in the case of a state employee who is designated managerial or confidential under article fourteen of this chapter, more than one year after the occurrence of the alleged incompetency or misconduct complained of and described in the charges, provided, however, that such limitations shall not apply where the incompetency or misconduct complained of and described in the charges would, if proved in a court of appropriate jurisdiction, constitute a crime.

WEINGARTEN RIGHTS In 1975, the US Supreme Court upheld a National Labor Relations Board (NLRB) decision that employees have a right to request union representation during investigatory interviews by supervisors, security personnel, and other managerial staff. These rights have become known as the Weingarten Rights. Weingarten rights - Weingarten rights guarantee an employee the right to Union representation during an investigatory interview.

- **Rule 1:** The employee must make a clear request for union representation before or during the interview. The employee cannot be punished for making this request.
- **Rule 2:** After the employee makes the request, the employer must choose from among three options:
- Grant the request and delay questioning until the union representative arrives and (prior to the interview continuing) the representative has a chance to consult privately with the employee;
- Deny the request and end the interview immediately; or
- Give the employee a clear choice between having the interview without representation, or ending the interview.

The employer has no obligation to tell you of these rights

- **Rule 3: If the employer denies the request for union representation, and continues to ask** questions, it commits an unfair labor practice and the employee has a right to refuse to answer. The employer may not discipline the employee for such a refusal.

If you are called to a meeting with management, read the following or present this when the meeting begins:

Your Right to Union Representation

"If this discussion could in any way lead to my being disciplined or terminated, or affect my personal working conditions, I respectfully request that my union representative, officer, or steward be present at the meeting. Without union representation, I choose not to answer questions."

This is your right under the 1975 U.S. Supreme Court Weingarten Decision.

What is insubordination?

Insubordination is a direct and intentional refusal, without good cause, to comply with a directive, an order from a supervisor. Insubordination also includes using disrespectful language or actions and confronting supervisors.

Insubordination is a misconduct that can lead to disciplinary actions up to and including termination. There are a few factors that will determine if the employee is in insubordination:

1 A supervisor, manager or someone in authority gives an order/directive.

2 The member understands and acknowledges the order .

3 The member refuses to comply with the order/directive.

Am I insubordinate if I refuse to comply with an order from a supervisor who is not my supervisor? Yes. (in most cases your direct supervisor is the one who gives you an order, but it is not required. Any supervisor, manager or someone with authority can give and order)

"Work now, grieve later"

If a supervisor asks you to do something that is not part of your job duties, you should not refuse. If you refuse, it is insubordination and it could lead to disciplinary action. However, there are exceptions to the Work now, grieve later rule.

A member who refuses to comply with an order that is illegal, unethical, unsafe and it risks your life and limb, then it is NOT insubordination. For example: if your supervisor asks you to service a client who is not wearing a face mask and cannot be convinced of wearing one, if you refuse to service the client, you are not in insubordination.

What should a member do if asked to do something that is illegal, unethical and it risks the member's health and safety? The member should explain why he/she believes it is not safe or legal to do the job. The member should avoid becoming argumentative, but should explain that he/she does not want to be insubordinate and the member should, as soon as possible: CONTACT THE UNION.

It is not insubordination if a member misunderstands the directive given by the supervisor and because the directive was not fully understood, the member fails to complete the work. It is not insubordination if the member discussed the directive with the supervisor and explained why he/she was not able to comply with the directive

If the member refuses and eventually ends up doing the work, is it insubordination?

Non- Managerial Evaluations

Anyone in a non-managerial title

1. 1 Every 12 Months.

Except

2. ACS 18 Months (While on probation)

Non-Competitive titles 6 months (while on probation)

Appeal

If received an Unsatisfactory, Marginal or conditional

ACS -the time is to appeal is 10 days
DHS- HRA is 30 days

Every agency is different consult agency policy and procedure for evaluations.

TIME & LEAVE POLICY

P-22-01

BEREAVEMENT

- Members are entitled to four days for the death of their spouse, domestic partner, natural/ foster or step-parent; child; brother or sister; father-in-law; mother-in-law or any other relative residing in the household including grandchildren.

- (DC37 CITYWIDE CONTRACT ARTICLE V SECTION 21(a))

Family and Medical Leave Act (FMLA)

- Employee who has worked a duration of 1250 hours within a 12 month period or 26 hours weekly.
- 12 weeks of paid and/or unpaid leave in a 12-month period to care for an immediate family member or for the serious illness of the employee.
- Family members that are covered:
- Newborn child
- Newly adopted child
- Newly placed foster child
- Spouse
- Child under age 18
- Child age 18 or older but incapable of self-care because of a
- physical or mental disorder.
- When the employee is unable to work because of a serious illness

Paid Family Leave Act

Cannot be denied to employees.

Denials if any cannot be capricious or arbitrary.

Full time employees who work 20 hours or more hours per week are eligible after 26 consecutive weeks of employment.

Part time employees are after working 175 days, which don't need to be consecutive.

Summer Peak Hours/ Floating Holiday/Overtime

Memorial Day to September 30th
Article V Section 2 (b)

Requests for 5 continuous days or more must be submitted in Citytime or other agency approved mechanism.

"Tentative" location submissions are not sufficient as official request and approval.

Requests must be made within 45 days of the requested time, and at least 7 days in advance.

Agency has seven working days to approve or deny request.

Note: SSRT Collective Bargaining Agreement Article X Section 1, paragraph 2: "Choice for employees assigned to work units which require unit-wide coverage shall be determined by title seniority among Employees in the respective unit".

Floating Holiday
Article V section 9 ©

Must be used in the calendar year that it is earned.

Once the floating holiday has been approved, the approval may not be rescinded except in writing by the agency head, Executive Director of a Hospital or Chief of Personnel in the Police Department

The Floating Holiday, Lincoln Birthday, cannot be requested before the official observance of Lincoln's Birthday.

Floating Holiday must be requested 30 days in advance.

Overtime
Citywide Contract Article IV, Article IX Section 8 and SSEU Local 371 Article III

There are two types of overtime; voluntary and involuntary

With voluntary overtime, members are compensated in time.

If the supervisor comes to you and says John, do you want to work overtime this evening; that is voluntary overtime.

If the supervisor comes to you and says you have to work overtime today and it is not in writing; that is voluntary overtime. To be paid cash, the directive has to be in writing

With involuntary or mandatory overtime, members must be given the orders in writing.

With involuntary overtime, the members have the option to request cash or take time.

Leave Accruals

60 hour work week

Beginning of 15th year of service	27 hours monthly accrual
Beginning with 8th year of service	25 hours monthly accrual
Beginning with 5th year of service	20 hours monthly accrual
First year of service	10 hours monthly accrual

40 hour work week

Beginning 15th year of service	18 hours monthly accrual
Beginning with 8th year of service	16:40 hours monthly accrual
Beginning with 5th year of service	13:20 hours monthly accrual
First year of service	10:00 hours monthly accrual

Leave Without Pay [LWOP]

- *Should be used only in extraordinary situations*
- *Leave balance is too low to cover absence or at zero*

Form M-301e
Revised 11/17

Department of Social Services
Human Resources Administration

EXPLANATION FOR LATENESS* OR UNPLANNED ABSENCE *(ANNUAL/ COMPENSATORY TIME)*

Explanation of: _____Unplanned Absence _____Lateness

Employee's name: _____

Employee's Title: _____Employee Identification No_____

Date(s) of Occurrence _____Days/ Hours absent or minutes late: _____

Employee's explanation:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

_____
(Employee's Signature)

Date of Supervisory Discussion: _____

Supervisor's Comments:

_____

_____

_____

Lateness during leave year: Instances/ minutes: _____/_____ _____/_____
(Excused) (Not Excused)

Unplanned absence during leave year: Instances/ Days/ Hours _____; _____
(approved) (disapproved)

Supervisor's recommendation: _____Recommended _____Not Recommended

Supervisor's Signature: _____Date: _____

Location Head's determination: _____Approved _____Not Approved

Location Head's Signature: _____ Date: _____

* (not related to transportation delays)

Annual Leave / Compensatory Time

- Planned & pre-approved BEFORE entering in CityTime
- New employees must wait 4 months
- Exemption: religious observances

Absent Without Leave

- An employee absent from their work location for ANY period of time without authorization
- ANY unauthorized and unexcused early departures

Leave accruals cont'd

37 ½ hour work week

Beginning of 15th year of service	16:53 hours monthly accrual
Beginning with 8th year of service	15:38 hours monthly accrual
Beginning with 5th year of service	12:30 hours monthly accrual
First year of service	9:23 hours monthly accrual

35 hour work week

Beginning of 15th year of service	15:45 hours monthly accrual
Beginning with 8th year of service	14:35 hours monthly accrual
Beginning with 5th year of service	11:40 hours monthly accrual
First year of service	8:45 hours monthly accrual

Resources:

- https://www.afscme.org/member-resources/education-training
- https://www.afscme.org/about/governance/afscme-steward-handbook
- https://mightyunion.org/downloadable-forms
- https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf
- https://www.dc37covid19.net/worksite-updates-0
- Weingarten Rights-https://youtu.be/fB5Sy6IgX6U