



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

**LONDON N. BREED
MAYOR**

Sent via Electronic Mail

May 23, 2024

NOTICE OF CIVIL SERVICE COMMISSION MEETING

Kegang Wu
[REDACTED]

SUBJECT: APPEAL BY KEGANG WU OF THE DENIAL OF BATTERY PAY AS A TRANSIT OPERATOR (9163) WITH THE MUNICIPAL TRANSPORTATION AGENCY.

Dear Kegang Wu:

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 **June 3, 2024, 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 under "Meetings" no later than end of day on Wednesday, May 29, 2024. 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 each 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 by 5:00 p.m. on Tuesday, May 28, 2024**, 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.

It is important that you or an authorized representative attend the hearing on your appeal. **You will have up to 5 minutes for your presentation.** Should you or a representative not attend, the Commission will rule on the information previously submitted and any testimony provided at its meeting. All calendared items will be heard and resolved at this time unless good reasons are presented for a continuance. As a reminder, you are to be honest and forthright during all testimony and in all documentation that you provide to the Civil Service Commission.

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

CIVIL SERVICE COMMISSION

SANDRA ENG
Executive Officer

Attachment

Cc: Kimberly Ackerman, Municipal Transportation Agency
Ify Omokaro, Municipal Transportation Agency
James Radding, Municipal Transportation Agency
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 and the web address is 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 (4th) 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/.

I. Speaking before the Civil Service Commission

Speaker cards are not required. The Commission will take in-person 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. People who have received an accommodation due to a disability (as described below) may provide their public comments remotely. The Commission will also allow public comment from members of the public who choose to participate remotely. It is possible that the Commission may experience technical challenges that interfere with the ability of members of the public to participate in the meeting remotely. If that happens, the Commission will attempt to correct the problem, but may continue the hearing so long as people attending in-person are able to observe and offer public comment.

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 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, or on the City's website at www.sfgov.org/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance

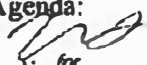
Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (San Francisco Campaign and Governmental Conduct Code Section 2.100) to register and report lobbying activity. For more information about 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

CIVIL SERVICE COMMISSION REPORT TRANSMITTAL (FORM 22MTA) **Applicable to Municipal Transportation Agency Service-Critical Classes**

Refer to Civil Service Commission Procedure for Staff - Submission of
Written Reports MTA for Instructions on completing and processing this Form

1. Civil Service Commission Register Number: 0058-24-3
 2. For Civil Service Commission Meeting of: 6/3/24
 3. Check One: Ratification Agenda
 Consent Agenda
 Regular Agenda X
 4. Subject: Appeal by Kegang WU regarding Workers Compensation Battery Pay Denial
 5. Recommendation: Uphold the department's decision and deny Kegang Wu's request for battery pay in compliance with City policy.
 6. Report prepared by: Ify Omokaro, SFMTA, Sr. HR Manager Telephone number: 415-646-4786
 7. Notifications: Please see attached.
 8. Reviewed and approved for Civil Service Commission Agenda:
Municipal Transportation Agency Director: Jefferey Tumlin ^{for} 
- Date: May 8, 2024
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.

CSC RECEIPT STAMP

Attachment

List of contacts to notify:

Ify Omokaro – Ify.Omokaro@sfmta.com

James Radding – James.Radding@sfmta.com

Kimberly Ackerman – Kimberly.Ackerman@sfmta.com

Kegang Wu –

[REDACTED] [REDACTED] [REDACTED] [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]@ [REDACTED] [REDACTED]




London Breed, Mayor

Gwyneth Borden, Chair
Amanda Eaten, Vice Chair
Stephanie Cajina, Director
Steve Heminger, Director

Fiona Minze, Director
Sharon Lai, Director
Manny Yekutieli, Director

Jeffrey Tumlin, Director of Transportation

TO: Civil Service Commission
FROM: Ify Omokaro, Sr. HR Manager 
DATE: May 8th, 2024
REGISTER NO: 0058-24-3
APPELANT: Kegang Wu

Background: Wu, Kegang has filed an appeal challenging the denial of battery pay related to their role as a Transit Operator (Job Code 9163), citing an alleged assault incident on July 20, 2023. However, our decision to reject the battery pay claim stands firm as there is insufficient evidence to substantiate the alleged assault according to guidelines 16.170 Entitlement Defined & the Department of Human Resources Workers Compensation Division Policy and Procedure's definition of battery. (attached)

Issues: The primary concern revolves around whether Wu, Kegang qualifies for battery pay, considering the investigation per the coach video. the coach was stopped in the street, not at a bus stop. The male passenger stood near the front doors as the claimant drove forward, then stopped again in a construction zone. The male asked if he could get off, and the claimant replied no, and pointed to the next upcoming bus stop. The male asked again to be let off, as he had "to piss." The claimant apologized but said that he could not allow the passenger to exit. As the claimant continued to drive, the male slapped the plastic divider and grabbed the steering wheel, as he yelled at the driver to let him off the bus. The claimant briefly stopped in traffic then drove forward, and the male grabbed the steering wheel again, at which time, the claimant stopped the bus and opened the doors. Prior to exiting from the bus, the male spat toward the claimant's driver area. It was determined the employee's distress was not caused by a criminal act of violence.

Authority/Standards: As per City policy outlined in Article XI: Disability Benefits Sec. 16.170 & the Department Of Human Resources Workers Compensation Division Policy and Procedure's an employee of the City & County of San Francisco is entitled to disability benefits if incapacitated due to bodily injury or illness resulting from criminal violence that is physical in nature such as hitting or striking while performing their duty, for a period not exceeding 12 months.

Findings: The investigation provides a detail report of the incident that occur, coach video footage, Transit Inspector's Report; no police report was completed. A battery denial letter was issued on August 1, 2023. While the coach video confirms an incident occurred, no evidence of physical assault was

observed. Deputy City Attorney Matthew Barravecchia's assessment concluded that the actions captured in the video, such as punching the barrier, did not constitute physical assault warranting battery pay.

Discussion and Analysis: Based on the evidence, it is determined that the incident does not meet the criteria for battery pay entitlement, but the workers compensation claim was approved, and the employee is receiving temporary disability benefits.

Conclusion: Upon thorough review of the evidence and pertinent policies, it is evident that Kegang Wu request for battery pay is not justified.

Recommendation: The Civil Service Commission is advised to uphold the department's decision and deny Kegang Wu request for battery pay in compliance with City policy.

PASSANIS Investigations

August 16, 2023

**Confidential Attorney/Client Privilege
Not to be reproduced**

**Dyana Lechuga, Esq.
City Attorney's Office
1390 Market Street, 7th Floor
San Francisco, CA 94102**

**Claimant: Kegang Wu
Employer: SFMTA
Claim No.: [REDACTED]
Our File No.: [REDACTED]
D.O.I.: 07/20/2023**

Dear Ms. Lechuga:

Thank you for this assignment. In the above-referenced matter, we were assigned to conduct an AOE/COE investigation. The employee, Kegang Wu, is alleging a stress reaction claim as the result of being assaulted during the performance of his duties as a Transit Operator for the SFMTA on July 20, 2023.

As per your request, we were instructed to obtain:

- a. Coach Video (obtained)**
- b. SFPD Report (no report generated)**
- c. Transit Inspector Report (obtained)**

INVESTIGATION SUMMARY

The following is a summary of my efforts to date:

On July 25, 2023, I reviewed the case and emailed the adjuster an acknowledgement of receipt. I then requested the inspector's report from Romar Pitcher in order to identify the coach number. A search of Genetec by description of loss and date did not locate any matches. I later received the inspector's report from Operations by email, then located a case folder in Genetec by vehicle number, but the video had not yet been placed in the folder. I emailed Security and requested the video be placed into the folder. The inspector's report is attached. A portal based request was then made in the SFPD CISU site for a generated report.

On August 2, 2023, I was notified that the video was available, which I located, downloaded, and sent to the office for processing, I then updated the adjuster by email. The video is attached to this report.

On August 3, 2023, I checked the status of the SFPD report and requested an update as to when it would be released.

On August 4, 2023, I reviewed the coach video. A summary is outlined below. I then received notice from the SFPD CISU that no corresponding report had been generated, consistent with what was noted in the inspector's report.

INSURED/EMPLOYER

Company Name:	SFMTA
Address:	1 S Van Ness Avenue San Francisco, CA 94103
Telephone:	(415) 701-2311
Email:	james.radding@sfmta.com
Contact:	James Radding

* * * * *

INSPECTOR'S REPORT

The inspector's report memorialized that on July 20, 2023, at about 5:23 p.m., the claimant was involved in an altercation with a passenger during the performance of his duties.

Driver's Version of the Incident: *Operator stated he driving the bus when a man started yelling at him wanting to get off the bus. He told him sorry he had to move to the temporary stop then man punched the glass window a couple of times then he tried to grab the steering wheel two times. I stopped so the man could get off the bus then the man spat on me getting spit on my face and head. I drove back to the terminal to call TMC for help I felt upset.*

Inspector's Incident Narrative: *On Thursday 7/20/23 at approximately 5:53pm operator Kegang Wu was operating coach number # [REDACTED] the [REDACTED] line was traveling outbound headed East on 16th Street between Valencia and Mission Street in lane #2 when Party#2 an unknown man passenger wanted to exit the coach. Kegang Wu continued in service due to the bus stop was moved to a temporary location. Party#2 got irate then attempted to grab the steering wheel. Kegang Wu stopped at the temporary bus stop to alight passengers. Party#2 was exiting off the coach through the front doors when he allegedly spat on Kegang Wu getting saliva onto his face and head. Kegang Wu continued driving to the Outbound Terminal where he called TMC for help. I (5T63B)*

responded to interview Kegang Wu along at the terminal at Mission Bay North Blvd and 4th Street, with SFFD Medic Unit # [REDACTED] Kegang Wu was transported to [REDACTED] Hospital with unknown injuries. Inspector Antwan Wright (5T-62B) brought rescue operator Roel Villaro #3034 to pull the coach into Potrero division. I cleared the scene at 7:10pm.

COACH VIDEO

The video showed a coach being operated on daylight city streets. The coach was heavily occupied. The date and timestamp reflected a start time of 5:00 p.m. on July 20, 2023.

At 5:05 p.m., an African American male wearing a striped shirt and carrying a black trash bag walked to the front door and told the claimant to let him off. The coach was stopped in the street, not at a bus stop. The male stood near the front doors as the claimant drove forward, then stopped again in a construction zone. The male asked if he could get off, and the claimant replied no, and pointed to the next upcoming bus stop. The male asked again to be let off, as he had "to piss." The claimant apologized but said that he could not allow the passenger to exit. As the claimant continued to drive, the male slapped the plastic divider and grabbed the steering wheel, as he yelled at the driver to let him off the bus. The claimant briefly stopped in traffic then drove forward, and the male grabbed the steering wheel again, at which time, the claimant stopped the bus and opened the doors. Prior to exiting from the bus, the male spat toward the claimant's driver area.



The claimant pulled to the next stop, then continued to drive the coach until pulling to a stop at 5:24 p.m., at which time all riders had exited the coach.

At 5:30 p.m., the claimant resumed driving, then stopped two minutes later and re-chocked the wheels. The claimant then took a bag from the driver's area and appeared to take a break. He continued to sit inside the passenger area of the coach until the video ended at 5:35 p.m.

* * * * *

Subrogation

Should the subject responsible for the assault be identified and brought into the criminal justice system, potential recovery might be coordinated by the District Attorney's office.

Red Flag Indicators

None were developed.

Other Potential Witnesses

No additional witnesses were identified in the report.

Investigation Comments/Recommendations

Any CAD report would be highly redacted as this was a medical only incident response for the claimant. There was no SFPD report generated.

Assignment Status

At this writing, we believe we have completed this assignment as per your request.

We hope that this report will be of assistance to you in this case. If you should have any questions regarding this report or any other matter, please feel free to contact us at any time.

Thank you for giving us the opportunity to be of service.

Very truly yours,

Bill Fletcher, CIFI, CFE
Passanisi Investigations
BF/jf

cc: Kristee Smith / Intercare Holdings
James Radding / SFMTA

Attachments

Transit Inspector Report
Coach Video

§ 16.170. ENTITLEMENT DEFINED.

- Whenever any officer or employee of the City and County of San Francisco, other than an officer or employee to whom the disability benefit provisions of Section 8.515 of the Charter are applicable, is incapacitated for the performance of his or her duty by reason of bodily injury or illness received in the performance of his or her duty and caused by an act of criminal violence he or she shall become entitled, regardless of his or her period of service with the City and County, to disability benefits equal to and in lieu of his or her salary, while so disabled, for a period or periods not exceeding 12 months in the aggregate with respect to any one such injury or illness. The entitlement of such officer or employee to the disability benefits provided in this Section shall be determined by the Civil Service Commission.

Said disability benefits shall be reduced in the manner provided in Section 16.84 of this Code by the amount of any benefits, other than medical benefits, payable to such officer or employee under the Labor Code of the State of California concurrently with said disability benefits and because of the injury or illness resulting in said disability. Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits, other than medical benefits, payable to such officer or employee under said Labor Code and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.

Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits payable to such employee by the City and County under any sick leave rule or other wage-continuation program provided by the City and County and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.

CCSF Department of Human Resources

Workers' Compensation Division Policy & Procedure

Topic: Battery or Assault Pay – CCSF Salary Continuation

Overview: Battery Pay (sometimes referred to as Assault Pay) is a form of salary continuation for situation in which an employee or officer is injured as a result of a criminal assault by another person. (See SF Administrative Code section 16.170, Exhibit attached). The Department of Human Resources assumed responsibility for the administration of Battery Pay on March 1, 1996. Past procedures were approved through a "Battery Pay Committee" which consisted of representatives of the DHR WCD, City Attorney's Office, and the Civil Service Commission.

Goal: To quickly identify employees who are eligible for salary continuation pursuant to the San Francisco Administrative Code.

Eligibility: To be eligible for this type of salary continuation, the employee must be *"incapacitated for the performance of his or her duty by reason of bodily injury or illness received in the performance of his or her duty and caused by an act of criminal violence he or she shall become entitled, regardless of his or her period of service with the City and County, to disability benefits equal to and in lieu of his or her salary, while so disabled, for a period or periods not exceeding 12 months in the aggregate with respect to any one such injury or illness."*

In earlier versions of this policy, battery was defined as *"the willful and unlawful use of physical force upon another person."* The following conditions were set forth:

- The act must occur while the employee is on the job;
- The act must be criminal in nature;
- There must be a standard of intent on the part of the perpetrator;
- The act must be physical in nature, such as hitting or striking of another;
- There must be bodily injury or illness, and
- The injury or illness must incapacitate the employee from performing his or her duties.

Approval Process:

1. Approvals for Battery Pay must be obtained from the DHR Deputy Director/Director of Workers' Compensation or, in the event of his or her absence, by his or her designee.
2. Upon receiving a First Report of Injury, Claim Form, or Doctor's Report of Injury, that indicates that an employee was injured due to an assault and the employee is not an officer who is entitled to Disability Pay or Labor Code section 4850 pay, the Workers' Compensation Claims Supervisor will ensure that the information is gathered to assess the employee's eligibility for salary continuation so that eligible employees may receive payment for authorized disability before the first payment/benefit notice is due. The information must be filed in the electronic claims file and must include:

- A. Documentation that there was an assault on an employee that arose out of or occurred in the course of employment; and

CCSF Department of Human Resources Workers' Compensation Division Policy & Procedure

- B. The medical reports justify that the employee is incapacitated from his or her regular job as a direct result of the assault; and
 - C. The employee's department is unable to offer appropriate modified work; and
 - D. The information obtained from the standard "3-Point Contacts" as required by our policies.
 - E. Whether or not a Police Report had been filed, and if not, why.
3. The adjuster will email the Deputy Director/Director of Workers' Compensation (or his or her designee in the event of an absence of more than 2 days) to advise that an assault has occurred and that a decision must be made regarding the employee's eligibility for salary continuation due to Battery. The email will include the name and claim number of the employee who has filed a claim and should be done at least two days prior to the date that the first payment is due.
4. The Deputy Director/Director of Workers' Compensation or designee will ensure that the assault meets the eligibility criteria in the Administrative Code. Where the assault was committed by a patient of the San Francisco General Hospital or Laguna Honda Hospital, the filing of a police report will not be a determining factor for eligibility purposes.

Notification to the Employee and Department:

Approvals will be embedded in the standard benefit notice in the workers' compensation claims system and will indicate that the employee is entitled to salary continuation based on the SF Administrative Code, section 16.170. The notice contains language that describes the limits of eligibility. A copy of the letter will be sent to the employee's payroll contact so that salary and benefits can continue uninterrupted for the period of time that the employee is deemed medically unable to work.

Where the incident does not reach the level of criminal battery as described in the policy but the employee is otherwise entitled to workers' compensation benefits, the appropriate notices of workers' compensation eligibility will be sent, including entitlement to Temporary Disability payments where applicable.

Where the request for Battery Pay comes directly from the employee or from departmental staff on behalf of employees, the Deputy Director/Workers' Compensation Director or his or her designee shall investigate the employee's eligibility and send a determination to all appropriate parties. Denials will include the process for appealing the determination.

The following language is part of the template in IVOS for the First TTD notice in the section under "Salary Continuation":

CCSF Department of Human Resources Workers' Compensation Division Policy & Procedure

"Whenever an employee of the City & County of San Francisco is incapacitated for the performance of his or her duty by reason of bodily injury or illness received in the performance of his or her duty and caused by an act of criminal violence, he or she is entitled to disability benefits equal to and instead of his or her salary, while so disabled, for a period not exceeding 12 months in the aggregate. (See Administrative Code section 16.170)." These payments will be made by your payroll department as authorized by your claims adjuster.

To record the approval, go to the iVOS Payments section under "Method", and select "Voucher". Under the "Transaction" drop down menu, select code 211 Assault Pay.

Appeal Process:

Within 30 days of the date of the denial letter, the employee must send a written request for reconsideration to DHR.

DHR has 30 days from receipt of the appeal to issue a determination to uphold or reverse its decision.

If DHR upholds the denial, the employee has 30 days in which to file an "Appeal of the Denial of Battery Pay" to the Civil Service Commission.

Where the Civil Service Commission notifies DHR of the receipt the appeal and calendars the item for a regular meeting of the Commission, the Deputy Director/Workers' Compensation Director or his or her designee will prepare the staff report for submission to the Human Resources Director for further handling.

CCSF Department of Human Resources Workers' Compensation Division Policy & Procedure

EXHIBIT A – Administrative Code section 16.170

SEC. 16.170 ENTITLEMENT DEFINED.

Whenever any officer or employee of the City and County of San Francisco, other than an officer or employee to whom the disability benefit provisions of Section 8.515 of the Charter are applicable, is incapacitated for the performance of his or her duty by reason of bodily injury or illness received in the performance of his or her duty and caused by an act of criminal violence he or she shall become entitled, regardless of his or her period of service with the City and County, to disability benefits equal to and in lieu of his or her salary, while so disabled, for a period or periods not exceeding 12 months in the aggregate with respect to any one such injury or illness. The entitlement of such officer or employee to the disability benefits provided in this Section shall be determined by the Civil Service Commission.

Said disability benefits shall be reduced in the manner provided in Section 16.84 of this Code by the amount of any benefits, other than medical benefits, payable to such officer or employee under the Labor Code of the State of California concurrently with said disability benefits and because of the injury or illness resulting in said disability. Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits, other than medical benefits, payable to such officer or employee under said Labor Code and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.

Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits payable to such employee by the City and County under any sick leave rule or other wage-continuation program provided by the City and County and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.

(Added by Ord. 31-72, App. 2/16/72)



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

**LONDON N. BREED
MAYOR**

NOTICE OF RECEIPT OF APPEAL

DATE: March 22, 2024

REGISTER NO.: 0058-24-3

APPELLANT: KEGANG WU

**Jeffrey Tumlin
Director of Transportation
Municipal Transportation Agency
1 South Van Ness Avenue, 7th Floor
San Francisco, CA 94103**

Dear Jeffery Tumlin:

The Civil Service Commission has received the attached letter from Kegang Wu, appealing the denial of battery benefits as a 9163 Transit Operator with the Municipal Transportation Agency.

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 by email at civilservice@sfgov.org. CSC Form 13 is available on the Civil Service Commission's website at www.sf.gov/CivilService on the "File an action request for a Civil Service Commission hearing page."

In the event that Kegang Wu'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 May 23, 2024, so that it may be heard by the Civil Service Commission at its meeting on June 3, 2024. If you will be unable to transmit the staff report by the May 23rd deadline, or if required departmental representatives will not be available to attend the June 3rd 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.

Appellant: Kegang Wu
March 22, 2024
Page 2

You may contact me at Sandra.Eng@sfgov.org or (628) 652-1100 if you have any questions. For more information regarding staff report requirements, meeting procedures or future meeting dates, please visit the Commission's website at www.sf.gov/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION

A handwritten signature in black ink, appearing to read "Sandra Eng", written in a cursive style.

SANDRA ENG
Executive Officer

Attachment

Cc: Kimberly Ackerman, Municipal Transportation Agency
Shana Dines, Municipal Transportation Agency
James Radding, Municipal Transportation Agency
Romika Williams, Municipal Transportation Agency



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

LONDON N. BREED
MAYOR

Sent via Email

March 22, 2024

Kegang Wu



Subject: Register No. 0058-24-3: Appealing the Denial of Battery Benefits as a 9163 Transit Operator with the Municipal Transportation Agency

Dear Kegang Wu:

This is in response to your appeal submitted to the Civil Service Commission on March 17, 2024, appealing the denial of battery benefits as a 9163 Transit Operator with the Municipal Transportation Agency. Your appeal has been forwarded to the Municipal Transportation 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 receive notice of the meeting and the department's staff report on your appeal two Fridays before the hearing date via email, as you have requested on your appeal form.

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 by email to civilservice@sfgov.org. 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 Sandra.Eng@sfgov.org or by phone at (628) 652-1100 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.sf.gov/CivilService.

Sincerely,

CIVIL SERVICE COMMISSION

SANDRA ENG
Executive Officer



CIVIL SERVICE COMMISSION
City and County of San Francisco
25 Van Ness Avenue, Suite 720
San Francisco, California 94102-6033
Executive Officer
(628) 652-1100

CSC Register No.

To:

CC:

APPEAL TO THE CIVIL SERVICE COMMISSION

INSTRUCTIONS:

Submit an original copy of this form to the Executive Officer of the Civil Service Commission at the address above within the designated number of days following the postmarked mailing date or email date (whichever is applicable) of the Department of Human Resources' or Municipal Transportation Agency's notification to the appellant. The appellant's/authorized representative's original signature is required. (E-mail is not accepted.) It is recommended that you include all relevant information and documentation in support of your appeal.

TYPE OF APPEAL: (Check One)

- ☐ Examination Matters (by close of business on 5th working day)
☐ Employee Compensation Matters (by close of business on 7th working day) - Limited application
☐ Personal Service Contracts (Posting Period)
☒ Other Matters (i.e., Human Resources Director/Executive Officer Action) (30 Calendar days)
☐ Future Employability Recommendations (See Notice to Employee)

*During the Shelter Order dated March 17, 2020, we are accepting appeals by email at civilservice@sfgov.org

Full Name of Appellant KEGANG WU		Work Address 9163 transit operator SF/MTA		Work Telephone 415-611-1100	
Job Code 9163	Title transit operator	Department SF/MTA			
Residence Address [REDACTED]		City [REDACTED]	State [REDACTED]	Zip [REDACTED]	Home Telephone [REDACTED]
Full Name of Authorized Representative (if any)			Telephone Number of Representative (including Area Code)		

NOTE: If this is deemed to be a timely and appealable matter, the department will submit a staff report to the Civil Service Commission to request that it be scheduled for hearing. 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. If you would instead prefer Commission staff to email you a copy of the meeting notice and staff report, please provide your email address below.

Email: **[REDACTED]**

COMPLETE THE BASIS OF THIS APPEAL ON THE REVERSE SIDE. (Use additional page(s) if necessary)

Does the basis of this appeal include new information not previously presented in the appeal to the Human Resources Director? If so, please specify.	Check One: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

Original Signature of Appellant or Authorized Representative
[Signature]

Date
03/17/2024

CSC-12 (5/2021)

Date Received by Civil Service Commission: _____

State the basis of this appeal in detail. For more information about appeal rights and deadlines, please review the Civil Service Rules located on the Civil Service Commission's website at www.sfgov.org/CivilService.

My name is Kegang Wu, DSN# [REDACTED] 73, claim no: [REDACTED] 91.
I was assault at 07/20/2023. A passenger wanted to get off bus when I was driving, he got angry then yelling me nigger and punch the shield (threats, intimidation, it is verbal assault). he graped the steering wheel twice tried to stop the bus that hurt my arms painful over half year. After I stoped the bus and open the door, he spit to me then got off the bus, I had to wipe my face for cleaning. I was sent to ER by ambulance to clean and treat my eyes. (It is physical assaults, I got post-traumatic stress disorder).
The workers compensation accepted my claim at [REDACTED].
So Mr. James Radding decision denying my assault claim is incorrent. Enclosed I find Federal transit administration and California penal code documents that defines assault.
I respectfully request an appeal hearing regarding Mr. Radding decision.

thank you
Kegang Wu



London Breed, Mayor

Gwyneth Borden, Chair
Amenda Eekan, Vice Chair
Stephanie Cajina, Director
Steve Heminger, Director

Fiona Minze, Director
Sharon Lai, Director
Manny Yakutiel, Director

Jeffrey Tumlin, Director of Transportation

February 27, 2024

***Sent via US Mail**

Mr. Kegang Wu



RE: Claim No.: [REDACTED]
DOI: 7/20/23
DSW #: [REDACTED]
Employee: Wu, Kegang

Dear Mr. Wu,

I am writing to inform you about the outcome of the recent request you submitted to the San Francisco Municipal Transportation Agency (SFMTA) regarding your entitlement to battery pay. After careful review and consideration of all relevant guidelines outlined in section 16.70 Entitlement Defined (attached), I regret to inform you that your request does not meet the threshold for entitlement as per the specified criteria.

We understand that this decision may be disappointing, and we recognize the importance of ensuring fairness and equity in all matters pertaining to SFMTA employees. However, based on the detailed investigation, coach video, Inspector Report and legal review from our Deputy City Attorney, we are unable to grant your request for battery pay.

If you disagree with this decision, you have the right to appeal this decision to the Civil Service Commission as provided in the San Francisco Administrative Code section 16.170. Your appeal must be received in the Civil Service Commission office within 30-days following the postmarked mailing date of this notification.

Appeal Process: Administrative Code section 16.170 provides the Civil Service Commission with the authority to determine eligibility for assault pay. If denied, the employee has the right to ask the Civil Service Commission to review the denial.

Further information on the procedures for filing an appeal can be found here: All Appeals Procedures for Appellants | Civil Service Commission (sfgov.org)
Forms for filing your appeal can be found here: CIVIL SERVICE COMMISSION (sfgov.org) Send the form checking the box "Other Matters" which allow for a 30-day appeal time frame and any information you wish to have the considered by the Commission to:




**San Francisco Civil Service Commission
25 Van Ness Avenue, Suite 720
San Francisco, CA 94102
Ph. 628-652-110**

Please know that we value your contributions to SFMTA and remain committed to supporting you in any way we can.

If you have any further questions or concerns regarding this matter, please do not hesitate to reach out to me directly.

Thank you for your understanding and cooperation in this regard.

Sincerely,


**James Radding
Workers' Compensation Manager**

Enclosure: Section 16.70 Entitlement Defined

§ 16.170. ENTITLEMENT DEFINED.

- Whenever any officer or employee of the City and County of San Francisco, other than an officer or employee to whom the disability benefit provisions of Section 8.515 of the Charter are applicable, is incapacitated for the performance of his or her duty by reason of bodily injury or illness received in the performance of his or her duty and caused by an act of criminal violence he or she shall become entitled, regardless of his or her period of service with the City and County, to disability benefits equal to and in lieu of his or her salary, while so disabled, for a period or periods not exceeding 12 months in the aggregate with respect to any one such injury or illness. The entitlement of such officer or employee to the disability benefits provided in this Section shall be determined by the Civil Service Commission.

Said disability benefits shall be reduced in the manner provided in Section 16.84 of this Code by the amount of any benefits, other than medical benefits, payable to such officer or employee under the Labor Code of the State of California concurrently with said disability benefits and because of the injury or illness resulting in said disability. Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits, other than medical benefits, payable to such officer or employee under said Labor Code and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.

Such disability benefits as are paid under this Section shall be considered as in lieu of any benefits payable to such employee by the City and County under any sick leave rule or other wage-continuation program provided by the City and County and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits.



Mailing Address Only:
PO Box 211012
Eagan, MN 55121
Telephone (800) 771-5454
Fax (916) 677-2610

February 07, 2024

Kegang Wu
[REDACTED]
[REDACTED]

Re: Employee: Kegang Wu
Employer: San Francisco Municipal Railway (MUNI)
Claim#: [REDACTED]
Date of Injury: [REDACTED]

Dear Kegang Wu:

NOTICE REGARDING TEMPORARY DISABILITY BENEFITS

PAYMENT START

Intercare Insurance Services is handling your workers' compensation claim on behalf of San Francisco Municipal Railway (MUNI). This notice is to advise you of the status of disability benefits for your workers' compensation injury on the date shown above.

Payment for temporary disability is starting and sent separately for the period starting [REDACTED] through [REDACTED] in the amount of \$[REDACTED] and will continue until you are able to return to work or your medical condition becomes permanent and stationary. Your weekly compensation rate is \$[REDACTED] based on your earnings of \$[REDACTED] per week. You may receive less if you are earning partial wages.

Payments will be sent to you every two weeks on Friday.

If you have also been receiving other paid leave during this time frame, this may represent a partial overpayment in your pay. Your payroll department has been provided with this information, so you should contact them if you have questions.

Please be advised that workers' compensation temporary disability benefits are generally not pensionable, which means that your retirement credits can be affected if you are off of work for too

long. We will accordingly work with you, your physician, and your department to help get you back to work as soon as possible. If you are unable to perform your full duties, we will help to determine whether any restrictions can be temporarily accommodated to make sure you are off work for as short a time as possible. For more information on temporary disability leave benefits in CCSF, you may go to the following website:

http://www.sfdhr.org/modules/showdocument.aspx?documentId=20051&doc_type=.pdf

Additional information may be found in the publication Workers' Compensation in California: A Guidebook for Injured Workers. A complete copy of the Guidebook may be obtained on the Division of Workers' Compensation website (see URL below) or by contacting an Information and Assistance (I&A) Officer of the Division of Workers' Compensation. Temporary Disability is discussed in chapter 5 of the Guidebook.

Guidebook for Injured Workers:

<http://www.dir.ca.gov/InjuredWorkerGuidebook/InjuredWorkerGuidebook.html>

Chapter 5: Temporary Disability:

<http://www.dir.ca.gov/InjuredWorkerGuidebook/Chapter5.pdf>

The State of California requires that you be given the following information:

You have a right to disagree with decisions affecting your claim. If you have any questions about the information provided to you in this notice, please call, Kristee Smith at (916)677-2574. You also have the right to be represented by an attorney of your choice. However, if you are represented by an attorney, you should call your attorney, not Kristee Smith.

For information about the workers' compensation claims process and your rights and obligations, go to www.dir.ca.gov or contact an information and assistance (I&A) officer of the State Division of Workers' Compensation. For recorded information and a list of offices, call (800) 736-7401.

Keep this notice. It contains important information about your workers' compensation benefits.

Sincerely,

Kristee Smith

Kristee Smith, Claims Examiner

cc: Workers' Compensation Coordinator, San Francisco Municipal Railway (MUNI)
San Francisco Municipal Railway (MUNI) Payroll
George Surmaitis, Esq., [REDACTED] Ste. [REDACTED] CA, [REDACTED]

Enc: Brief explanation of the employer's specific salary continuation plan (as applicable pursuant to Title 8 CCR §9814)

Explanation of Salary Continuation Plan Pursuant to CA Code of Regulations
Section 9814

The following is a brief explanation of your employer's specific salary continuation plan.

For Eligible Safety Officers:

Whenever a qualifying safety officer employed on a regular, full-time basis is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments, if any, for the period of the disability, but not exceeding one year, or until that earlier date as he or she is retired on permanent disability pension, and is actually receiving disability pension payments, or advanced disability pension payments.

For Employees Injured by Assault:

Whenever an employee of the City & County of San Francisco is incapacitated for the performance of his or her duty by reason of bodily injury or illness received in the performance of his or her duty and caused by an act of criminal violence, he or she is entitled to disability benefits equal to and instead of his or her salary, while so disabled, for a period not exceeding 12 months in the aggregate. (See Administrative Code section 16.170). These payments will be made by your payroll department as authorized by your claims adjuster.



Mailing Address Only:
PO Box 211012
Eagan, MN 55121
Telephone (800) 771-5454
Fax (916) 677-2610

February 02, 2024

Kegang Wu
[REDACTED]
[REDACTED]

Re: Employee: Kegang Wu
Employer: San Francisco Municipal Railway (MUNI)
Claim#: [REDACTED]
Date of Injury: [REDACTED]

Dear Kegang Wu:

NOTICE REGARDING TEMPORARY DISABILITY BENEFITS

DELAY

Intercare Insurance Services is handling your workers' compensation claim on behalf of San Francisco Municipal Railway (MUNI). This notice is to advise you of the status of disability benefits for your workers' compensation injury on the date shown above.

Although liability for your workers' compensation injury has now been accepted, I cannot pay you temporary disability for the period [REDACTED] and ongoing at this time because we have received notice from EDD that they are paying you. I need to obtain the following information in order to make a determination: an accounting of benefits that have been made to you by EDD and confirmation that they have ended benefits. I expect to advise you of the status of these benefits by [REDACTED]

If you are represented, you may contact your attorney with any questions.

Additional information may be found in the publication Workers' Compensation in California: A Guidebook for Injured Workers. A complete copy of the Guidebook may be obtained on the Division of Workers' Compensation website (see URL below) or by contacting an Information and Assistance (I&A) Officer of the Division of Workers' Compensation. Temporary Disability is discussed in chapter 5 of the Guidebook.

Guidebook for Injured Workers:

<http://www.dir.ca.gov/InjuredWorkerGuidebook/InjuredWorkerGuidebook.html>

Chapter 5: Temporary Disability:

<http://www.dir.ca.gov/InjuredWorkerGuidebook/Chapter5.pdf>

Chapter 4: Resolving Problems with Medical Care & Medical Reports

<http://www.dir.ca.gov/InjuredWorkerGuidebook/Chapter4.pdf>

The State of California requires that you be given the following information:

You have a right to disagree with decisions affecting your claim. If you have any questions about the information provided to you in this notice, please call, Kristee Smith at (916)677-2574. You also have the right to be represented by an attorney of your choice. However, if you are represented by an attorney, you should call your attorney, not Kristee Smith.

For information about the workers' compensation-claims process and your rights and obligations, go to www.dir.ca.gov or contact an Information and Assistance (I&A) Officer of the State Division of Workers' Compensation. For recorded information and a list of offices, call (800)736-7401.

Keep this notice. It contains important information about your workers' compensation benefits.

Sincerely,

Kristee Smith

Kristee Smith, Claims Examiner

**cc: Law Office of George Surmaitis
File**