

MINUTES

STATE PERSONNEL COMMISSION MEETING STATE PERSONNEL DEVELOPMENT CENTER 101 WEST PEACE STREET RALEIGH, NORTH CAROLINA

December 8, 2011

The State Personnel Commission (SPC) met on December 8, 2011. Acting Chair Susan Bailey called the meeting to order. Members present were Acting Chair Susan Bailey, Commissioner George I. Allison, Commissioner Wayne Peedin, Commissioner Axel Lluch, Commissioner Virgie DeVane-Hayes, Commissioner Morris Lee Rascoe and Commissioner Thomas Stern. Pursuant to North Carolina General Statutes §138A, the North Carolina Ethics Act, Acting Chair Bailey asked all Commissioners if there were any conflicts of interest with respect to any matters coming before the Commission.

Next on the agenda was the oral argument component of the docket. The following cases were scheduled and heard for oral argument:

1. Frederick Gooch, John Long and Patricia Swann v. Central Regional Hospital, North Carolina Department of Health and Human Services

Attorney for the Petitioners

Attorney for the Respondent

Ms. Elizabeth Haddix

Ms. Charlene Richardson

2. Vivian Parker v. North Carolina Department of Correction

Attorneys for the Petitioner

Attorney for the Respondent

Mr. Charles E. Monteith, Jr.

Ms. Shellie Henderson Rice

Ms. Yvonne B. Ricci

Next on the agenda was the business session. Acting Chair Bailey asked if anyone had signed up for the Public Hearing. No one signed up for the Public Hearing.

The first item on the business agenda was the approval of the October 20, 2011 State Personnel Commission meeting. There being no corrections, the minutes were approved as circulated. **[See Attachment]**

Next, the Commission considered for approval the proposed 2012 State Personnel Commission meeting dates: February 16, April 19, June 21, October 18, and December 13. Chair Bailey asked for a motion to approve the proposed dates. Commissioner Allison made a motion to approve the proposed dates. Commissioner Rascoe seconded the motion. The motion was made and carried.

State Personnel Director's Report

The next item on the agenda was the State Personnel Director's Report.

State Personnel Director Linda D. Coleman presented to Chairman Alvin G. Ragland a plaque from Governor Beverly Perdue for his service on the State Personnel Commission. Director Coleman also presented Chairman Ragland with a letter for his services on the Commission. Chairman Ragland took a position with the North Carolina Department of Public Safety as the Human Resources Director.

Next, Director Coleman talked about Mr. Keita Cannon, Human Resources Partner, Office of State Personnel who had been awarded the 2011 NCAPHNA non-member award for his outstanding contributions to the North Carolina Association of Public Health Nurse Administrators.

State Personnel Director Linda D. Coleman gave a brief report on the following matters: The Governor's Award of Excellence Program (chaired by Commissioner Susan Bailey); The Richard Caswell Award (four employees had over 50 years of state service); and team work and camaraderie (the Office of State Personnel Holiday door decorating competition). Director Coleman stated that hopefully she would bring in February some reports on several initiatives that the Office of State Personnel is working on currently. The initiatives are E-Recruit, the Young People's Initiatives, and the Office of State Personnel's strategic plan. Chairman Bailey talked about Governor's Award of Excellence Program and gave honorable mention to Ms. Margaret Jordan for the wonderful job that she does with coordinating the Program.

Ms. Pam Bowling, Human Resources Managing Partner, presented to the Commission, for consideration and approval, state classification and pay actions. Ms. Bowling stated that the Department of Correction, Department of Health and Human Services (DHHS) and the Department of Juvenile Justice and Delinquency Prevention requested review of the Staff Psychologist II classes due to difficult recruitment issues. This class is used in both state and local governments. The Office of State Personnel has reviewed the request and combined the two classes and developed the Staff Psychologist. After implementation of the new class, the Office of State Personnel will submit the list to abolish the current classifications that will no longer be used. Staff recommended that the Commission approve the new class with an effective date of February 1st. Ms. Bowling also presented to the Commission, for consideration and approval, a list of various graded classifications to be abolished that are no longer being used (effective February 1st)

Chairman Bailey asked for a motion to approve the two state classifications and pay actions presented by Ms. Bowling. Commissioner Allison made a motion to approve the actions. Commissioner Rascoe seconded the motion. The motion was made and carried.

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Ms. Bowling presented to the Commission a third item for informational purposes. Ms. Bowling presented another group of revised education and experience requirements.

Next, Ms. Shari Howard, presented to the Commission for consideration and approval, two proposed policy amendments. Ms. Howard stated that the Office of State Personnel is recommending a change to the Family Illness Leave Policy in order to remove the employee's right to choose between coverage under Family Medical Leave or Family Illness Leave when leave is needed to care for a seriously ill family member, which qualifies an employee for both types of leave. This change is to ensure compliance with the federal Family Medical Leave Act. Ms. Howard stated that it is also extremely difficult to administer the policies and determine overlapping benefits when an employee is intermittently using both policies for themselves and for a family member during the same period of time. As a result, the Office of State Personnel is also recommending the Family Illness Leave Policy be changed to require the Family Medical Leave benefit be fully exhausted before eligibility for Family Illness Leave begins. Family Illness Leave cannot run concurrently with Family Medical Leave; therefore, an employee can no longer intermittently overlap both policies the same period of time. Ms. Howard asked for the approval of the policy amendments with an effective date of January 1, 2012.

Chairman Bailey asked for a motion to approve the policy amendments to the Family Illness Leave Policy presented by Ms. Howard. Commissioner Peedin made a motion to approve the policy amendments. Commissioner Allison seconded the motion. The motion was made and carried.

Ms. Howard also presented to the Commission for consideration and approval, proposed amendments to the Military Leave Policy. The State Health Plan notified the Office of State Personnel that the health insurance provisions of the Military Leave Policy were not in compliance with G.S. 135-45.12(a)(5). As a result, the Office of State Personnel was asked to remove the military active duty statement that the employee may choose to continue health coverage in the State Health Plan by paying the full premium. In addition, portions of the policy that was previously identified as "notes" or "advisory notes" will no longer be referenced as "notes" but will instead be included as part of the policy. This is in response to the State Auditor's Office recommendation to limit advisory notes for clarification or reference statements that "we" do not want/need to enforce as policy. Ms. Howard asked for the approval of the policy amendments with an effective date of January 1, 2012.

Chairman Bailey asked for a motion to approve the policy amendments to the Military Leave Policy presented by Ms. Howard. Commissioner Allison made a motion to approve the policy amendments. Commissioner Rascoe seconded the motion. The motion was made and carried.

Next, Mr. Ken Litowsky, Human Resources Partner, presented to the Commission for consideration and approval, the following proposed rules to begin the rulemaking process:

(1) 25 NCAC 01B. 0436 Settlements/Consent Agreements in Grievances, Contested Cases (Amendment); (2) 1B .0437 State Personnel Commission: Procedures (Amendment); and (3) 1B.0438 Establishment of Reasonable Attorney Fees by the Commission (Amendment). Mr. Litowsky explained the reasons for the proposed rule amendments. Mr. Litowsky asked that the Commission approve the proposed rule amendments to begin the rulemaking process. **[See Attachments]**

Acting Chair Bailey asked if the Commission had any questions. Acting Chair Bailey asked for a motion to approve the proposed amendments to the rules to begin the rulemaking process. Commissioner Peedin made a motion to approve the proposed rules to begin the rulemaking process. Commissioner Allison seconded the motion. The motion was made and carried.

Ms. Shari Howard, also presented to the Commission for consideration and approval, proposed amendments to the following rules in Title 25 of the North Carolina Administrative Code to begin the rulemaking process: **(1) 1D .0107 Cross Hiring (Repeal); (2) 1D .0303 Effective Date (Amendment); (3) 1D .0308 Salary Increases (Amendment); (4) 1D .0403 Effective Date (Repeal); (5) 1D .0605 Effective Date (Amendment); (6) 1D .0611 Reallocation/Salary Rate (Amendment); (7) 1D .0808 Salary Rate (Amendment); (8) 1D .1205 Agency Responsibility (Repeal); and (9) 1E .0102 Types of Leave (Repeal).** Ms. Howard explained the reasons for the proposed amendments to the rules. Ms. Howard asked that the Commission approve the proposed rule amendments to begin the rulemaking process. **[See Attachments]**

Acting Chair Bailey asked if the Commission had any questions. Acting Chair Bailey asked for a motion to approve the proposed amendments to the rules to begin the rulemaking process. Commissioner Peedin made a motion to approve the proposed rules to begin the rulemaking process. Commissioner Allison seconded the motion. The motion was made and carried.

Next, Ms. Nellie Riley, Director, EEO, Diversity and Compliance Division presented to the Commission, an Update Report on Reductions in Force – January 1, 2011-June 30, 2011. Ms. Riley explained that in the initial report that was shared with the Commission in October, she indicated that the Office of State Personnel was reconciling the data from agencies and universities with BEACON and PMIS. The data reports from those sources revealed that there were fewer reductions than was reported by agencies and universities. An adverse impact analysis was conducted separately for the total reductions by agencies and universities. The results revealed that there was no statistical impact because the numbers were so small. **[See Attachment]**

Next, Ms. Riley presented to the Commission for consideration and approval the Community Service Leave Pilot Report. The Special Emphasis Project, the Young Employees

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Initiative (YEI) conducted a pilot study on the use of Community Service Leave in three agencies. It compared data between December 2009 and December 2010. The purpose of the pilot was to determine, if an increase in marketing would have a direct correlation on the increase usage of the Community Service Leave for young employees ages 18-29. The 2008 YEI Report revealed that this age group value their time and want to use it in the most meaningful way to benefit their community. The state's Community Service Leave policy is a benefit that speaks well to this age group's commitment to volunteerism and community service. Even though, the pilot showed a very small increase in usage for young employees ages 18-29, there was an increase in the total Community Service Leave usage for all employees. Based on the pilot results and findings, Ms. Riley made several recommendations. Ms. Riley asked that the Commission approve the Community Service Leave Pilot Report. **[See Attachments]**

Acting Chair Bailey asked if the Commission had any questions. Acting Chair Bailey asked for a motion to approve the Community Service Leave Pilot Report. Commissioner Peedin made a motion to approve the Report. Commissioner Allison seconded the motion. The motion was made and carried.

Next Ms. Riley presented to the Commission for consideration and approval the Special Emphasis Project: People of Color in North Carolina State Government Survey Report. Ms. Riley gave the introduction to the Survey Report. The Office of State Personnel (OSP) completed the Special Emphasis Project for People of Color (Asian, Hispanic/Latinos and American Indians) in 2008. There were eight recommendations in the report. One of the recommendations was to craft a profile for the People of Color. The People of Color Advisory Committee spent many months discussing how to best gather information for the profile. It was agreed that a ten question survey would serve as the method to gather information. The objectives of the profile survey were to measure to determine if employees were being treated fairly and to elicit employees' thoughts regarding their experience in state government. The data in the report was gathered from focus groups representing the above mentioned demographic groups. The information for the profile was collected through the distribution of the survey to a random sample of employees. Also, Ms. Riley presented to the Commission the methodology and the survey results. Ms. Riley asked that the Commission approve the People of Color in North Carolina State Government Survey Report. **[See Attachment]**

Acting Chair Bailey asked if the Commission had any questions. Acting Chair Bailey asked for a motion to approve the People of Color in North Carolina State Government Survey Report. Commissioner Rascoe made a motion to approve the Report. Commissioner Hayes seconded the motion. The motion was made and carried.

Next, Mr. Ken Litowsky, Human Resources Partner, presented to the Commission for consideration and approval, the Revised Employee Grievance Policy and Procedures for Appalachian State University. Mr. Litowsky explained that the university's previous grievance policy met the state's requirements and was approved by the State Personnel Commission at its

October 21, 2010 meeting. Mr. Litowsky stated that most of the proposed revisions focus more on the organization than on the changes to the information itself, and the proposed policy meets all state requirements. The proposed policy revisions reflect the changes mandated by Senate Bill 781, Regulatory Reform Act of 2011, concerning the Office of Administrative Hearings' role in making the final decision in a contested case. Mr. Litowsky stated that the staff of the Office of State Personnel, Employee Relations and Workforce Performance Division, have reviewed the proposed policy and recommend that the Commission approve the revised policy. **[See Attachment]**

Acting Chair Bailey asked if the Commission had any questions. Acting Chair Bailey asked for a motion to approve the Revised Employee Grievance Policy and Procedures of Appalachian State University. Commissioner Stern made a motion to approve the revised policy. Commissioner Peedin seconded the motion. The motion was made and carried.

The Commission adjourned and went into Executive Session to consider the oral argument cases and cases in which the parties waived oral argument.

Executive Session

1. **Haresh Motiroam Advani v. East Carolina University**
2. **John R. Hamilton v. Employment Security Commission of North Carolina**
3. **Earlene F. Hicks v. North Carolina State Health Plan**
4. **Karen Pinnix-Ingram v. Cabarrus County Department of Social Services**
5. **Christopher L. Swayzer v. Department of Social Services (Durham)**