

MINUTES

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

February 16, 2012

The State Personnel Commission (SPC) met on February 16, 2012. Acting Chairman Thomas Stern called the meeting to order. Members present were Chairman Thomas Stern, Commissioner George I. Allison, Commissioner Wayne Peedin, Commissioner Virgie DeVane-Hayes, Commissioner Morris Lee Rascoe and Commissioner Lisa Grafstein. Commissioner Hayes participated via telephone. Pursuant to North Carolina General Statutes §138A, the North Carolina Ethics Act, Chairman Stern asked all Commissioners if there were any conflicts of interest with respect to any matters coming before the Commission. Commissioner Lisa Grafstein recused herself from the deliberations and voting in the matter of **Charline Emory v. North Carolina Department of Health and Human Services – O’Berry Neuro-Medical Treatment Center.**

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

**1. Major Anthony Moss v. Butner Public Safety, North Carolina
Department of Crime Control and Public Safety**

Attorney for the Petitioner

Mr. Alan McSurely

Attorney for the Respondent

Ms. Tamara Zmuda

Status of the Following Oral Argument Case

1. Michael Shaw v. North Carolina Central University - Continued until the April 19, 2012 State Personnel Commission Meeting. The Commission also extended jurisdiction in this matter.

Next on the agenda was the business session. Chairman Stern asked if anyone had signed up for the Public Hearing. No one signed up for the Public Hearing.

The December 8, 2011 State Personnel Commission meeting minutes were not available for approval. The Commission agreed to consider the minutes at their April 19, 2012 meeting.

State Personnel Director's Report

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

State Personnel Director Linda D. Coleman introduced two new staff members of the Office of State Personnel: Ms. Wendy Wills, Human Resources Specialist with the EEO, Diversity and Compliance Division and Ms. Katherine Hilliard, Statewide Wellness Program Coordinator. Director Coleman also introduced the new interns from the ARC of Wake County: Ms. Judy Femia (Athens High School) and Mr. Javon Dunn (Sanderson High School) as well as returning job coach, Ms. Michelle Pollard. The ARC of Wake County is a nonprofit program for persons with developmental disabilities and provides on-site training as a part of the school to work transition by giving opportunities for their interns to experience various work settings which will allow them to make informed vocational choices.

Ms. Pam Bowling, Human Resources Managing Partner, presented to the Commission, for consideration and approval, state classification and pay actions. Ms. Bowling explained that the Office of State Personnel and the Department of Health and Human Services (DHHS) conducted a study of Health Care Supervisors in fourteen State Facilities as a result of the Health Care Technician Study. Employees in these classifications supervise Health Care Technicians. The purpose of the study was to determine the appropriate classification level for the work performed and to update the class specifications to describe the work as performed. The class specifications were revised and updated as a result of the study. **[See Attachments]**

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

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

Next, Mr. Keita Cannon, Human Resources Partner, presented to the Commission for consideration and approval, The Durham Center Substantially Equivalent Request. Mr. Cannon stated that the report was submitted by The Durham Center had been reviewed and met all requirements. The OSP Review Team recommended through the State Personnel Director to approve substantial equivalency status for The Durham Center. **[See Attachment]**

Chairman Stern asked for a motion to approve the Durham Center Substantially Equivalent Request, presented by Mr. Cannon. Commissioner Rascoe made a motion to approve the Request. Commissioner Allison seconded the motion. The motion was made and carried.

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Ms. Nellie Riley, Director, EEO, Diversity and Compliance Division presented to the Commission some proposed changes to the Equal Employment Opportunity Policy and the Unlawful Workplace Harassment Policy. Ms. Riley explained that the revisions eliminated the State Personnel Commission from the Appeal Procedure in the Equal Employment Opportunity Policy and from all references in section (e) Grievances in the Unlawful Rule and in the Grievance Procedure and Appeals in the Unlawful Workplace Harassment Policy. Ms. Riley explained that the changes were necessary to conform to Senate Bill 781 (An Act to increase Regulatory Efficiency in Order to Balance Job Creation and Environmental Protection) during the 2011 General Assembly Session. Ms. Riley asked that the Commission approve the policy revisions.

Chairman Stern asked for a motion to approve the policy revisions to the Equal Employment Opportunity Policy and the Unlawful Workplace Harassment Policy presented by Ms. Riley. Commissioner Grafstein made a motion to approve the policy revisions. Commissioner Peedin seconded the motion. The motion was made and carried.

Next, Delores Joyner, Human Resources Partner, presented to the Commission for consideration and approval, the Hearing Officer's Report regarding the following rules in Title 25 of the North Carolina Administrative Code: **(1) 25 NCAC 01J .1101 Policy; (2) 25 NCAC 01L .0102 Purpose; 25 NCAC 01L .0104 Program Implementation: Agency and University Level.**

The above-mentioned rules were approved by the State Personnel Commission at its meeting of October 20, 2012 to begin the rulemaking process. These rules were proposed to be amended in order to add the criterion of "genetic information" to the already existing prohibition against unlawful discrimination and workplace harassment based on race, sex, creed, religion, national origin, age, color, or disabling condition. With these proposed amendments, the State's Equal Employment Opportunity and Unlawful Workplace Harassment Rules will conform to the Genetic Information Nondiscrimination Act of 2008 (GINA). This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit.

Additional amendments in Rule 25 NCAC 01J. 1101, Section .1100 – Unlawful Workplace Harassment, were proposed to delete the language referencing the State Personnel Commission and add the Office of Administrative Hearings. The changes were necessary to conform to Senate Bill 781 (An Act to Increase Regulatory Efficiency In Order To Balance Job

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Creation and Environmental Protection) during the 2011 General Assembly Session. Amendments were made for clarification.

The rules were published in the North Carolina Register, Volume 25, Issue 11, dated December 1, 2011. A public hearing was held on December 16, 2011 in order to receive any oral or written comments and recommendations regarding the proposed amendments to the above-mentioned rules. Comments were received until January 30, 2012. Ms. Joyner recommended that the proposed rules be approved. All the requirements for rule-making have been met.

Chairman Stern asked for a motion to approve the Hearing Officer's Report presented by Ms. Joyner. Commissioner Allison made a motion to approve the Hearing Officer's Report. Commissioner Rascoe 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. **Charline Emory v. North Carolina Department of Health and Human Services – O'Berry Neuro-Medical Treatment Center**
2. **Jason M. Grady v. J. Iverson Riddle Developmental Center**
3. **Fay Lassiter v. North Carolina Department of Correction**
4. **Tanisha M. Moore v. North Carolina Department of Correction**