

**STATE HUMAN RESOURCES COMMISSION MEETING
ADMINISTRATION BUILDING, 5TH FLOOR OSBM CONFERENCE ROOM
116 WEST JONES STREET
RALEIGH, NORTH CAROLINA**

MEETING MINUTES – AUGUST 28, 2014

Members Present

Members present were Chair Susan B. Manning, Commissioner Phillip Strach, Commissioner Martin Falls, Commissioner Mel Asbury, Commissioner John Eller, and Commissioner Virgie DeVane-Hayes.

Opening

The State Human Resources Commission (SHRC) met on August 28, 2014. Pursuant to North Carolina General Statutes §138A and the North Carolina Ethics Act, Chair Manning asked all Commissioners if there were any conflicts of interest or potential conflicts of interest with respect to any matters coming before the Commission. There were no conflicts of interest or potential conflicts of interest noted by any Commissioner. Having no members of the public present at 8:00am in the 5th floor OSBM conference room, the Commission convened its open meeting at 8:01am in the 3rd floor OSHR large conference room, and immediately recessed to go into Executive Session pursuant to the North Carolina General Statutes §§ 143-318.11(a)(6)(discussion of a public officer or employee), and pursuant to G.S. 143-318.11(a)(1) (for the purpose of “prevent[ing] the disclosure of information that is privileged or confidential pursuant to the law of this State . . .”) and 143-318.11(a)(3) (for the purpose of “consult[ing] with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body”).

Executive Session

The State Human Resources Commission voted and rendered decisions in the following case:

- **Waldo N. Fenner v. DHHS (John Umstead Hospital) - 07 OSP 0010**
Petition for Attorney’s Fees
Attorney for Petitioner
Floyd B. McKissick, Jr., Esq.

Business Session

Public Comments

Tom Harris, SEANC General Counsel/Chief of Staff, thanked the commission and Director Neal Alexander for the allowing him to meet with Shari Howard, Policy/Rulemaking Coordinator, to get a better explanation of the rules process and rules that are now going from temporary to permanent status.

Approval of Minutes

Chair Manning asked if there were any changes or additions to the minutes of the June 19 and July 9 commission meeting. Being that there were no changes or additions, the minutes were approved as submitted.

State Human Resources Director Report

Director Neal Alexander thanked the State Human Resources Commission for their dedication and service to the citizens of North Carolina. Director Alexander recognized Commissioner Philip Strach for an article in the Triangle Business Journal. Commissioner Strach was recently selected by his peers for inclusion in The Best Lawyers in America© 2015. Director Alexander presented his report on the budget impact on OSHR for 2014-2015. There were 17 actions in the budget bill involving OSHR. Director Alexander discussed some of the budget highlights that were listed in the bill. The highlights that were discussed are listed below:

- Discontinue the use of the applicant tracking system (NeoGov)
- Review of Temporary Solutions
- Extension of the RTR Program
- Evaluate if OITS will be removed from the State Human Resources Act
- SBI consolidation with DPS
- Position eliminations/RIF
- Ability to do complete market rate salary adjustments and equity adjustments under 10%
- 5 Day bonus leave approval for all state employees

Director Alexander also reviewed the technical corrections to HB 834. NC Gear is now at the stage where implementation is currently being worked on. Also, Director Alexander explained that the State must improve in the Safety and Worker's Compensation area. The State is currently working on putting protocols in place for reporting accidents and identifying hazards. Director Alexander also mentioned that a safety conference is being held in October 2014.

State Classification and Compensation Recommendations

Pam Bowling, HR Partner, reviewed the State Classification and Compensation Recommendations for study implementations for Wildlife Conservation Techs and Attorney Supervisor II, profile updates for IT Classifications, various abolished classifications, and education and experience updates for various classifications.

Motion: Commissioner DeVane-Hayes made a motion to approve the recommendations.

Seconded: Commissioner Falls seconded the motion.

The motion carried.

2013 Annual Report on State Government Equal Employment Opportunity

Nellie Riley, HR Partner, reviewed the executive summary of the 2013 Annual Report on State Government Equal Employment Opportunity. This is a new report which combines components of the previously statutorily required Personnel Function Report and the Equal Employment Opportunity Status Report. The new combined report reduces by 50% the amount of pages between the previous two reports. The report provides an overview and analysis of workforce representation, new hires, compensation and EEO Plans for employees subject to the State Human Resources Act. The report includes a detailed numerical description and analysis of employees by demographic groups and occupational categories.

Motion: Commissioner Asbury made a motion to approve the annual report.

Seconded: Commissioner DeVane-Hayes seconded the motion.

The motion carried.

Performance Management Policy and Rules

Shari Howard, OSHR Rules and Policy Coordinator, requested the approval of the Performance Management Policy and Rules. The policy sets forth requirements for the Statewide Performance Management System as authorized in G.S. 126 and H.B 834. This policy provides a standardized approach to Performance Management including the establishment of a three point rating scale, a standard performance review cycle, a process to address performance planning, feedback and performance evaluation.

Motion: Commissioner Asbury made a motion to repeal the old policy and associated rules and adopt the new policy revisions and associated rules.

Seconded: Commissioner Strach seconded the motion.

The motion carried.

Reduction in Force Policy

Shari Howard, OSHR Rules and Policy Coordinator, requested the approval of the amendment to the Reduction in Force Policy. The policy defines RIF separation and provides guidance on what factors to consider when identifying employees for RIF. The change is required to correct trainee eligibility period and align the RIF policy with the Severance and RIF Priority policies. There are also amendments to delete requirements in the policy that are no longer in practice.

Motion: Commissioner Devane-Hayes made a motion approve the policy amendment and associated rules.

Seconded: Commissioner Falls seconded the motion.

The motion carried.

Reduction in Force Priority Policy

Shari Howard, OSHR Rules and Policy Coordinator, requested the approval of the amendment to the Reduction in Force Priority Policy. The policy is required to ensure compliance with G.S. 126-7.1 which outlines provisions for awarding reemployment priority to employees separated through reduction in force. The temporary rules were approved effective May 23, 2014 and the policy needs to be changed to match the wording approved in the temporary rule. Also, the policy needed to clarify band to band priority reemployment rights in the policy and rule.

Motion: Commissioner Devane-Hayes made a motion approve the policy amendment and associated rules.

Seconded: Commissioner Falls seconded the motion.

The motion carried.

Severance Salary Continuation Policy

Shari Howard, OSHR Rules and Policy Coordinator, requested the approval of the amendment to the Severance Salary Continuation Policy. The policy is in place to ensure compliance with G.S. 126-8.5 which outlines the provisions for awarding severance salary continuation or discontinued service retirement allowance as a result of a reduction in force (RIF). The changes are required to align the Severance policy with recent changes approved to the RIF policy/rule and the RIF Priority policy/rule.

Motion: Commissioner Eller made a motion approve the policy amendment and associated rules.

Seconded: Commissioner Asbury seconded the motion.

The motion carried.

Unlawful Workplace Harassment Policy

Shari Howard, OSHR Rules and Policy Coordinator, requested the approval of the amendment to the Unlawful Workplace Harassment Policy. The policy was established to inform employees, former employees, and applicants that the State of North Carolina does not tolerate any form of unlawful workplace harassment or retaliation. The policy defines unlawful workplace harassment and retaliation and requires agencies to develop prevention strategies to ensure proper training and communications. Temporary amendments to 25 NCAC 01J.1101 Unlawful Workplace Harassment and Retaliation were approved by the Rules Review Commission with a May 26, 2014 effective date. The policy is being revised at this time to reflect amendments approved during the temporary rulemaking process and includes some additional amendments to make the policy easier to understand by employees. Even though the law (G.S. 126-36 – Appeal of Unlawful State Employment Practice) was repealed through Session law 2013-382, public comment received during the temporary rulemaking process indicates a desire and need to retain the policy and rules to include the recommended amendments.

Motion: Commissioner DeVane-Hayes made a motion approve the policy amendment and associated rules.

Seconded: Commissioner Asbury seconded the motion.

The motion carried.

Reorganization through Reduction Policy

Shari Howard, OSHR Rules and Policy Coordinator, requested the approval of the amendment to the Reorganization through Reduction Policy. The RTR Program was established through legislation action (HB834-Session Law 2013-382) during the 2013 legislative session. The program was established to assist the Governor’s cabinet agencies in effecting reorganizations by allowing the re-purposing of positions in lieu of abolishment of position as required in a Reduction-In-Force (RIF). Unlike RIF which is an involuntary separation, the RTR program allows State employees to volunteer for separation through RTR. The program was approved for one fiscal year (July 2013 through June 2014). On August 7, 2014 Senate Bill 744 was signed into law (S.L. 2014-100) authorizing an extension of the RTR through June 30, 2015.

Motion: Commissioner Asbury made a motion approve the policy amendment.

Seconded: Commissioner Strach seconded the motion.

The motion carried.

Rules – Temporary to Permanent Status

Shari Howard, OSHR Rules and Policy Coordinator, requested the approval to begin the permanent rulemaking process for the following rules:

- 25 NCAC 01B .0350 TIME FRAME FOR RAISING ALLEGATION OF DISCRIMINATION - AMEND**
- 25 NCAC 01B .0413 EXERCISE OF COMMISSION DISCRETION – AMEND**

- 25 NCAC 01C .0311 EMPLOYEE OBJECTION TO MATERIAL IN FILE - AMEND**
- 25 NCAC 01C .0403 TRAINEE APPOINTMENTS – AMEND**
- 25 NCAC 01C .0404 PROBATIONARY APPOINTMENTS – AMEND**

- 25 NCAC 01D .0201 INITIAL EMPLOYMENT – AMEND**

- 25 NCAC 01E .0901 APPROVED HOLIDAYS – AMEND**

- 25 NCAC 01H .1103 DENIAL OF VETERANS' PREFERENCE – AMEND**

- 25 NCAC 01J .0603 APPEALS – AMEND**
- 25 NCAC 01J .0610 WRITTEN WARNING - AMEND**
- 25 NCAC 01J .0615 INVESTIGATORY LEAVE - AMEND**
- 25 NCAC 01J .0616 CREDENTIALS - ADOPT**
- 25 NCAC 01J .0617 DISCRIMINATION AND RETALIATION - ADOPT**
- 25 NCAC 01J .0618 APPEAL OF DENIAL OF VETERAN’S PREFERENCE – ADOPT**

- 25 NCAC 01J .1201 GENERAL PROVISIONS – REPEAL**
- 25 NCAC 01J .1202 AGENCY RESPONSIBILITIES – REPEAL**
- 25 NCAC 01J .1203 AGENCY GRIEVANCE REPORTS – REPEAL**
- 25 NCAC 01J .1204 DISCRIMINATION AND RETALIATION / SPECIAL PROVISIONS – REPEAL**

- 25 NCAC 01J .1205 UNLAWFUL WORKPLACE HARASSMENT – REPEAL**
- 25 NCAC 01J .1206 TIME LIMITS – REPEAL**
- 25 NCAC 01J .1207 FINAL AGENCY ACTION – REPEAL**
- 25 NCAC 01J .1208 LEAVE IN CONNECTION WITH GRIEVANCES - REPEAL**
- 25 NCAC 01J .1301 MINIMUM PROCEDURAL REQUIREMENTS - REPEAL**
- 25 NCAC 01J .1302 GENERAL AGENCY GRIEVANCE PROCEDUREREQUIREMENTS – ADOPT**
- 25 NCAC 01J .1303 AGENCY AND UNIVERSITY GRIEVANCE REPORTS AND DATE ENTRY – ADOPT**
- 25 NCAC 01J .1304 SETTLEMENTS/CONSENT AGREEMENTS IN GRIEVANCES, CONTESTED CASES – ADOPT**
- 25 NCAC 01J .1305 OFFICE OF STATE HUMAN RESOURCES REVIEW AND APPROVAL OF FINAL AGENCY DECISION (FAD) - ADOPT**

- 25 NCAC 01J .1306 BACK PAY – ADOPT**
- 25 NCAC 01J .1307 FRONT PAY - ADOPT**
- 25 NCAC 01J .1308 LEAVE - ADOPT**
- 25 NCAC 01J .1309 HEALTH INSURANCE – ADOPT**
- 25 NCAC 01J .1310 INTEREST - ADOPT**
- 25 NCAC 01J .1311 REINSTATEMENT - ADOPT**
- 25 NCAC 01J .1312 AUSES FOR REINSTATEMENT - ADOPT**
- 25 NCAC 01J .1313 SUSPENSION WITHOUT PAY - ADOPT**
- 25 NCAC 01J .1314 DISCRIMINATION, HARASSMENT, OR RETALIATION - ADOPT**

- 25 NCAC 01J .1315 VOLUNTARY PROGRAMS OR BENEFITS - ADOPT**
- 25 NCAC 01J .1316 REMEDIES FOR PROCEDURAL VIOLATIONS - ADOPT**
- 25 NCAC 01J .1317 REMEDIES: SALARY ADJUSTMENTS - ADOPT**
- 25 NCAC 01J .1318 CERTAIN REMEDIES NOT AVAILABLE - ADOPT**
- 25 NCAC 01J .1319 SITUATIONS IN WHICH ATTORNEY'S FEES MAY BE AWARDED - ADOPT**
- 25 NCAC 01J .1320 ATTORNEY'S FEES MAY BE AWARDED AS A RESULT OF A SETTLEMENT - ADOPT**

- 25 NCAC 01J .1401 MINIMUM PROCEDURAL REQUIREMENTS - REPEAL**
- 25 NCAC 01J .1402 FLEXIBILITY - REPEAL**
- 25 NCAC 01J .1403 INFORMAL MEETING WITH SUPERVISOR - REPEAL**
- 25 NCAC 01J .1404 MEDIATION PROCEDURE - REPEAL**
- 25 NCAC 01J .1405 CONCLUSION OF MEDIATION - REPEAL**
- 25 NCAC 01J .1406 LIMITATIONS ON A MEDIATION AGREEMENT - REPEAL**
- 25 NCAC 01J .1407 POST MEDIATION – REPEAL**
- 25 NCAC 01J .1408 EMPLOYEE RESPONSIBILITIES FOR MEDIATION – REPEAL**

- 25 NCAC 01J .1409 AGENCY RESPONSIBILITIES FOR MEDIATION – REPEAL**
- 25 NCAC 01J .1410 OFFICE OF STATE PERSONNEL RESPONSIBILITIES – REPEAL**
- 25 NCAC 01J .1411 AGENCY PROCEDURAL REQUIREMENTS FOR EMPLOYEE MEDIATION AND GRIEVANCE POLICY – REPEAL**
- 25 NCAC 01J .1412 OFFICE OF STATE PERSONNEL RESPONSIBILITIES FOR EMPLOYEE MEDIATION AND GRIEVANCE PROCESS – REPEAL**

Motion: Commissioner Martin made a motion to begin the permanent rulemaking process for the above mentioned rules.

Seconded: Commissioner DeVane-Hayes seconded the motion.

The motion carried.

Adjournment

Chair Manning asked if there were any other business items to be heard during the business session. There being no additional items on the agenda, Chair Manning asked for a motion to adjourn.

Motion: Commissioner Strach made a motion to adjourn.

Seconded: Commissioner Falls seconded the motion.

The motion was made and carried.

Minutes submitted by:

LaShanda Langley, State Human Resources Commission Administrator