

AGENDA
STATE HUMAN RESOURCES COMMISSION MEETING
August 6, 2020 - BUSINESS SESSION – 9:00AM

VIA WEBEX

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I. CALL TO ORDER AND ETHICS STATEMENT

II. APPROVAL/ADJUSTMENTS TO AGENDA FOR AUGUST 6, 2020

III. CONSENT AGENDA

1. Minutes for June 4, 2020

(Commission Action: Motion to Recommend Approval of Minutes for June 4, 2020)

2. Exceptions Granted under 25 NCAC 01A .0104 Twanetta Lytle-Alston

Exceptions granted since the June 4, 2020 SHRC meeting due to the Communicable Disease Emergency. Subject-matter experts will be available to provide additional information.

(Information Only)

IV. BUSINESS SESSION

A. Public Comments

B. State Human Resources Director’s Report

Barbara Gibson

C. Recruitment and Rewards: State Employees Memorial Program Policy

Kristin Siemek

This policy was last revised in 2016. Previously, the Memorial Program’s provisions were largely executed by OSHR staff in collaboration with individual agency staff upon the death of an employee at work. The revised policy empowers

NOTE: This agenda is not final; therefore, the order of the cases is subject to change. If you have a special need that justifies a particular scheduling request, please notify the State Human Resources Commission Administrator as soon as possible; however, it may not be possible to accommodate all special requests.

State agencies to determine whether they wish to take part in the Memorial Program and flexibility to determine whether they want to recognize an individual employee death occurring “in the line of duty” or otherwise.

This revision makes the following specific changes:

Deletes annual memorial event since it has not occurred since 2004 – it was not funded and deemed unnecessary.

Deletes language requiring OSHR to obtain flags and letters of condolence for state agency when employee death occurs.

Revises language to include agency determination of recognition of individual active duty, career status employee deaths that occur for any reason, not just at work.

Revises language to provide that an agency may request a letter of condolence from Office of the Governor and Office of State Human Resources and State flag flown over the State Capitol when agency determines that a compensable workers’ compensation claim exists related to the employee’s death “in the line of duty”.

Revises language to provide that an agency may request a letter of condolence from agency leadership and a State flag when the employee’s death is not “in the line of duty”.

(Commission Action: Motion to Recommend Approval of Revisions to the State Employee Memorial Program Policy)

D. Diversity and Workforce Services: Mentoring Program Policy

Nancy Astrike

Created in 2005, this policy has only been revised one other time also in 2005 to include a Purpose paragraph.

- Updated the list of protected classes to align with the statewide EEO Policy as well as Executive Order 24.
- Updated the definitions to include options for group, distance, and situational mentoring.
- Removed reference to Mentoring Program Model to allow flexibility in the development and delivery of support resources for mentoring.
- Change 25 NCAC 01K .0801 - .0805 to .0800 on Mentoring Program Policy webpage to be consistent with the format of other pages and to represent that .0801 to .0805 is all of .0800 and not imply that there are other subsections in the section that do not apply here.

In addition, the terminology for the Mediation Director has been updated to reflect Statewide Mediation Coordinator.

(Commission Action: Motion to Recommend Approval of Revisions to the Mentoring Program Policy)

E. Diversity and Workforce Services: Employers Grievance Policy **Nancy Astrike**
Agencies

The primary revision proposed for the Agency Employee Grievance Policy is to incorporate protected status definitions, consistent with the recent U.S. Supreme Court ruling, for Title VII protections in regard to sexual orientation, gender identity and expression, and pregnancy.

(Commission Action: Motion to Recommend Approval of Revisions to the Employers Grievances Policy - Agencies)

F. Diversity and Workforce Services: Employers Grievance Policy **Nancy Astrike**
Universities

Title IX of the Education Amendments of 1972 placed certain protections for victims of sexual assault/discrimination in educational programs or activities. On May 6, 2020, the Department of Education released revised regulations regarding Title IX sexual harassment claims, which modified procedural expectations to address Title IX sexual harassment complaints. Institutions must offer protections and more equal footing for those accused of sexual harassment in the educational setting, and the investigatory process must be applied consistently across students, faculty, and staff. The revised regulations are effective August 14, 2020.

The primary revision proposed for the University SHRA Employee Grievance Policy is to incorporate federal Title IX requirements for issues that would otherwise be grievable through the procedures of the SHRA grievance policy. The Title IX procedures include stronger provisions for investigation, cross-examination, advisors for complainants and respondents, and an appeal process. As such, we are requesting to exclude Title IX-eligible complaints from the procedures in the University SHRA Employee Grievance Policy; these would proceed through the Title IX complaint process. At the conclusion of that process, a complainant who is dissatisfied with Title IX investigation outcome would be notified of rights to appeal to the Office of Administrative Hearings if otherwise eligible. A respondent who receives sanctions due to a Title IX investigation outcome would be eligible to grieve lack of just cause for disciplinary action through the University SHRA Employee Grievance Policy if otherwise eligible.

Four other revisions are proposed:

- To better align the EEO Informal Inquiry Process with the institutions EEO/AA non-discrimination investigation process,
- To clarify that the central human resources office can establish procedures for managing the Informal Discussion process,
- To allow institutions the discretion to provide a separate dispute resolution process for issues that are not eligible for appeal to the Office of Administrative Hearings, and

- To incorporate protected status definitions, consistent with the recent U.S. Supreme Court ruling, for Title VII protections in regard to sexual orientation, gender identity and expression, and pregnancy.

Significant Changes:

- Under Section III. Definitions
 - o Page 2 – Equal Employment Opportunity Informal Inquiry: Adds that “This process is equivalent to the institution’s internal complaint process for allegations of a violation of an institution’s non-discrimination and equal opportunity policy” and that “Complaints or reports of Title IX Sexual Harassment are investigated and resolved through the institution’s Title IX complaint process.”
 - o Page 4 – Adds new definition for Title IX Sexual Harassment.
- Under Section IV. Grievable Issues and Who May Grieve
 - o Page 4 – Adds footnote clarifying that “Complaints or reports of Title IX Sexual Harassment are investigated and resolved through the institution’s Title IX complaint process.”
 - o Pages 4-6 – Incorporates language to show grievance eligibility for harassment, discrimination and retaliation in regard to sexual orientation, gender identity and expression, and pregnancy, and also removes separate language that previously covered these issues as grievable at the University-level only.
- Under Section V. Grievance Process for All Grievable Issues
 - o Page 6 – Adds footnote clarifying that “Complaints or reports of Title IX Sexual Harassment are investigated and resolved through the institution’s Title IX complaint process.”
 - o Page 6 – Adds paragraph C, which provides that institutions have the discretion to either use this grievance process or establish a separate dispute resolution process for complaints regarding annual performance appraisals or allegations of inaccurate or misleading information in the personnel or applicant file. (These issues are not grievable to the Office of Administrative Hearings).
- Under Section VI. Unlawful Discrimination, Harassment, or Retaliation

Grievance Provisions

 - o Page 7 – Under paragraph A, clarifies that the EEO Informal Inquiry Process aligns with the institution’s existing non-discrimination/equal opportunity investigatory process and removes process language that would be covered within the institutions EO investigatory process.
- Under Section VII. Informal Discussion
 - o Page 7 – Includes in the first paragraph that “The university institution’s HR Office may develop internal procedures to administer and coordinate any Informal Discussion process.”
- Under Section IX. Formal Grievance – Step 2 – Hearing Panel/Hearing Officer:
 - o Page 13 – Adds paragraph F5: “For allegations of Title IX Sexual Harassment, the outcome of the Title IX complaint resolution process, rather

than this Formal Grievance Procedure, shall constitute the Final University Decision for an SHRA complainant.” (Employees will be notified of their appeal rights at the end of the Title IX process.)

- Under Section XI. Responsibilities for the University SHRA Employee Grievance Policy
 - o Page 14 – Removes paragraph A5 “Maintain grievance data in the grievance log provided by OSHR. Data must be entered as events occur; and” (Not required by OSHR).

(Commission Action: Motion to Recommend Approval of Revisions to the Employers Grievances Policy - University)

G. Legal, Commission, & Policy: 2020 NC OSHR Policies Review Project

Christine Ryan

These are being reviewed as part of the 2020 NC OSHR Policies Review Project. There are no substantive changes to:

- a) Deputy Director/Recruitment: (SME Kristin Siemek & Carol Battle)
 - 1) Employment Offers Policy (history only)
- b) Total Rewards/Salary Administration: (SME Kim Greene)
 - 1) Civil Leave Policy
Existing since before 1951, this policy was last reviewed in 1995 to other job related proceedings.
 - 2) Education Leave Policy
Adopted in 1967, this policy was last reviewed in 2016, to define Education
 - 3) Leave without Pay Policy
First published in 1951, this policy was last reviewed in 1967 to correct an omission. Grammatical Change: The exception on page 85 changes “PD-105” to “personnel action.” This is necessary to remove references to old payroll system.
 - 4) Other Management Approved Leave Policy
Created in 2009, this policy consolidated the miscellaneous types of leave that were authorized in other policies but for which there is not a separate category to account for them. It was last reviewed in 2017 to delete all reference to trainee appointments, per appointment types and career status.
Grammatical Changes: Page 102 under Small Pox Vaccination
 - 5) Sick Leave Policy
Created in 1949 this policy has been reviewed and revised many times due to its substantive nature and was last reviewed in 2017 to delete all reference to trainee appointments, per appointment types and career status.
 - 6) Transfer Leave Policy
Adopted in 1975, this policy was last reviewed in 2017 to delete all reference to trainee appointments, per appointment types and career status.

No changes. Just reviewed per the 2020 NC OSHR Policies Review Project.

(Commission Action: Motion to Recommend Approval of Accepting these policies and histories as is or with some clarifying edits)

H. Classification and Compensation: 5 New Classification Specs **Joe Marro**

5 New Class Specs:

- State HRIS Analyst I
- State HRIS Analyst II
- State HRIS Analyst III
- State HRIS Supervisor
- State HRIS Manager

During the system implementation in June 2018, these positions in OSC were placed in six separate job classifications in two different job families: Information Technology and Program Management. The model used did not adequately support recruiting, retention or internal career pathing. OSHR agreed with OSC to review these jobs in the Post-Implementation Study process. Concurrently, we looked at market data and determined that HRIS roles are commonly reported in labor market surveys in the public and private sectors. Therefore, this new agency-specific series is recommended to be placed in the Information Technology job family to address these myriad issues.

(Commission Action: Motion to Recommend Approval of the 5 New Classification Specifications for the New Class and Compensation System)

I. Total Rewards/Salary Administration **Christine Ryan**

Community Service Leave Rules

25 NCAC 01E .1601-.1607 Community Service Leave Rules

Motion to Submit as a Permanent Rule to the Rules Review Commission. No public comment was received at the public hearing (6/17) or to the publication in the NC Register (comment period ended 7/31). Previously, revisions were made to change the name of the Rule (to Volunteer Service and Child Involvement Leave) to expand the use of the community service portion to support employees who wish to volunteer beyond the borders of North Carolina (especially during times of disaster relief) and to make it clear that child involvement is a part of the rules.

(Commission Action: Motion to Recommend Approval of Submission of 25 NCAC 01E .1601-.1605 and .1607 Revised Community Service Rules to the Rules Review Commission as Permanent Rules)

IV. Adjournment