

STATE HUMAN RESOURCES COMMISSION MEETING
LEARNING AND DEVELOPMENT CENTER, COMMISSION CONFERENCE ROOM
101 WEST PEACE STREET - RALEIGH, NORTH CAROLINA

MEETING MINUTES – August 2, 2018

Members Present

Members present at the Learning and Development Center for the meeting were: Chair Judy Estevez, Commissioner Ross Beamon, Commissioner John Eller, Commissioner Martin Falls, Commissioner April Page and Commissioner Philip Strach, and newly appointed Commissioners Douglas Boyette, II, Meredith Benjamin, and Emily Jones.

Other Attendees

Other attendees present were: Barbara Gibson, Director Office of State Human Resources and Lou Ann Phillips, Deputy Director, Office of State Human Resources; Lars Nance and Jessica Middlebrooks, Legal Division, Office of State Human Resources; Denise Mazza, State Human Resources Commission Administrator, Office of State Human Resources; Andrea Clinkscales, Pamela Taylor Shaw, Monique Cowan, Tonya Horton, Joe Marro, Kevin Adcock, Sharisse Brown, Bailey Bruce of the Office of State Human Resources; Consanla Auzenne, Eric Lendt, and Dan Hill of the Department of Public Safety; and Danny Stulzman of Temporary Solutions.

Oath of Office

North Carolina Supreme Court Justice Michael Morgan administered the oath to newly appointed commissioners Douglas Boyette, II, Meredith Benjamin, and Emily Jones.

Opening

The State Human Resources Commission (SHRC) last convened on June 7, 2018. Pursuant to North Carolina General Statutes § 136A and the North Carolina Ethics Act, Chair Judy Estevez asked all Commissioners if there were any conflicts of interest or potential conflicts of interest with respect to any matters coming before the Commission. Commissioner John Eller recused himself as to the Local Government – Substantially Equivalent Request for Davie County.

The Commission convened its open meeting at 9:08 a.m. in the Learning and Development Center Commission Conference Room.

There were no adjustments or approvals to the agenda as proposed for the August 2, 2018 meeting.

CONSENT AGENDA ITEMS

Approval of the minutes for the June 7, 2018 State Human Resources Commission Meeting.

Motion: Commissioner Beamon made a motion to recommend approval of the minutes.

Seconded: Commissioner Strach seconded the motion.

The motion carried.

Business Session

Public Comment

No one signed up for public comment.

State Human Resources Director's Report

Director Gibson began by welcoming everyone and thanking the new commissioners for their service to the Commission and to the State of North Carolina, specifically to Human Resources for the State of North Carolina and thanked the returning commissioners also. She then gave a quick introduction of the new and reappointed members:

New Appointments:

Meredith Benjamin appointed by Governor Cooper upon recommendation by the North Carolina Association of County Commissioners. A local government employee subject to statute 126, serving in the nonsupervisory position. Meredith is a program consultant for Buncombe County Health and Human Services and will serve through June 2021.

Douglas Boyette, II, appointed by the General Assembly upon recommendation of the President Pro Tem. He is an associated attorney at the Brady Law firm of Raleigh and will also serve through June 2021.

Emily Jones appointed by Governor Cooper and nominated by the State Employee Association of North Carolina. A State employee subject to statute 126 she is serving in a nonexempt, nonsupervisory position. She is a probation parole office in Wake County and her term is also through June 2021.

Reappointments:

Ross Beamon reappointed by the General Assembly upon recommendation of the Senate President Pro Tem. He supervises security services and brings the perspective of a business or private industry having extension knowledge and experience in HR management. He will serve through June of 2022.

John Eller reappointed by Governor Cooper upon recommendation of North Carolina Association of County Commissioners. He is the County Manager of Davie County and will serve through June 2022.

Martin Fall, veteran of the U.S. Armed Forces, reappointed by Governor Cooper upon the nomination of the Veteran Affairs Commission. He is the Office Manager for the Hickory District Office of the Department of the Military Affairs and his term continues to June 2022.

Director Gibson then gave a brief overview of what OSHR has been doing since the last meeting including the General Assembly's passage of a number of changes that affect human resources. The most significant the State employee raise being the 2% or bringing employees up to \$31,200 and correctional officers and related jobs receiving the greater of 4%. OSHR was able to get those increases into the system for the July payroll and State employees were also given 5 days of bonus leave. Also, OSHR continued to work on class and comp and additional changes in legislation has given some flexibility to non-cabinet agencies and one cabinet agency. The changes are the first to the whole system in an estimated 69 years, so OSHR met with 20 of 24 individual agency to discuss its implementation. Four meetings remain. OSHR has also been working with the Department of Commerce to support the Governor's NC JobReady initiative.

Director Gibson then brought to the Commission's attention two new policies that Nancy Astrike would be presenting at the meeting – the Employee Assistance Program Policy and the Drug and Alcohol-Free Workplace Policy - essentials of an HR toolkit. While individual agencies have had such policies over the years, this would be the first statewide policy and it would be a wonderful accomplishment to finally get a consistent statewide direction on the books.

In closing, Director Gibson made the Commission aware of two important staffing updates. One, Darrell Bass, HR Director for the Office of State Human Resources as well as the Office of State Budget and Management, the Department of Military and Veterans Affairs and the Governor's office, would be leaving to become the HR Director at the Department of Transportation. While it is a loss for OSHR, Director Gibson believes it will help OSHR in working with one of the State's major agencies. An interim HR Director will be named while a permanent HR Director is sought. Second, Chair Judy Estevez will be joining OSHR team in a new position as Deputy Director of Administration to fill a need in administrative areas. A new commissioner acting as chair person will be sought to replace her.

Kristin Siemek - Talent Management – Continuous Posting/Vacancy Policy

Kristin Siemek, Recruiting Service Manager, greeted the Commission and presented the Continuous Posting/Vacancy Policy. This policy was approved by the Commission last year, giving Director Gibson the oversight to approve or deny these requests. OSHR realized the Code regarding this policy had not been changed yet. While that process is taking place, OSHR will bring these requests to the Commission for informational purposes. With the new classification system, many of these positions have new class titles and job codes - an itemized list by agency was provided to the Commissions.

Motion: Commissioner Strach made a motion to recommend approval of the Continuous Posting/Vacancy Policy.

Second: Commissioner Falls seconded the motion.

Motion carried.

Kristin Siemek - Talent Management - Continuous Postings - LPNs

Siemek also presented the Continuous Posting requested by the Department of Public Safety for LPNs. She explained that DPS has 55 facilities across the State that are staffed with RNs, LPNs, CNAs. With the shortage of RNs, DPS facilities receive much needed support through LPNs. Due to turnover issues and a lack of a sufficient number of RNs, LPNs, and CNAs graduates, DPS would like to be allowed to continuously post this position. DHHS already has continuous posting for these positions. Allowing DPS the same should give them a better opportunity to fill their vacancies. In response to inquiries from the Commission about similar issues for correction officers working for DPS in the prison environments, OSHR members confirmed that a committee was continuously working on ideas for the retention of LPNs and correction officers including changing the 12 hours shifts to 8 hours and sign on bonuses. The Commissioners requested a follow up on these matters in six months.

Motion: Commissioner Falls made a motion to recommend approval of the Continuous Posting for LPNs.

Second: Commissioner Strach seconded the motion.

Motion carried.

Andrea Clinkscales - Classification and Compensation

Andrea Clinkscales, Total Rewards Division Director, presented the one new and five revised classification specs. Clinkscales stated that the one new spec had been inadvertently left off the list back in January – the SBI Special Agent In-Charge position. The revisions to the five other specs vary -some title changes, one a change to the knowledge, skills and abilities required for the job, and two changes to education and experience. In response to Commissioner Beamon inquiry, Clinkscales explained that it was her understanding that the “Special” part of the title for the Agent In-Charge position was just to align it with the federal job title to recognize the specialization required.

Motion: Commissioner Beamon made a motion to recommend approval of the new and revised classification and compensation specs for the new compensation system.

Second: Commissioner Eller seconded the motion.

Motion carried.

Andrea Clinkscales - Total Rewards – New Appointment Policy

Clinkscales gave the Commission an update with regard to post studies implementation: OSHR is almost done with follow up meetings with the agencies' heads, HR directors and deputy directors regarding next steps after OSHR's request to agencies to prioritize their post study concerns by organizing or categorizing them by type of issue i.e. related to market, internal equity or organization misalignment. To date OSHR had received close to 1600 study request from the agencies mostly concentrated in the information technology job families, finance and business related jobs, administrative support jobs as well as medical and health jobs and a few sprinklings in some of the other job families. The timeline for the results would likely be September. Classification collaboration teams of agency classification analyst and some HR directors have also been formed to partner with OSHR to review the study requests and make recommendations to OSHR compensation manager Joe Marro for final decision. OSHR is looking into the hiring of a technician to help coordinate this process.

Clinkscales then presented the New Appointment Policy to the Commission. The current policy allows for salaries to be set above the minimum when the individual possesses exceptional qualifications. The proposed revision is a change to allow agencies to set salary for up to the top of the first core tile for those individuals, allowing the agency to pay a little higher than the minimum of the range in order to be more competitive.

In response to questions from the commissioners, Clinkscales explained that the exceptional qualifications would be determined at the agency level for those positions that they have delegation of authority. Others will come to OSHR. She also stated it was still a little early to tell if there was a trend of salary adjustments, but based on the additional flexibility granted to the agencies, agencies would be able to do a lot more and confirmed that agencies with salary reserves would have more flexibility, but whether or not they would exercise it remained to be seen. Issues regarding compression would be addressed through workshops and the development of additional guidance. In addition, the agencies are charged with reviewing equity and internal equity alignment within the agency and, when necessary, broader on a statewide level. As for inequities among departments, the guidance will address that and OSHR is trying to provide more structure around the process.

Director Gibson added that because the State of North Carolina is not centralized in salary administration, OSHR actions are limited, but she had met with Secretary Cohen and Secretary Hooks about this specific issue so they are aware.

Clinkscales then presented the Horizontal Transfer Policy to the Commission. The current policy notes that when an employee transfers between positions and has the same grade that the salary would remain unchanged, but based on the flexibility that OSHR is wanting to provide to the agencies, OSHR proposes to change the language to allow the agencies to increase the salary under certain conditions. Those conditions are to recognize higher level duties, to establish equity or make relationships more equitable and then to respond to labor market conditions. It would allow an award up to 10 percent. Salaries cannot exceed the maximum of the range. In

response to questions from the Commission, Clinkscales clarified that higher level duties would not be so significant that it would warrant necessarily a higher level classification.

A vote for each policy was held.

Motion: Commissioner Falls made a motion to recommend approval of the New Appointment Policy.

Second: Commissioner Beamon seconded the motion.

Motion carried.

Motion: Commissioner Strach made a motion to recommend approval of the Horizontal Transfers Policy.

Second: Commissioners Falls seconded the motion.

Motion carried.

Jessica Middlebrooks - Legal, Commission & Policy – Rulemaking: Salary Rate Rule

Associated General Counsel Jessica Middlebrooks greeted the Commission and presented the revisions to the Salary Rate Rule. The proposed Rule change ducktails with the Horizontal Transfer Policy introduced above. The Salary Rate Rule was previously in the Administration Code but expired. OSHR is bringing it back with the exception of allowing language to provide increases on lateral transfer as long as such increase do not create internal salary inequity.

Motion: Commissioner Strach made a motion to recommend approval of the Proposed Amended Salary Rate Rule.

Second: Commissioner Beamon seconded the motion.

Motion carried.

Dominick D’Erasmus - Local Government - Substantial Equivalent Request – Davie County

Dominick D’Erasmus, Manager, Local Government, greeted the Commissioners and presented Davie County’s request for substantially equivalent status in two program areas: 1) recruitment, selection and advancement and 2) classification and compensation. D’Erasmus stated that the State Human Resources Act and various sections of the Administrative Code allow local bodies to petition the State Human Resources Commission to determine whether any portion of their personnel system is substantially equivalent to that of the State. He and local government HR consultant James Harris have reviewed everything Davie County had submitted - county policies, procedures, ordinances and resolutions – and it was their opinion that Davie County operates a sound HR system and clearly is in compliance with OSHR rules. D’Erasmus

recommended the approval of Davie County's petition to operate substantially equivalent in those two program areas.

Motion: Commissioner Beamon made a motion to recommend approval of the Davie County's Request for Substantially Equivalent Status.

Second: Commissioner Falls seconded the motion.

Recused" Commissioner Eller recused himself from the vote.

Motion carried.

Nancy Astrike - Local Government - LME/MCO – Salary Range

Nancy Astrike, Division Director of Diversity & Workforce Services, greeted the Commission and presented the salary range for LME/MCOs by reading a written statement to the Commission (attached hereto). In response to questions from Commissioner Strach, Astrike and General Counsel Lars Nance explained that the approval of this salary range was in keeping with the timeline of the associated settlement agreement and was not, in OSHR's opinion, a final approval of the salary range itself – that the matter would be back before the Commission in December pursuant to the timeline in the settlement agreement.

Motion: Commissioner Strach made a motion to recommend approval of the salary range for purposes of that agency's obligation under the settlement agreement only

Second: Commissioner Falls seconded the motion and discussion with it to satisfy the statutory requirements leveled against this board.

Motion carried.

Nancy Astrike – Diversity & Workforce Services – Employee Assistance Program Policy

Astrike then presented the new statewide Employee Assistance Program Policy by reading a written statement to the Commission. (See attached.) She noted that individual agency programs have been in existence, but that this was the first statewide policy proposed.

Motion: Commissioner Beamon made a motion to recommend approval of the Employee Assistance Program Policy.

Second: Commissioners Eller and Falls seconded the motion

Motion carried.

Nancy Astrike – Diversity & Workforce Services – Drug and Alcohol-Free Workplace Policy

Astrike then presented the new statewide Drug and Alcohol-Free Workplace Policy. She again noted that in practice the State of North Carolina has always responded to employee issues involving illegal drugs or alcohol in the workplace and always strived to maintain an environment where employees can perform their jobs in a safe, productive and healthy manner. State agencies and universities have internal policies prohibiting the use of illegal drugs and alcohol in the workplace. This policy represents a statewide prohibition to further support an agency's efforts. It establishes the prohibition but acknowledging and encouraging employees to voluntarily seek help with alcohol or drug problems and to recognize that these issues are treatable with appropriate intervention and support such as the new statewide Employee Assistance Program Policy just approved. In response to inquiries from Commissioner Eller regarding fitness for duty, Astrike clarified that under the two mandatory options of the EAP, agencies are given the flexibility to evaluate the totality of the situation and decide whether EAP may or may not be utilized. It is not a requirement, but it is strongly encouraged.

Motion: Commissioner Eller made a motion to approve the Drug and Alcohol-Free Workplace Policy.

Second: Commissioners Falls and Page seconded the motion.

Motion carried.

The Chair, Judy Estevez, expressed her thanks to the other commissioners for serving with her on the Commission for the State of North Carolina.

Motion: Commissioner Strach made a motion to adjourn the meeting.

Second: All the commissioners seconded the motion.

Adjourned at 10:41 a.m.

Executive Session

The State Human Resources Commission did not have an executive session at its August 2, 2018 meeting.

Minutes submitted by:

Denise H. Mazza, State Human Resources Commission Administrator

By way of background, I would like to begin with the historical context for the action we are recommending here today.

As you have seen in your pre-meeting information, you are being asked to set a new salary range for the Area Directors of local management entities/managed care organizations (also known as LME/MCOs). There are currently seven LME/MCOs in N.C. charged with providing behavioral healthcare to people and families with diagnoses in intellectual or developmental disabilities, mental health, or substance use disorders. Through a network of contracted providers, LME/MCO's address these needs for Medicaid recipients, each serving a multiple county catchment area.

The salary range you establish will affect the seven area directors. NCGS Sec. 122C- 121(a1) provides that the LME/MCO's area board will set the salary of the Area Director, but that this salary cannot exceed the range set by the State Human Resources Commission without the written approval of OSHR. The Area Director is the only position at the LME/MCO for which the Commission sets a range.

In May of 2017, the State Auditor issued a report that was critical of Cardinal Innovations Healthcare, for among other things paying the Area Director a salary that exceeded the range without prior approval of OSHR. Cardinal is the LME/MCO that serves the Charlotte Mecklenburg area and surrounding counties.

In response to the State Auditor's report, Cardinal requested that OSHR adjust the range, and was dissatisfied with the range established by this body at that time, such that Cardinal filed a petition with the Office of Administrative Hearings. Initially, Cardinal alleged that OSHR had not given proper notice of the approved range, but Cardinal subsequently amended its petition to argue instead that the range was arbitrary and capricious.

That legal action was settled on June 13, 2018 with an agreement that Cardinal would select and work with a third-party consultant to conduct a Market Compensation Study and submit recommendations to OSHR on or before July 13. OSHR is required to make a recommendation to the SHRC regarding a revision to the salary range for the LME/MCO Area Director positions during its August 2 meeting.

Historically, there has been a philosophical difference of opinion between Cardinal and OSHR about what market data to include in the study of comparable salaries. However, the legislature included clarification of its intent in this year's budget. The law now requires that "In forming its recommendation, the Office of State Human Resources shall use funds available to hire an outside consultant to conduct a market compensation study of organizations nationwide with similar functions as the LME/MCOs and of similar size, including number of covered lives, annual service expenditures, and geographic service areas. The market compensation study shall include both public and not-for-profit managed care organizations." This study is due no later than December 1, 2018.

Consistent with the Settlement Agreement, Cardinal's third-party consultant, Korn Ferry, prepared a market study that has been reviewed and amended by the staff at OSHR consistent with the criteria established by the legislature and our compensation practices.

OSHR has adopted the majority of the third-party consultant's compensation recommendations with only two changes: 1) we exchanged a Health Care Executive and Management compensation survey with a Top Managed Care Executive compensation survey, and 2) we reduced the recommended spread of the range from 158% to 80%, which is consistent with our current statewide compensation practice in NC.

In addition, the Korn Ferry report included three compensation tiers. Our recommended range is based upon the recommended range for Tier 1 of the Korn Ferry study. Specifically, Korn Ferry's Tier 1 had a minimum of \$180,497 and maximum of \$466,416. Our recommended range for the area directors' salaries is a minimum of \$204,957 and a maximum of \$369,071.

It is important to note that all current area directors make above the recommended minimum range and that no salary adjustment would be necessary due to the adoption of this recommended range. In addition, this methodology and salary range has been reviewed by the Department of Health and Human Services and they are fine with our recommendation. And lastly, this recommendation is consistent with the Settlement Agreement between Cardinal and OSHR.

I will be glad to answer any questions that you may have and with me today are representatives of Legal, Compensation and Local Government to address any specific questions that you may have relative to their areas of expertise.

While the action we are recommending here today is approval of a new policy, it's important to note that the Employee Assistance Program (EAP) has been active in North Carolina State Government for many years. This program is a state-sponsored benefit program that offers the support and resources needed to help employees address personal or work-related concerns that may be adversely affecting their performance or conduct, such as marital, financial, emotional, family, alcohol or drug issues.

The central element of the employee assistance program is confidential and professional assessment and referral services for employees and their dependents to Licensed Professional Counselors. In state agencies, this service is provided by McLaughlin Young Group and in the UNC System, this service is provided by ComPsych. Each program contains four different referral options.

The objective of this policy is to provide structure, consistency, and clarity to the different referral options available in the employee assistance program. These referral options include:

1. Self-referral, which is a voluntary contact initiated by the employee to obtain confidential assistance for a personal or medical issue;
2. Supervisory referral, which is a voluntary contact designed to provide management a tool for addressing performance or conduct issues;
3. Management directed referral, which is a mandatory option that may be used to address behavior, performance or conduct that requires prompt and immediate attention. Common issues might include workplace bullying, or substance abuse issues; and
4. Fitness for Duty Evaluation, which is also a mandatory option that may be used when an employee poses an immediate hazard or risk to self or others. Common issues might include a direct threat against self or others, or delusional behavior. Please note that for a Fitness for Duty Evaluation, the employee assistance program will facilitate a referral to a qualified resource (usually a forensic psychiatrist) to complete the assessment.

Our EAP providers are always available to provide consultation to employees, HR staff, and management to determine which referral option is best suited to address their concerns.

The EAP brings positive benefits to employee health and well-being and provides tools to HR and management to address employee performance and conduct issues. We believe this policy will help make our EAP even more effective in assisting employees and management in creating and maintaining a healthy and productive workplace.

I'm happy to answer any questions you may have about the EAP program or policy.