

MINUTES

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

August 19, 2010

The State Personnel Commission (SPC) met on August 19, 2010. Chairman Alvin G. Ragland called the meeting to order. Members present were Chairman Alvin G. Ragland, Commissioner Susan Bailey, Commissioner Axel Lluch, Commissioner Wayne Peedin, Commissioner Virgie DeVane-Hayes, Commissioner Morris Lee Rascoe, Commissioner Lisa Grafstein, and Commission Thomas M. Stern.

Next Chairman Ragland introduced the new State Personnel Commissioners as follows:

Commissioner Lisa Grafstein, Attorney at Law, appointed by the North Carolina General Assembly, House of Representatives.

Commissioner Thomas M. Stern, Attorney at Law, appointed by the North Carolina General Assembly, Senate.

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

1. **Gwendolyn E. White v. North Carolina Department of Health and Human Services**
Appearing Pro Se Ms. Gwendolyn E. White
Attorney for the Respondent Ms. Dorothy Powers
2. **Quintino Brooks v. North Carolina Central University**
Attorney for the Petitioner Mr. Willie R. Brooks, Jr.
Attorney for the Respondent Ms. Kimberly D. Potter
3. **Pamela D. Shoffner v. North Carolina Agricultural and Technical State University**
Appearing Pro Se Ms. Pamela D. Shoffner
Attorney for the Respondent Ms. Kimberly D. Potter
4. **Willie Hubbs v. Broughton Hospital**
Attorney for the Petitioner Mr. Douglas L. Hall
Attorney for the Respondent Ms. M. Elizabeth Guzman

5. LaCinda L. McKenzie v. O’Berry Center

Appearing Pro Se
Attorney for the Respondent

Ms. LaCinda L. McKenzie
Ms. Charlene Richardson

Next on the agenda was the business session. Chairman Ragland asked if anyone signed up for the Public Hearing.

Mr. Danny Wynn, Employee Forum; Mr. Steve Hutton, retired employee (UNC-CH), also a representative of the State Employees’ Association of North Carolina (SEANC), District 25 and Ms. Suzanne Beasley, Legislative Affairs Department – SEANC expressed concerns and recommendations to the Commission during the public hearing session regarding the Employee Policy and Grievance Procedures of the University of North Carolina at Chapel Hill (UNC-CH). **[See Attachment for issues and recommendations]**

The first item on the business agenda was the approval of the minutes for the June 17, 2010 State Personnel Commission meeting. Chairman Ragland asked for a motion and second to approve the June 17, 2010 State Personnel Commission minutes. Commissioner Bailey made a motion to approve the minutes. Commissioner DeVane-Hayes seconded the motion. The motion was made and carried. **[See Attachment]**

State Personnel Director’s Report

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

Next, Ms. Nellie Riley, Human Resources Managing Partner, presented to the Commission, for consideration and approval, the 2009 Equal Employment Opportunity Status Report. Ms. Riley gave the historical background of the Equal Employment Opportunity Status Report. The Report analyzes the North Carolina State Government workforce within two sections: agency and university systems. The agency section includes information on all Cabinet and Council of State agencies. The university system consists of the 16 universities in the N.C. University System as well as UNC General Administration and the School of Science and Math. References to other minority groups include Asian, American Indian, and Hispanic employees. Next, Ms. Riley gave the highlights of the 2009 Equal Employment Opportunity Status Report. Ms. Riley asked if the Commission had questions regarding the Report. **[See Attachment for the Report and response to the Commission’s questions]**

Chairman Ragland asked for a motion and second to approve the 2009 Equal Employment Opportunity Status Report. Commissioner Grafstein made a motion to approve the Report. Commissioner Bailey seconded the motion. The motion was made and carried.

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Next, Ms. Peggy Oliver, Human Resources Policy Administrator, presented to the Commission, for consideration and approval to begin the rulemaking process, the following proposed rules regarding voluntary shared leave: 25 NCAC 1E.1302 Policy; and 25 NCAC 1E.1305 Donor Guidelines. Ms. Oliver explained that the 2010 General Assembly passed House Bill 213 which added a provision to NCGS §126-8.3 that required the State Personnel Commission to adopt rules and policies to expand the Voluntary Shared Leave Policy. The provision allows an employee at a State agency to donate sick leave to a nonfamily member employee of another State agency. The maximum that can be donated is five days per year and the combined total donated to a recipient cannot exceed 20 days. Ms. Oliver requested that the Commission also approve the proposed amendments to the Voluntary Shared Leave Policy.

Chairman Ragland asked if there were any questions. Chairman Ragland asked for a motion and second to approve the proposed rules regarding voluntary shared leave to begin the rulemaking process and to approve the proposed amendments to the policy. Commissioner Peedin made a motion to approve the proposed rules to begin the rulemaking process and the proposed amendment to the policy. Commissioner Rascoe seconded the motion. The motion was made and carried.

Next, Mr. Drake Maynard, Human Resources Managing Partner, presented to the Commission for consideration and approval to update the online policy based on the recent changes of the State Personnel Act regarding what is and is not public information. Commissioner Stern stated that it was his understanding that this is simply to replicate the law regarding public information records. **[See Attachment proposed policy and response to the Commission's questions]**

Chairman Ragland asked for a motion and second to amend the personnel records policy. Commissioner DeVane-Hayes made a motion to amend the policy. Commissioner Rascoe seconded the motion. The motion was made and carried.

Next, Mr. Maynard explained the proposed changes to the rules regarding public information. One of the changes in the law effective October 1, deals with dismissal letters. When a final agency decision on a dismissal letter occurs then it is a public record and that that dismissal letter shall contain certain specific acts or omissions. That is a departure from what we have in the law now and also a departure from what we have in policy. A final agency decision refers to the final decision of a grievance brought internally within an agency or university. Generally those letters are not specific. It's simply, the Commissioner, the Secretary, the Chancellor upholds this particular action or overturns it, reinstates, whatever. So, we felt that there was a necessity to provide some guidance in how this would be dealt with because of all of the disciplinary actions that could be made public, an individual's disciplinary letter is perhaps something that could provoke the most comment or the most interest from the media. 25 NCAC 1J.0603 the amendment basically states that if a person does not appeal their dismissal, then the letter that they were given informing them that they were dismissed, is the final agency decision

and thus a public document. If the employee appeals his or her dismissal, then the final agency decision, if it upholds the dismissal, must provide in that letter to the grieving employee or former employee, the specific acts or omissions that are the basis for upholding the dismissal, which at that point, then becomes a public record. 25 NCAC 1J.0613 reiterates again that the final agency decision shall provide specific acts or omissions if the grievance regards a dismissal that is being upheld. The other part of this is that the final agency decision that upholds the dismissal, not only has to have specific reasons that the dismissal is being upheld, but it must state that this is a public record and that the agency will release it if a request is made. **[See Attachment for rules and response to the Commission's questions]**

Chairman Ragland asked for a motion and second to approve the proposed rules to begin the rulemaking process as presented by Mr. Maynard. Commissioner Peedin made the motion to approve the rules. Commissioner Stern seconded the motion. The motion was made and carried.

Next, Mr. Maynard presented to the Commission for consideration and approval the following employee grievance procedures: (1) North Carolina Community College System; (2) North Carolina Department of Agriculture and Consumer Services; (3) North Carolina Department of Environment and Natural Resources; (4) North Carolina Department of Revenue; (5) North Carolina Department of the Secretary of State; (6) North Carolina Office of State Personnel; and (7) University of North Carolina – Chapel Hill. Mr. Maynard explained that every even number year the Commission reviews and approves every state agency/university grievance procedure. The Commission two years ago looked at every single state agency and university grievance procedure. If people want to make changes, they send their whole policy. If no changes have been made since 2008, they simply send in an affirmation of that. The role of the Office of State Personnel is to look at the Commission's policies and administrative rules on what must be a part of grievance processes for agencies and universities. Mr. Maynard explained that the grievance procedures were reviewed by the Employee Relations staff of the Office of State Personnel. Mr. Maynard recommended that all of the grievance policies and procedures be approved and that they are totally within the policy bounds of the Commission at least for everybody except Carolina. Due to various issues and concerns, the Commission agreed to table the above-referenced employee grievance policies and procedures brought before it by Mr. Maynard until the October 21, 2010 Commission meeting. **[See Attachment for issues, concerns and responses to the Commission's questions]**

Executive Session

1. **Mekre Francis v. North Carolina Department of Health and Human Services** **Tab 1**
2. **Linda Cheryl Strider v. Vance County Department of Social Services** **Tab 2**