

MINUTES

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

October 20, 2011

The State Personnel Commission (SPC) met on October 20, 2011. Chairman Alvin G. Ragland called the meeting to order. Members present were Chairman Alvin G. Ragland, Commissioner Susan Bailey, Commissioner George Allison, Commissioner Wayne Peedin, Commissioner Axel Lluch, Commissioner Thomas Stern and Commissioner Lisa Grafstein. Pursuant to North Carolina General Statutes §138A, the North Carolina Ethics Act, Chairman Ragland asked all Commissioners if there were any conflicts of interest with respect to any matters coming before the Commission.

Next on the agenda was the oral argument component of the docket. On the motion of Respondent and for good cause shown, the Commission voted to continue the contested case of **Ronald Williams v. North Carolina Department of Health and Human Services**, from the October 20th Commission docket and extend jurisdiction in order to give the parties time to finalize settlement negotiations between them.

The following case was scheduled and heard for oral argument:

1. **Cynthia White v. North Carolina School of Science and Math**

Attorney for the Petitioner

Ms. Christina P. Medlin

Attorney for the Respondent

Ms. Katherine Murphy

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

The first item on the business session agenda was the approval of the minutes of the August 18, 2011 State Personnel Commission meeting. The minutes were circulated for review prior to the call of order. Chairman Ragland asked if there were any corrections to the minutes. Commissioner Peedin made a motion to approve the minutes as circulated. Commissioner Allison seconded the motion. There being no corrections, the minutes were approved as circulated.

The next item on the agenda was the State Personnel Director's Report. Director Linda Coleman discussed a new Program that the Office of State Personnel participated in with the ARC of Wake County. 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. Two interns participated in this program along with their job coach.

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Ms. Rhadica Talementa and Mr. Kenneth Kelty were the interns that participated in the program. Ms Michelle Pollard was their job coach. The interns worked with Ms. Alfreda Melton, Executive Assistant for the State Personnel Director and Ms, Delores Joyner, Administrator to the State Personnel Commission. The interns were present at the meeting. They thanked the Office of State Personnel for the opportunity to participate in the program and also shared their experiences in working in the program. The Commission thanked the interns and their job coach for participating in the program and commended the Office of State Personnel for being a partner in such a great initiative. Commissioner Grafstein stated that she had been working with Disability Rights North Carolina and one of her main focuses was on school board transitions and integrated employment in the community. Commissioner Grafstein applauded the Office of State Personnel for being a model employer in this area and really promoting integrated employment.

Director Coleman explained that this was a pilot program for the Office of State Personnel. The program is under the leadership of Ms. Nellie Riley. The Office of State Personnel hopes to expand the program throughout state government so that the young people of the ARC can have the opportunity to really know what it is like to work in work places and get some idea of the kind of work that they are most suited to that will help them to make the decision about their work life in the future.

Next, Director Coleman gave an update on the reduction in force for October. For 2011, 240 employees were notified of reduction-in-force and that was August 18, 2011 through October 19, 2011. Of those, 215 have reduction-in-force priority and 24 do not have reduction in force priority. There have been 22,726 visits to the OSP/RIF website and as of October 19th of this year we have 1,669 employees on the RIF priority list. Additional reductions are expected with the Department of Transportation being given the task of reducing 400 additional employees by December 31. Also, there will be further elimination of jobs due to consolidation of state agencies.

Director Coleman asked Shari Howard, Human Resources Partner to give an update on the impact of on the statutory changes regarding reduction-in-force. Ms. Howard stated that the law changed significantly in July 1. This change actually did away with the reduction-in-force policy. Later technical corrections were added in the law which brought back the reduction-in-force policy: However, this did change the priority rights of the employees. The Office of State Personnel is currently running two policies for reduction-in-force employees. Employees that were notified prior to July 1 follow the old policy. Employees that were notified after July 1 follow the new policy. Previously, before July 1, employees were guaranteed same salary. After July 1 they are no longer guaranteed to maintain the same salary. Prior to July 1, it was very specific that priority was for everything. Employees had to be given priority to the same grade, same appointment type, same salary, everything had to be the same. If they were put

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back into a job lower than that, they still maintained priority. That is no longer true. Once they are placed into a job, we have satisfied their priority.

Next, Ms. Bowling presented to the Commission, some changes to training and experience requirements. Ms. Bowling informed the Commission that this was a report for informational purposes only. . **[See Attachment]**

Next Mr. Keita Cannon, Human Resources Partner, presented to the Commission, for consideration and approval, the Proposed Local Government Salary Plans for Fiscal Year (2011-2012) Mr. Cannon and Mr. Dominick D'Erasmus, Human Resources Partner reviewed the plans and submitted them for the approval of the Commission. Commissioner Peedin asked if the salary information was available for county managers. Mr. Cannon explained that the Office of State Personnel did not have access to that salary information. Commissioner Stern requested that the Commission receive at least one salary plan for review. Mr. Cannon stated that he would be happy to provide the Commission with any information in which they requested. **[See Attachment]**

Chairman Ragland asked for a motion and second to approve the proposed salary plans, as presented by Mr. Cannon. Commissioner Allison made a motion to approve the proposed salary plans. Commissioner Lluch seconded the motion. The Commission voted. The motion was made and carried.

Next, Ms. Ruth Barlow, presented to the Commission for consideration and approval, the ID Badge Policy. Ms. Barlow gave a brief summary of the policy, stating the reasons for the proposed adoption of this policy. Commissioner Peedin expressed some concerns giving instances where the policy may not be appropriate and may not address certain situations. Commissioner Peedin cited situations where multiple agencies were located in one building and where employees may allow other employees to enter the building without using the card reader. Commissioner Peedin stated that while he had concerns regarding the policy, he did understand the necessity and therefore, made a motion that the Commission adopt the ID Badge Policy. Commissioner Allison seconded the motion. The motion was made and carried.

Next, Ms. Brenda Dixon, Human Resources Partner, presented to the Commission for consideration and approval, proposed revisions to the State Equal Employment Opportunity Policy/Plans and the Unlawful Workplace Harassment Policy. Ms. Dixon stated that the Office of State Personnel was proposing a revision to the state's EEO Policy and Plan as well as the Unlawful workplace Harassment Policy be adding the term genetic information among the list of protected classes. With these revisions, the state policy will conform to the federal law, the Genetic Information Non-Discrimination Act (GINA) of 2008. GINA bans employment discrimination based on an individual's

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genetic information. Ms. Dixon also requested that the Commission amend the rules to begin the rulemaking process. Fiscal notes were prepared and no state funds are affected. Commissioner Stern stated that it was a great idea to conform with federal policy in its own right. Commissioner Stern asked if Ms. Dixon knew whether there are or what would be a typical case of genetic information discrimination. Commissioner Stern asked if Ms. Dixon was aware of any reported matters. Ms. Dixon stated that she was not aware of any reported matters. Ms. Dixon explained that with the GINA, it was found that everyone thinks about DNA and chromosomes and predisposition towards certain diseases and so forth. However, we find that family history happens to be one way of getting at genetic information. You over hear something and there are some provisions in GINA which provide for inadvertent acquisition of the information which protects the agency from harm. Commissioner Stern gave an example of finding out that both the parents were severe diabetics and then the employer thinking about your future, your health insurance policy and everything else. Ms. Dixon's response was "exactly, you're predisposed to having it and maybe you're too much of a risk to bring on board. It affects all employment decisions."

Chairman Ragland asked if there were any further questions. There being no further questions, Chairman Ragland asked for a motion to approve the revised policies/plans and to begin the rulemaking process for rules effected by the revision. Commissioner Bailey made a motion to approve the policy/plans/rules. Commissioner Allison seconded the motion. The motion was made and carried.

Next Ms. Bobbi Wardlaw Brown, presented to the Commission, for consideration and approval the Equal Employment Opportunity Institute (EEOI) Semi-Annual Status Report (July – December 2010). Ms. Brown gave a very in-depth summary of the report as follows: During this reporting period the Office of State Personnel and participating adjunct agencies hosted 59 level 1 sessions and 1 level 2 session and trained a total of 1,148 participants. This reporting period opened up a total of 1,800 training slots for enrollment and, of course, we used 1, 148 and this reflects a usage rate of 64%. During this reporting period overall enrollment increased by 13%. The last reporting period we had 1,003 participants. The usage rate increased as well by 11%. In this reporting period we had 26 agencies and 9 universities participating in the Institute. I would like to recognize the following agencies for having a high participation rate: Crime Control and Public Safety, the Employment Security Commission, the Secretary of State, Budget and Juvenile Justice. As far as universities are concerned: North Carolina State University, Fayetteville State University and UNC- Greensboro, also had high participation rates. Just dealing strict with enrollment numbers, the Department of Transportation, Health and Human Services, Crime Control, Employment Security Commission, and Correction had high numbers of enrollees, but it doesn't necessary reflect a high participation rate because we gauge participation rate based on the number of managers versus how many attended, but they did have high numbers of participants in the Institute this year.

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Universities with high number of enrollees include North Carolina State University, East Carolina University, UNC-Asheville, Winston-Salem State University. Transportation, Health and Human Services, Department of Correction, Employment Security Commission and North Carolina State University continue to consistently enroll participants at a high rate. So, we commend them in consistently continuing to enroll in the Program. We have a system of dividing the State into 7 regions to ensure that we have access for people to participate in the Institute. In this reporting period we were able to host training sessions in all of the 7 regions. We actually hosted training session in 20 cities across the State. That made sure that the Program was accessible to a high number of employees so if they wanted to attend or their HR Training coordinators wanted to send their people, they had an Institute that was close to them that would not require a lot of travel cost for them to participate in the Program. We also have an adjunct agency program. This year we had 6 adjunct agencies hosting sessions in this reporting period. Department of Transportation had 184 participants and trained 16% of this period's participants. North Carolina State University had 164 participants and trained 14% of the participants for this reporting period. Department of Health and Human Services enrolled 149 participants and trained 13% of the participants. Department of Correction had 143 and trained 11%. UNC-G had 28 participants and trained 2%. UNC-Asheville had 20 participants and trained 1.8% of the participants. Our goal with the adjunct program is to have the adjunct agencies to train more people than OSP and that has happened during this training period and we are pleased with that. We do recognize that the adjunct participation continues to fluctuate and that's okay with us as well because there is no requirement once they sign an agreement with OSP to host X amount of sessions. So, we give them the latitude to host the amount of sessions that they want to host so we are still pleased with that even those we have had only 6 adjunct agencies participating in this reporting period. Our adjunct program has certified about 9 candidates per year. We started this program in 2002. We did conduct a certification class in December of 2010, 12 participants enrolled in the class. Five of the participants withdrew for various reasons. Seven should complete all of the requirements by the end of November. The certification process was suspended from January through July of 2007 due to an extended sick leave on my part. We were able to resume the program in August of 2011. So that's why we had a program in August of 2010, but we have not finished certifying those people because I was out for a very long period of time. It is in full earnest right now so we are doing fine. We were able to bring on a new agency during this period and that was the Department of Labor. Juvenile Justice is also scheduled to sign an agreement from January until June of 2011 reporting period. We will host another certification class in the July through December training period. Adjunct agencies hosted 62% of the sessions and OSP hosted 38% of the sessions. Ms. Brown asked if there were any questions.

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Commissioner Stern asked about the cumulative totals on page 22 of the report. Commissioner Stern wanted to know why in several candidate columns the actual exceeded the eligible.

Ms. Brown made the following comments: Well, when we were using the PMIS System we had a process where the PMIS identified the number of managers and supervisors who were eligible to attend the Institute, which meant that they had been either hired in a managerial or supervisory position or promoted into a position. So we were notified by that reporting process that we had eligible candidates to attend the Institute. We would report that number of how many were eligible based on the PMIS report. Then we would juxtapose that to the actual participants, but since we migrated to the BEACON System they don't generate such a report for us anymore. So we don't have a process of identifying eligible candidates, not electronically. So, it is up to the agencies to keep track of that information now themselves. They tell us how many people are eligible to attend these.

Commissioner Stern stated that it would be nice to know who is eligible on an on-going basis. Commissioner Stern stated that while there were some agencies and universities that were participating in the Institute, he wanted to know why more agencies were participating. Ms. Brown discussed in depth the Program and the marketing aspect of it for making agencies and universities aware of the Institute. Ms. Brown invited all of the Commissioners to attend the EEOI training. Commissioner Stern stated that he was suggesting four things for the minutes as follows: (1) summary of the training to me or to other Commissioners, but at least start with me; (2) a way to ask for information about eligibility so that those figures become more reliable than what they are; (3) a pilot idea of asking at least one of the lesser performing institutions, a meaningful way to get the information about why they are not participating in this; and then, I'm hesitant to add this one, (4) a schedule of when these things happen so that some of us might actually attend.

Director Coleman stated as follows: We absolutely appreciate recognition of that issue and that is one of the issues that will be addressed by learning management system. We've changed the name, well, I guess this was the training center, but we're calling it learning and development now because we want to recognize that learning and development is an on-going process. To date, and this has been true as long as I can remember, there is no way for the State to capture information about training. We just simply don't have that capability. We don't even know how much we spend on training, any agency or the State as a whole. That's why we need the learning management system. What we plan to do and everything is a process now. As I mentioned to you earlier that we are planning to bring to you as we complete these programs the results of what we are doing. We are looking at providing a continuum of training for all employees in state government, particularly those who reach permanent status. If you have permanent status, which you will achieve after two years, there ought to be certain

courses that everyone is required to have so that you understand what it means to be a permanent state employee. There should also be a group of courses that if you are a supervisor or manager in state government that you should be required to have even before you reach the supervisory status. Some those will be virtual learning; some of them will be face-to-face learning situations, but we are in the process of developing that whole area of learning and development for our employees. Part of it will be an onboarding process, part of it will be a developmental process for our employees and managers in state government. There is a real need because we know that there are a lot of skill gaps that exist. As we navigate the different problems in state government, we know that there are things that managers and supervisors ought to know. So, we will be. . I appreciate that and we will be providing you with updates.

Chairman Ragland made the following comments: It would probably be good to provide to the HR directors and maybe even the department heads or secretaries of what is going on in their areas, to share with them what is happening so that you can also begin to draw up some support to help make it more visible. I think where Commissioner Stern is going is that if you can proactively sell it and then gain support and if those two work hand in hand, you should begin to see the numbers begin to move in the direction that you want them to move.

Chairman Ragland asked if there were any further questions or comments. Commissioner Grafstein made a motion to approve the report. Commissioner Allison 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

On its own motion and because the matter is pending on appeal, the Commission voted to continue the contested case of **Stewart Coates v. North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, 10 OSP 1249** from the October 20th Commission docket until such time as the parties notify the Commission that all appeals in this matter have been exhausted or the parties have settled the issues between themselves.

1. **Barbara Jenkins v. Department of Commerce/NCIC**
2. **Reginald Lyons v. Fayetteville State University**
3. **Denise McLean v. North Carolina Department of Correction**

4. **Lewis Ray Murray v. North Carolina State University**
5. **Beverly M. Terry v. County of Durham Department of Social Services**