

**MINUTES OF THE REGULAR COMMISSION MEETING OF THE COMMISSION ON
HUMAN RIGHTS AND OPPORTUNITIES
THURSDAY, JULY 10, 2008, 2:00 P.M.
LEGISLATIVE OFFICE BUILDING – ROOM 1E
HARTFORD, CONNECTICUT 06106**

COMMISSIONERS PRESENT

Andrew Norton, Chairperson
Edward Mambruno, Secretary
Alexia E. Cruz
Jimmie L. Griffin
John Lobon
George Marshall

COMMISSIONERS ABSENT

Larry Conaway
Gloria Mengual

STAFF PRESENT

Robert J. Brothers, Jr., Acting Executive Director
Alvin Bingham, Affirmative Action and Contract Compliance Supervisor
Donald Newton, Chief of Field Operations
James O'Neill, Legislative and Regulations Specialist
Michelle Provost, Fiscal Administrative Supervisor
David Teed, Assistant Attorney General
Linda Civitillo, Executive Secretary

I. CHAIRPERSON

A. Convene Meeting

Chairperson Andrew Norton convened the July 10, 2008 Regular monthly meeting of the Commission on Human Rights and Opportunities at 2:10 p.m.

II. SECRETARY

A. Review and Approval of Minutes of June 12, 2008 Regular Commission Meeting

Secretary Mambruno requested a motion adopting the minutes of the June 12, 2008 Regular Commission meeting. A motion was made by Commissioner Griffin and seconded by Commissioner Marshall to adopt the minutes of the June 12, 2008 Regular Commission meeting as presented. There was no discussion. The motion carried with the following Commissioners voting in favor of the motion: Cruz, Griffin, Mambruno and Marshall. Commissioner Lobon abstained and Chairperson Norton did not vote on the motion.

III. AFFIRMATIVE ACTION RECOMMENDATIONS

A. Agencies Proposed Affirmative Action Plans

Staff Recommendations: **Approvals**

1. Asnuntuck Community College
2. Middlesex Community College
3. Naugatuck Valley Community College
4. Northwestern Connecticut Community College
5. Quinebaug Valley Community College
6. Three Rivers Community College
7. Department of Transportation
8. Military Department
9. Teachers' Retirement Board
10. Connecticut Commission on Culture and Tourism

A motion was made by Commissioner Mambruno and seconded by Commissioner Marshall to accept the staff recommendations for approval and retention of annual filing status for the ten noted affirmative action plans. Chairperson Norton asked Mr. Bingham, Affirmative Action and Contract Compliance Supervisor, to introduce the agency representatives in attendance and provide a summary of each approval recommendation.

Mr. Bingham introduced the following individuals in attendance from Asnuntuck Community College: Martha McLeod, President; Joseph Bleicher, Director of Human Resources; and Cheryl Cyr, Affirmative Action Officer. The affirmative action plan for Asnuntuck Community College has been recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 4 out of 9 or 44.4% and total goal achievement was 4 out of 9 or 44.4%. The plan has been approved for each of the past five years. Commissioner Cruz asked if someone from the College could provide additional information regarding the applicant pools, specifically with respect to the Dean of Student Services, which had 90 applicants of which only four were White female goal candidates. Cheryl Cyr, Affirmative Action Officer, indicated they can only determine the goal candidates based on the affirmative action forms that are returned. Commissioner Cruz also asked Ms. Cyr if she could describe some of the College's recruitment efforts for some of the upper-level positions. Ms. Cyr explained ads are sent out nationwide for the upper-level positions, including newspapers, Chronicles of Higher Education and higher education websites. Ms. Cyr acknowledged the College is experiencing some difficulty in attracting diverse, qualified applicants. Commissioner Mambruno asked if the College's

location may be a factor. Ms. Cyr noted that may be a factor and stated the College advertises in Massachusetts utilizing The Republican out of Springfield.

President Wilfredo Nieves and Josephine Agnello-Veley, Affirmative Action Officer, were in attendance representing Middlesex Community College. The affirmative action plan has been recommended for approval as the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Long-term goal achievement was 2 out of 4 or 50% and total goal achievement was 2 out of 4 or 50%. The plan was approved in 2003 and 2004, disapproved in 2005 and approved in 2006 and 2007. Commissioner Cruz noted Middlesex Community College has expanded considerably the resources used to recruit applicants and asked if someone from the College could comment on those resources that have been more effective than others. Ms. Agnello-Veley responded to Commissioner Cruz and indicated that the College has expanded some of their searches over the past three or four years. She also noted the College has moved away from using just publications for recruitment purposes and has begun utilizing more web-based sites, particularly for the higher-level positions that are national searches. Some searches have proven more fruitful than others and Ms. Agnello-Veley stated her belief that it often depends on the time of year. In response to a question from Chairperson Norton, Ms. Agnello-Veley described some of the job titles that fall within the Professional/Non-Faculty job category, including Director of Business and Industry, Director of Child Care Services, Director of Academic Support Services, Director of Institutional Advancement, Grants Writer and many others. Ms. Agnello-Veley went on to say these positions support both the credit and non-credit side and most of the non-credit faculty are on a contract-by-contract basis.

Mr. Bingham introduced the following individuals in attendance from Naugatuck Valley Community College: Interim President Wilfredo Nieves and Ronald Clymer, Affirmative Action Officer. The plan is recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 9 out of 13 or 69%, long-term goal achievement was 1 out of 6 or 17%, total goal achievement was 10 out of 19 or 53% and promotion goal achievement was 3 out of 5 or 60%. The plan has been approved for each of the past five years. Chairperson Norton asked Neva Vigezzi, Affirmative Action Program Analyst, to explain how a hire is assigned the designation of a long-term goal. Ms. Vigezzi explained long-term is the timetable. The regulations have short-term timetables and long-term timetables, which are up to five years. She added that it's not practical to track a goal for five years because the statistics change at every filing, however, agencies do have the option of establishing a goal with a short or a long-term

timetable. She emphasized that agencies should be attempting to meet goals regardless of the timetable. Ms. Vigezzi also noted that an agency has to demonstrate every good faith effort when it does not meet a goal. When an agency meets a goal, it's self-explanatory.

The following individuals were in attendance representing Northwestern Connecticut Community College: Barbara Douglass, President, and Fran Pistilli, Human Resources Director. The affirmative action plan for Northwestern Connecticut Community College has been recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 1 out of 3 or 33.3 % and total goal achievement was 1 out of 3 or 33.3 %. The plan was approved in 2003, approved by default in 2004, approved in 2005, disapproved in 2006 and approved in 2007. Commissioner Cruz noted the summary was missing the workforce analysis percentages. Valerie Kennedy, HRO Representative, reviewed the plan and indicated that she normally provides the calculations if the agency does not, however, she failed to do so for this plan.

Mr. Bingham introduced Dianne Williams, President, and Jerry Blazek, Affirmative Action Officer and Human Resources Director, in attendance from Quinebaug Valley Community College. The affirmative action plan has been recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. During the reporting period, short-term goal achievement was 1 out of 11 or 9.1% and total goal achievement was 1 out of 11 or 9.1%. The plan was approved in 2003 and 2004, disapproved in 2005 and approved in 2006 and 2007. No further discussion followed on this Item.

Mr. Bingham introduced Grace Jones, President, and George Rezendes, Affirmative Action Officer, who were in attendance from Three Rivers Community College. The plan has been recommended for approval as the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 2 out of 8 or 25% and total goal achievement was 2 out of 8 or 25%. The plan has been approved for each of the past five years. Commissioner Cruz asked for additional information concerning the staff recommendations to improve some of the technical issues with the plan, including references to data that was missing for Black females in one of the analyses. Ms. Vigezzi stated she had to contact the agency to clarify some information with respect to goals analysis. In every

single analysis, data for Black females was missing. She recommended technical assistance on certain areas to try and eliminate the noted deficiencies from occurring and stressed that all data needs to be double checked before the plan is filed. Commissioner Mambruno noted the set-aside numbers for the College are up for the first two quarters of this year equaling almost the whole total of what was done last year. Mr. Bingham summarized how set-aside goals are set and explained the same criteria is used in setting goals regardless of the location of the agency.

Mr. Bingham introduced the following individuals representing the Department of Transportation: Albert Martin, Deputy Commissioner; Diane Donato, EEO Director; Ms. Cordula, EEO Manager; Nancy Bryant, EEO Specialist 2; and Edward Marcus, EEO Specialist 1. The affirmative action plan has been recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 43 out of 91 or 48%, long-term goal achievement was 7 out of 26 or 27%, total goal achievement was 50 out of 117 or 43% and promotion goal achievement was 62 out of 139 or 45%. The plan was approved in 2003, 2004 and 2005, disapproved in 2006 and approved in 2007. There was no additional discussion.

Walter Lippincott, Director, Military Staff; Laura Guilmartin, EEO Specialist; Roger Persson, Fiscal Administrative Supervisor; and Anthony Lewis, Human Resources Manager, were in attendance representing the Military Department. Mr. Bingham explained the affirmative action plan for this agency has been recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 4 out of 13 or 31%, long-term achievement was 1 out of 1 or 100%, total goal achievement was 5 out of 14 or 36% and program goal achievement was 2 out of 2 or 100%. The plan has been approved for each of the past five years. Commissioner Griffin asked if someone from the Military Department could describe some of the job titles that comprise the Professional-EEO-2 job category. Ms. Guilmartin, Affirmative Action Officer, indicated positions within this job category include Environmental Analyst and financial positions. These job titles represent civilian positions. Commissioner Mambruno commended the agency on their outstanding set-aside goal numbers for not only last year, but the first two quarters of this year as well.

Mr. Bingham introduced Leanne Appleton, Assistant Administrator, and Louis Laccavole, Fiscal Administrative Supervisor/Affirmative Action Officer, representing the Teachers' Retirement Board. The affirmative action plan has

been recommended for approval as the plan contains all the elements required, the agency has met all or substantially all of its hiring and program goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 1 out of 1 or 100%, total goal achievement was 1 out of 1 or 100% and program goal achievement was 0 out of 1 or 0%. The plan was approved in 2003, 2004, 2005 and 2006, and conditionally approved in 2007. No further discussion followed.

The following individuals were in attendance representing the Commission on Culture and Tourism: Karen Senich, Executive Director; Carolyn Underwood, Human Resources Director; and Johnette Tolliver, EEO Specialist 2. The plan has been recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. During the reporting period, short-term goal achievement was 2 out of 4 or 50% and total goal achievement was 2 out of 4 or 50%. The Commission on Culture and Tourism's first plan submittal was in 2007 and it was approved. There was no further discussion on this Item.

The motion accepting staff recommendations for approval and retention of annual filing status for Asnuntuck Community College, Middlesex Community College, Naugatuck Valley Community College, Northwestern Connecticut Community College, Quinebaug Valley Community College, Three Rivers Community College, the Department of Transportation, Military Department, Teachers' Retirement Board and Connecticut Commission on Culture and Tourism carried with Commissioners Cruz, Griffin, Mambruno and Marshall voting in the affirmative. Commissioner Lobon opposed the motion and the Chair did not vote.

Staff Recommendations: **Disapprovals**

1. Tunxis Community College

A motion was made by Commissioner Mambruno and seconded by Commissioner Marshall to accept the staff recommendation for disapproval and retention of annual filing status for Tunxis Community College. Mr. Bingham introduced Dr. Cathryn Addy, President, and David Welsh, Affirmative Action Officer, in attendance from Tunxis Community College. The plan has been recommended for disapproval based on non-compliance with the following: the workforce, considered as a whole and by occupational category, is not in parity with the relevant labor market area, the agency has not met all or substantially all of its hiring, promotion and program goals and the agency has not demonstrated every good faith effort to achieve its goals. Long-term goal achievement was 4

out of 14 or 29% and total goal achievement was 4 out of 14 or 29%. No short-term goals were set. The affirmative action plan for Tunxis Community College was disapproved in 2003 and approved in 2004, 2005, 2006 and 2007. Chairperson Norton raised a question regarding the position of Director of Human Resources and whether a degree is required for the position. David Welsh, Affirmative Action Officer, responded to the Chairperson and stated that within the community college system, there are system-wide job descriptions for almost every position, including the Director of Human Resources. The job description for Director of Human Resources requires a Master's degree. Commissioner Cruz asked for additional comment from the College regarding the disapproval recommendation. Both President Addy and Mr. Welsh addressed the Commissioners. Mr. Welsh acknowledged that the plan was deficient in clearly relating what the College has done to promote the goals of affirmative action in their hiring processes. He further acknowledged there are errors in the plan and that certain pieces of information could have been more clearly stated. Mr. Welsh stated he does not concur with the conclusion that the College has not made a good faith effort. Valerie Kennedy reviewed the plan and explained that the regulations require a detailed, searching and complete discussion of every search and when it involves the hire of a non-goal candidate, the agency must explain what happened to every candidate that was in the applicant pool. The plan failed to explain what happened to goal candidates in a number of searches. President Addy prepared a written statement that was provided to the Commissioners. She summarized her comments and stated that while she disagrees with the assessment, she understands why the conclusions were reached. President Addy also stated she strongly disagrees with the assessment that the College is not making a good faith effort primarily because the information is not presented in a way that is acceptable. There was no further discussion on this Item. The motion accepting the staff recommendation for disapproval and retention of annual filing status carried with Commissioners Cruz, Griffin, Mambruno and Marshall voting in favor of the motion. Commissioner Lobon opposed the motion and the Chair did not vote.

2. Commission on Human Rights and Opportunities

A motion was made by Commissioner Griffin to accept the staff recommendation for disapproval of the Commission on Human Rights and Opportunities' affirmative action plan. Commissioner Griffin's motion did not include the second part of the staff recommendation, which recommends removal of annual filing privileges. There was no second to the motion. Discussion followed regarding the disapproval recommendation. Mr. Bingham set forth the reasons for the disapproval recommendation, specifically the agency's failure to file the affirmative action plan within 90 days of the mandatory filing date. Mr. Bingham requested his entire statement, which was read at the meeting, become part of the record. His statement has been attached to the minutes as **ATTACHMENT A**.

Acting Executive Director Brothers also addressed the Commissioners regarding the disapproval recommendation. In response to a question from Commissioner Lobon, Mr. Brothers stated that he took the initiative during the time the former Executive Director was on vacation to obtain a draft of the affirmative action plan from the agency's Affirmative Action Officer just prior to its due date so he could begin to prepare a review. When the Executive Director returned from vacation, the Executive Director and Mr. Brothers met with CHRO's Affirmative Action Officer twice to discuss items they believed should be modified, changed or altered within the plan. He added that when he became the Acting Executive Director, he worked with the Affirmative Action Officer and made specific recommendations for language changes, as would any agency head who is reviewing their affirmative action plan, and the plan was filed within nine days of him becoming the Acting Executive Director and having the authority to do so. He indicated he cannot speak to why it wasn't filed prior to that. Mr. Brothers also indicated he strongly disagrees with Mr. Bingham's analysis that the plan be disapproved automatically due to its lateness. He noted there is no statutory or regulatory authority for defaulting or disapproving a plan because it has been filed late. In addition, there are no court cases on the point. Chairperson Norton asked Assistant Attorney General David Teed if he agreed with Mr. Brothers that there is no statutory or regulatory authority regarding disapproval of an affirmative action plan solely for lateness, and Assistant Attorney General Teed said that he did agree with Mr. Brothers. The information Mr. Brothers received from the Affirmative Action Unit regarding the agency's history of disapproving plans for late filing showed that no plan had been disapproved solely for lateness since 1986. The plans that were disapproved in 1986 were never filed, which is distinguishable from filing a plan late. Mr. Brothers requested the Commissioners decline the staff recommendation to disapprove the plan and ask that it be reviewed on the merits. Mr. Brothers concluded by noting he has already asked for a review of the plan irrespective of the decision that is made today.

Chairperson Norton sought clarification on some issues. He asked if the agency was given notice regarding the plan's lateness. Mr. Bingham indicated a notice was not sent, but the former Executive Director was made aware of the situation. In addition, the Chairperson asked for additional clarification regarding the Commission's "past practice" of disapproving plans filed more than 90 days after the mandatory filing date and whether there is a policy statement issued to agencies. Mr. Bingham cited a letter dated December 16, 1986 signed by former Executive Director Arthur Green which states ". . . the dates in which the plans are to be filed are set forth in Appendix A in Sec. 46a-68-51 of the Commission's Affirmative Action Regulations."

Considerable discussion followed involving all of the Commissioners. The Commissioners expressed their concerns with disapproving the plan solely for its lateness in the absence of statutory or regulatory authority to do so, as well as

the fact that the plan has not been reviewed on the merits and a draft of the plan was submitted to the former Executive Director prior to its February 15th due date. Commissioner Cruz stated for the record she is not comfortable rejecting a plan without a review. Acting Executive Director Brothers, in response to the Commissioners' concerns, stated the agency will include this issue in its proposals for the next Legislative session.

Debi Freund, President of the Connecticut Association of Affirmative Action Professionals, addressed the Commissioners and stated she polled all of the affirmative action officers in attendance and conveyed their understanding that if plans are 90 days late, the plan will be disapproved. In addition, she noted that those agencies that are late have been instructed by staff that if the plan is 90 days late, it will be automatically disapproved. Natalie Shipman also addressed the Commissioners and commented that she has never received notice that if you file a plan more than 90 days late, it will be disapproved. Ms. Kennedy indicated that staff contacts agencies when their plans are delinquent.

There was no further discussion. Commissioner Griffin withdrew his earlier motion. A motion was made by Commissioner Mambruno and seconded by Commissioner Griffin to reject the staff recommendation for disapproval of the Commission on Human Rights and Opportunities' affirmative action plan. The motion carried unanimously, with the exception of Chairperson Norton who did not vote. Acting Executive Director Brothers confirmed this will be on the agenda next month.

IV. NEW BUSINESS

- A. Request for Contract Compliance Exemption Between UCONN and Environmental Systems Research Institute, Inc. (CA)
- B. Request for Contract Compliance Exemption Between UCONN and Eduventures LLC (MA)
- C. Request for Contract Compliance Exemption Between UCONN and Oracle Corporation (CA)
- D. Request for Contract Compliance Exemption Between UCONN and Paciolan (CA)
- E. Requests for Contract Compliance Exemptions Between UCONN and Novell, Inc. (UT)
- F. Request for Contract Compliance Exemption Between UCONN and University of California, Berkeley and SPSS (IL)

- G. Request for Contract Compliance Exemption Between UCONN Health Center and Baxter Healthcare Corporation (IL)
- H. Request for Contract Compliance Exemption Between Judicial Branch and PbS Learning Institute, Inc. (MA)
- I. Request for Contract Compliance Exemption Between the Department of Transportation and the American Association of State Highway and Transportation Officials (AASHTO)
- J. Requests for Contract Compliance Exemptions from the Department of Transportation Regarding Five Agreements with Metro-North Commuter Railroad Company
- K. Request for Contract Compliance Exemption from the Department of Public Works with Timken US Corporation, n/k/a Timken US LLC

Acting Executive Director Brothers explained all of the noted contract compliance exemption requests have been recommended for granting. Items IV. J. and K. were provided to the Commissioners in their supplemental packets, as well as a corrected letter dated July 10, 2008 pertaining to Item IV.I. The letter dated July 10, 2008 contains a correction to the earlier letter dated July 2, 2008 with respect to the year the contract ends. There was no further discussion on any of the requests. A motion was made by Commissioner Griffin and seconded by Commissioner Marshall to accept all of the staff recommendations to grant the contract compliance exemption requests with the various contractors and state agencies noted in Items IV. A. – K. The motion carried unanimously, with the exception of the Chairperson who did not vote.

- L. Selection of an Executive Director Search Firm

Chairperson Norton reported the Executive Director Search Committee held two meetings with Commissioners Conaway, Cruz, Griffin and himself participating in the first meeting and Commissioners Conaway, Cruz, Mambruno and himself participating in the second meeting. With the assistance of CHRO's Fiscal Administrative Supervisor, the Commissioners narrowed down their research for the selection of a search firm to one specific firm, Recruitment Enhancement Services. Chairperson Norton indicated the noted firm best matches the Commission's needs with respect to services offered and price. A motion was made by Commissioner Cruz authorizing Michelle Provost, Fiscal Administrative Supervisor, to expend a maximum of \$10,000 to contract for executive director search services from Recruitment Enhancement Services. The motion was seconded by Commissioner Marshall and carried unanimously. Chairperson Norton did not vote on the motion. Ms. Provost stated she will gather all the

information needed before implementing the contract with Recruitment Enhancement Services. The Chair noted that as part of this process, Commissioner Conaway suggested a reference check be conducted.

V. OLD BUSINESS

A. Petition for Declaratory Ruling in the matter of The Salvation Army Regarding Civil Unions

In a letter dated June 18, 2008 The Salvation Army requested their petition for declaratory ruling as it relates to exemption from the non-discrimination certification requirements be withdrawn. The Salvation Army indicated they will comply with the contract compliance provisions. Acting Executive Director Brothers noted the various interveners who expressed an interest in the declaratory ruling do not object to having it withdrawn. He requested the Commissioners make a motion to accept The Salvation Army's withdrawal without prejudice in the event that in the future they want to revisit this issue. A motion was made by Commissioner Lobon and seconded by Commissioner Mambruno to accept The Salvation Army's withdrawal without prejudice. The motion carried unanimously. Chairperson Norton did not vote.

VI. DIVISION REPORTS

A. Affirmative Action Program Manager's Report

The Affirmative Action Program Manager was absent for today's meeting.

B. Fiscal Report

Michelle Provost, Fiscal Administrative Supervisor, noted the fiscal year ending personnel and fiscal status reports were furnished to the Commissioners in their supplemental packets. No further discussion followed regarding the reports.

C. Field Operations Report

Donald Newton, Chief of Field Operations, indicated his report was provided to the Commissioners in their mailing packet. There were no questions or comments for Mr. Newton from any of the Commissioners.

D. Legislative Report

James O'Neill, Legislative and Regulations Specialist, submitted to the Commissioners yesterday an electronic copy of an end-of-session summary for 2008 that includes the Regular, Special and Veto Sessions. The electronic format allows the Commissioners to access all bills that were passed by the

General Assembly. The summary prepared by Mr. O'Neill highlights bills of particular interest to CHRO, as well as other bills that were tracked. It also includes summaries regarding other major legislative action related to the broader state as opposed to just CHRO. Mr. O'Neill thanked the Commissioners for their support throughout the session, in particular with respect to contract compliance. Although CHRO's bill was not reported out of the Judiciary Committee, the Commissioners supported a resolution to inform the Governor and Legislature about CHRO's concerns regarding the increased number of exemption requests coming before the Commission as a result of the requirements of Public Act 07-142.

- E. Managing Director's Report
- F. Acting Executive Director's Report

Mr. Brothers reported that although he has been serving for only approximately six weeks as the Acting Executive Director, he believes he is making improvement with the help of the executive staff. He called the Commissioners' attention to their supplemental packet which contains two of the contract compliance exemption requests previously discussed under Item IV., as well as a corrected letter relating to Item IV.I., which was also previously discussed. Also included in the packet is a copy of the draft auditors' report and Mr. Brothers' comments. Mr. Brothers cautioned that draft reports are not disclosable under FOI and asked that the report remain confidential until such time as it is finalized. The agency will be meeting with representatives from the U.S. Department of Housing and Urban Development on Friday, July 11 when HUD will be conducting its annual audit regarding CHRO's Fair Housing Unit. In closing, Mr. Brothers noted there is one reopening request on today's agenda and he confirmed that the complainant was in attendance.

VII. EXECUTIVE SESSION

In accordance with Section 1-225(c) of the Connecticut General Statutes, as amended, it was moved by Commissioner Marshall and seconded by Commissioner Mambruno that the Commission go into Executive Session, including inviting Acting Executive Director Brothers and Assistant Attorney General David Teed for a portion of the Executive Session, for the purpose of discussing pending litigation, the reopening request and personnel matters as they may arise. The motion carried unanimously. Chairperson Norton did not vote. All members of the public were excused from the Executive Session.

VIII. RETURN TO REGULAR SESSION

It was moved by Commissioner Marshall and seconded by Commissioner Lobon to return to Regular Session. The motion carried unanimously, with the exception of the Chairperson who did not vote. Chairperson Norton noted there

were no votes taken during the Executive Session and no other individuals were invited to participate in the Executive Session.

IX. VOTE ON EXECUTIVE SESSION ITEMS

A. Report on Pending Claims or Pending Litigation

Chairperson Norton reported there was no required action on any of the litigation issues that were presented and no other claims discussed.

B. Reopening Request

1. Ronal Pierre v. Student Transportation of America – CHRO Case #0520111

A motion was made by Commissioner Mambruno and seconded by Commissioner Marshall to deny the reopening request in the matter of Ronal Pierre v. Student Transportation of America, CHRO Case # 0520111 as recommended by staff. The motion carried unanimously, with the exception of Chairperson Norton who did not vote. Chairperson Norton noted for the record the complainant in this matter failed to establish a basic case or argument as to why the matter should be reopened.

C. Personnel Matters

There was no discussion and nothing to report.

X. ADJOURNMENT

There being no further business to come before the Commission, it was moved by Commissioner Marshall and seconded by Commissioner Cruz to adjourn the meeting at 5:14 p.m. The motion carried unanimously. Chairperson Norton did not vote.

REASONS FOR DISAPPROVING CHRO'S AAP

PAST PRACTICE

1. IN THE 1980s CHRO ESTABLISHED A PRACTICE OF DISAPPROVING AFFIRMATIVE ACTION PLANS THAT WERE FILED MORE THAN 90 DAYS LATE
2. THE PRACTICE WAS IMPLEMENTED BECAUSE SOME AGENCIES WERE FILING MONTHS PAST THEIR FILING DATE.
3. AGENCIES THAT DID FILE MORE THAN 90 DAYS LATE WERE DISAPPROVED
4. SINCE THIS PRACTICE WAS IMPLEMENTED, AGENCIES STOPPED FILING MORE THAN 90 DAYS LATE
5. AGENCIES HAVE FILED UP TO 89 DAYS LATE (AS RECENTLY AS THIS PAST MONTH)

SUPPORT FOR THE PAST PRACTICE

1. SECTION 46a-68-51 FILING SCHEDULE REQUIRES ALL AGENCIES TO FILE AFFIRMATIVE ACTION PLANS ON THEIR FILING DATE WHICH IS DETERMINED BY THE STATE LEGISLATURE
2. THERE IS NO GRACE PERIOD FOR FILING LATE
3. SECTION 46a-68-60(1) PLAN REVIEW AND ANALYSIS – ASSESS THE DEGREE OF PROCEDURAL COMPLIANCE WITH THESE REGULATIONS
4. PLANS NOT FILED ON OR BEFORE THEIR FILING DATE ARE NOT IN COMPLIANCE WITH THE REGULATIONS
5. SECTION 46a-68-62(b) – COMMISSION REVIEW - IF THE COMMISSION FAILS TO FORMALLY APPROVE OR DISAPPROVE AN AFFIRMATIVE ACTION PLAN WITHIN 90 DAYS OF THE DATE SUCH PLAN IS FILED, THE PLAN SHALL

BE DEEMED TO BE APPROVED. SUCH PLANS SHALL BE DESIGNATED COMMISSION APPROVED PLANS BY DEFAULT.

6. THE CHRO PRACTICE OF DISAPPROVING PLANS THAT ARE SUBMITTED MORE THAN 90 DAYS LATE USED 90 DAYS AS THE CUT OFF DATE TO ENSURE THAT AN AGENCY THAT FAILED TO FILE A PLAN WITHIN 90 DAYS OF THE FILING DATE WAS NOT VOTED APPROVED BY DEFAULT.

SUPPORT FOR THE RECOMMENDATION TO DISAPPROVE CHRO'S PLAN FOR FAILURE TO FILE ON TIME

1. SECTION 46a-68-52(a)(1) - ANNUAL FILING STANDARDS - THE TIMELINESS OF PRIOR SUBMISSIONS - SHALL BE CONSIDERED IN THE DETERMINATION FOR ANNUAL FILING
2. SECTION 46a-68-52(a)(2) - THE DEGREE TO WHICH PRIOR PLANS ARE IN COMPLIANCE WITH APPLICABLE LAW AND SECTIONS 46a-68-31 THROUGH 46a-68-74 INCLUSIVE
3. SECTION 46a-68-52(b) - THE COMMISSION MAY RESCIND THE ANNUAL FILING PRIVILEGE AT ANY TIME FOR FAILURE TO MAINTAIN THE LEVEL OF PERFORMANCE REQUIRED IN SUBSECTION (a) OF THIS SECTION.
4. CHRO'S PLAN WAS CONDITIONALLY APPROVED IN 2006 AND DISAPPROVED IN 2007

REPERCUSSIONS OF ELIMINATING PAST PRACTICE RELATED TO LATE FILING

1. THERE WILL BE NO PENALTY FOR FILING A PLAN LATE, NO MATTER HOW LATE, SO THERE IS NOTHING TO STOP AGENCIES FROM SIMPLY WHEN IT'S CONVENIENT
2. IT RAISES THE ISSUE OF CHRO'S COMMITMENT TO AFFIRMATIVE ACTION IF THE COMMISSION ELIMINATES A

PRACTICE ONLY WHEN AND BECAUSE IT HAS A NEGATIVE IMPACT ON ITSELF

3. CHRO SHOULD SET THE STANDARD IN AFFIRMATIVE ACTION AS THE AGENCY CHARGED WITH MONITORING AND ENFORCING COMPLIANCE NOT FINDING WAYS TO CIRCUMVENT THE REGULATIONS

OTHER PRACTICAL CONSIDERATIONS

1. IF AGENCIES CAN FILE WHENEVER THEY WANT TO, THE WORK SCHEDULE IS MEANINGLESS – WE COULD HAVE 20 (OR MORE) PLANS TO REVIEW FOR ONE COMMISSION MEETING MAKING IT IMPOSSIBLE TO MEET THE DEADLINE (WHICH IS STILL IN FORCE)
2. CHRO'S PLAN IS SCHEDULED FOR FILING 3 AND A HALF MONTHS AFTER THE REPORTING PERIOD AND IT'S 127 DAYS LATE SO IT IS NOW 7 ½ MONTHS AFTER THE REPORTING PERIOD – BY THE TIME IT'S REVIEW IT WILL BE 10 MONTHS INTO THE NEW REPORTING PERIOD - IN THIS SITUATION THE AGENCY IS FUNCTIONING WITHOUT AN APPROVED PLAN AND GOALS FOR 10 MONTHS – MAKING THE FILING AND REVIEW OF THIS PLAN VIRTUALLY IRRELEVANT.