

**MINUTES OF THE REGULAR COMMISSION MEETING OF THE COMMISSION ON
HUMAN RIGHTS AND OPPORTUNITIES
TUESDAY, OCTOBER 7, 2008, 2:00 P.M.
21 GRAND STREET, HARTFORD, CONNECTICUT 06106
LARGE CONFERENCE ROOM**

COMMISSIONERS PRESENT

Andrew Norton, Chairperson
Edward Mambruno, Secretary
Cheryl Lynn Clarke
Alexia E. Cruz
John Lobon
George Marshall

COMMISSIONERS ABSENT

Larry Conaway
Jimmie L. Griffin

STAFF PRESENT

Robert J. Brothers, Jr., Acting Executive Director
Alvin Bingham, Affirmative Action and Contract Compliance Supervisor
James O'Neill, Legislative and Regulations Specialist
Michelle Provost, Fiscal Administrative Supervisor
Gloria Sparveri, Affirmative Action Program Manager
Linda Civitillo, Executive Secretary

I. CHAIRPERSON

A. Convene Meeting

Chairperson Andrew Norton convened the October 7, 2008 Regular monthly meeting of the Commission on Human Rights and Opportunities at 2:05 p.m. Chairperson Norton welcomed back a former Commission member, Cheryl Clarke, who was recently reappointed by Governor Rell to serve on the Commission.

II. SECRETARY

A. Review and Approval of Minutes of September 11, 2008 Regular Commission Meeting

Secretary Mambruno requested a motion approving the minutes of the September 11, 2008 Regular Commission meeting. A motion was made by Commissioner Marshall and seconded by Commissioner Mambruno to approve the minutes of the September 11, 2008 Regular Commission meeting as presented. There was no discussion. The motion carried with Commissioners Cruz, Mambruno and Marshall voting in favor of the motion. Commissioners Clarke and Lobon abstained and Chairperson Norton did not vote.

III. AFFIRMATIVE ACTION RECOMMENDATIONS

A. Agencies Proposed Affirmative Action Plans

Staff Recommendations: **Approvals**

1. Office of the Attorney General
2. Police Officer Standards and Training Council
3. Eastern Connecticut State University
4. Western Connecticut State University
5. Office of the Secretary of the State

Chairperson Norton requested a motion to accept the staff recommendations for approval and retention of annual filing status for the Office of the Attorney General, Police Officer Standards and Training Council, Eastern Connecticut State University, Western Connecticut State University and Office of the Secretary of the State. 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 five noted affirmative action plans. The Chairperson invited Alvin Bingham, Affirmative Action and Contract Compliance Supervisor, to introduce the agency representatives in attendance and provide an overview for each approval recommendation.

Mr. Bingham introduced Carolyn Querijero, Deputy Attorney General, and Rik Campbell, Chief Administrative Officer/Affirmative Action Designee, in attendance from the Office of the Attorney General. The plan is being recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has met all or substantially all of its hiring goals, but not promotion goals, 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 8 out of 10 or 80%, total goal achievement was 8 out of 10 or 80% and promotion goal achievement was 8 out of 22 or 35%. The plan was approved in 2003, 2004 and 2005, conditionally approved in 2006 and approved in 2007. In response to an inquiry from Chairperson Norton, Mr. Campbell confirmed that the three job titles that comprise the Officials/Administrator positions within the Attorney General's Office are the Deputy Attorney General, the Business Manager and his position, Chief Administrative Officer. Mr. Campbell also confirmed that there were 18 White male goals within the Professional category, which combined both long-term and short-term goals. No further discussion followed.

Mr. Bingham introduced the following individuals in attendance representing the Police Officer Standards and Training Council: Chief Thomas Flaherty, Executive Director; Bill Schultz, Laura Guilmartin, Amanda Anduaga-Roberson,

and Diana McKenney. The plan is being recommended for approval based on compliance with the following: the plan contains all the elements required and the agency has met all or substantially all of its hiring goals. In addition, the agency had no deficient elements in the previous plan and, therefore, is in compliance with the (b)(4) standard. 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 1 out of 1 or 100%. The plan was approved by default in 2003 and approved in 2004, 2005, 2006 and 2007. There was no further discussion on this Item.

The following representatives from Eastern Connecticut State University were in attendance: President Elsa Nuñez, Constance Green, Chief Diversity Officer/Executive Assistant to the President, and Jay Zhu, Coordinator of HRIS and Affirmative Action. The plan is being 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 18 out of 33 or 55%, total goal achievement was 18 out of 33 or 55% and promotion goal achievement was 9 out of 13 or 69%. The plan was approved in 2003 and 2004, disapproved in 2005 and approved in 2006 and 2007. Chairperson Norton raised a question regarding long-term goal achievement. Neva Vigezzi, Affirmative Action Program Analyst, explained that, in general, hires are first applied to the goals with short-term timetables and then to goals with long-term timetables. Commissioner Cruz requested additional feedback from the University regarding whether it is typical to have only one Black female applicant for a number of Assistant Professor positions. President Nuñez stated it depends on the discipline. For example, Sociology attracts a strong diverse pool among African Americans and Hispanics. Other fields, such as Biology, tend to be more difficult to attract diverse pools. President Nuñez further noted the more specialized the field, the less diverse the pool. No further discussion followed.

Mr. Bingham introduced President James Schmotter and Bryan Samuel, Director of Affirmative Action Programs, in attendance from Western Connecticut State University. The plan is being recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith 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 13 out of 27 or 48%, long-term goal achievement was 3 out of 3 or 100%, total goal achievement was 16 out of 30 or 53% and promotion goal achievement was 9 out of 13 or 69%. The plan has been approved for each of the past five years. Chairperson Norton raised a general question with respect to "parity with the relevant labor market area" and how we determine whether an agency is or isn't at parity. Ms. Vigezzi explained

it's the part of the plan called the availability analysis where an agency determines what the relevant labor market area is. Universities utilize nationwide statistics in addition to possibly statewide unemployment statistics. In the utilization analysis, an agency compares its own workforce to the figures in the availability analysis and determines the areas which are either at parity, underutilized or overutilized. The areas that are underutilized are where an agency sets its goals. Commissioner Cruz commented on the broad resources used by the University to recruit for positions and asked if the University has been successful with having more diverse candidates apply for positions such as Professorships. In addition to the recruitment sources noted in the summary, Mr. Samuel described further efforts the University has undertaken, which will be reflected in the next plan, including bringing the Sisters of the Academy Institute to the campus from their national headquarter in Auburn University and working with the American Association of Hispanics in Higher Education. Mr. Samuel noted that during this reporting period, the University hired two African American males, one Other male and an African American female as a result of networking with the Sisters of the Academy. Mr. Samuel stated all of their resources are beginning to yield positive results. In addition, the University receives support from the faculty, departments, deans and vice presidents. In response to a question from Commissioner Clarke, Mr. Samuel indicated the University is usually able to determine which resources are more productive than others. They generally do not remove a recruitment resource, but they may add to or extend a resource. There was no further discussion on this Item.

Mr. Bingham introduced Lesley Mara, Deputy Secretary of the State, in attendance from the Office of the Secretary of the State. The plan is being 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 2 out of 6 or 33%, long-term goal achievement was 0 out of 2 or 0% and total goal achievement was 2 out of 8 or 25%. The plan has been approved for each of the past five years. There was no additional discussion.

A motion having been made and properly seconded approving the noted affirmative action plans with retention of annual filing status, Chairperson Norton called for a vote. The motion carried unanimously. Chairperson Norton did not vote.

Staff Recommendations: Disapprovals

1. Soldiers', Sailors' and Marines' Fund

A motion was made by Commissioner Marshall to accept the staff recommendation for disapproval and retention of biennial filing status for the

Soldiers', Sailors' and Marines' Fund. Commissioner Mambruno seconded the motion. Mr. Bingham introduced John Monahan, Administrator, and Charles Berry, Assistant Administrator/Affirmative Action Officer, in attendance from the agency. The plan is being recommended for disapproval based on non-compliance with the following: 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. Short-term goal achievement was 1 out of 4 or 25% and total goal achievement was 1 out of 4 or 25%. The plan was approved in 2004 and 2006. Discussion followed regarding the disapproval recommendation. Mr. Monahan addressed the Commissioners. He explained that the Soldiers', Sailors' and Marines' Fund, although a state agency, is administered by the American Legion. Both his and Mr. Berry's positions, Administrator and Assistant Administrator, are appointed by the American Legion. During this reporting period, two Veteran's Aid Investigators were hired and he believed those positions should be filled by veterans, however, there were no goal candidates who were veterans. Subsequent to these hires, Mr. Monahan petitioned the Department of Administrative Services to have the job specification changed so the incumbents in these positions must be statutory veterans. Valerie Kennedy, HRO Representative, also addressed the Commissioners. She explained one of the problems found in the plan was that there was no discussion regarding the applicant pools or what happened to the goal candidates. Without that explanation, there is no demonstration of good faith effort. In addition, there was no explanation of which comments went with which search. Ms. Kennedy indicated that it may not be appropriate for the agency to include the two elected positions when setting goals. Ms. Kennedy stated she would be willing to meet with the agency on this issue as part of a technical assistance session. There was no further discussion on this Item. Chairperson Norton called for a vote on the motion. The motion disapproving the affirmative action plan for the Soldiers', Sailors' and Marines' Fund failed with the following Commissioners opposing the motion: Clarke, Cruz, Lobon, Mambruno and Marshall. Chairperson Norton did not vote on the motion. A motion was made by Commissioner Mambruno to change the staff recommendation from disapproval to conditional approval with retention of biennial filing status. The motion was seconded by Commissioner Clarke. The motion carried unanimously. Chairperson Norton did not vote.

2. Department of Public Health

A motion was made by Commissioner Mambruno and seconded by Commissioner Clarke to accept the staff recommendation to disapprove the affirmative action plan for the Department of Public Health and change them to semi-annual filing. Mr. Bingham introduced the following individuals in attendance from the Department of Public Health: Norma Gyle, Deputy Commissioner; Catherine Kennelly, Chief Administrative Officer; and LaWanda Scott, EEO Assistant. The plan is being 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, the agency has not demonstrated every good faith effort to achieve its goals and the agency has not substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 18 out of 34 or 52%, long-term goal achievement was 1 out of 1 or 100%, total goal achievement was 19 out of 35 or 54% and promotion goal achievement was 11 out of 22 or 50%. The plan was approved in 2003, 2004 and 2005, disapproved in 2006 and approved in 2007. Discussion followed regarding the disapproval recommendation. Commissioner Cruz inquired if there are a greater number of recommended disapprovals because of calculation issues. Mr. Bingham stated in the case of the Department of Public Health, the agency received technical assistance sessions and worked with the reviewer. Ultimately it is the agency's responsibility to prepare the plan and the recommendation is based upon what is contained in the plan. Mr. Bingham stated that he does not believe there have been a greater number of agencies being recommended for disapproval due to calculation issues. Deputy Commissioner Gyle addressed the Commissioners. She acknowledged there are certain factors that contributed to the recommendation for disapproval, including staffing considerations in the Affirmative Action Office which resulted in absences on half of the work days between January 5 and submittal of the plan. In addition, the situation over the next few months remains unclear. Deputy Commission Gyle indicated that in the absence of the Affirmative Action Officer, Catherine Kennelly, the Chief Administrative Officer, was available to respond to any questions regarding the plan during the review process. Deputy Commissioner Gyle requested ongoing technical assistance on those areas of the plan considered deficient. In particular, the agency is concerned about the prospective goals, which were approved last year and disapproved this year. Deputy Commissioner Gyle respectfully requested that the Commission continue to allow the Department to file the plan according to its regular annual schedule and stated the agency's commitment to a workforce that reflects diversity. In response to a question from Commissioner Clarke regarding staffing concerns with the Affirmative Action Office, Deputy Commissioner Gyle indicated the agency has committed other resources that will be primarily responsible for the plan. Valerie Kennedy was one of the reviewers of the plan and stated there were a number of points noted in the summary that indicated the data was inconsistent throughout the entire plan. The workforce analysis in this plan reported numbers of employees in various job categories that did not correspond with the number of employees reported in the utilization analysis and employment analysis for the same categories. The recommendation to change the agency to semi-annual filing would allow them to deal with six months of a reporting period, rather than a year. Catherine Kennelly also addressed the Commissioners and indicated that she would be included in any technical assistance sessions as would the Affirmative Action Officer to the extent that he is available. Chairperson Norton

asked if some of the inconsistencies within the plan can be resolved through technical assistance without moving the agency to semi-annual status. Ms. Kennedy indicated that the formal evaluation the agency receives within two weeks of the Commission meeting has already been prepared and it is recommended that the goals be recalculated within 30 days, in addition to the workforce analysis and an accurate reporting of who was hired during the plan period.

Several Commissioners indicated they would be willing to accept the staff recommendation for disapproval of the plan, but have the agency retain annual filing status. Commissioners Mambruno and Clarke, who made and seconded the original motion, agreed to amend the motion to disapprove the affirmative action plan for the Department of Public Health and allow the agency to retain annual filing status. The motion carried unanimously. Chairperson Norton did not vote on the motion.

IV. NEW BUSINESS

- A. Request for Contract Compliance Exemption Between UCONN and Guidance Software, Inc. (CA)
- B. Request for Extension of Blanket Contract Compliance Waiver Exemption By UCONN Health Center for Grant Based, Collaborative and Consulting Agreements
- C. Request for Blanket Waiver Request by the Connecticut Community Colleges for Clinical Site Agreements
- D. Request for Contract Compliance Exemption for Agreements Between the Department of Environmental Protection and the National Audubon Society, Inc. (NY)
- E. Request for Contract Compliance Exemption Between UCONN Health Center and BearingPoint, Inc. (VA)
- F. Request for Contract Compliance Exemption Between UCONN and The MathWorks, Inc. (MA)
- G. Request for Contract Compliance Exemption Between UCONN and Dassault Systèmes Simulia Corp. (RI)
- H. Request for Contract Compliance Exemption Between Board for State Academic Awards and Apple, Inc. (CA)

I. Request for Contract Compliance Exemption Between UCONN School of Law and Western New England College School of Law (MA)

Robert Brothers, Acting Executive Director, summarized the nine contract compliance exemption requests on today's agenda. He noted information and staff recommendations pertaining to Items IV.A., C., D., F., G., H. and I. have been included in the Commissioners' supplemental packet. The others were sent with the mailing. Item IV. A. is a request between UCONN and Guidance Software, which calls for the purchase of software used in performing forensic analysis of computer hard drives. The staff is recommending it be granted with conditions, specifically, that the Commission be provided with a nondiscrimination certification signed by a corporate executive. Item IV.B. is a blanket contract exemption between UCONN Health Center and collaborative and consulting agreements. On May 8, 2008, the Commission granted the same type of exemption which expires on November 8, 2008. The recommendation is to grant with the following conditions: to extend the previously granted blanket exemption and provide CHRO with quarterly reports. Item IV.C. is being recommended for granting with conditions. It involves clinical site agreements between in-state hospitals or medical facilities that provide opportunities for students to gain practical experience. Item IV.D. is with the Department of Environmental Protection and involves three agreements with the National Audubon Society that deal with recreational trails as one example. The exemption is needed because the Audubon Society meets three times a year and its next meeting will be post this Commission meeting. The recommendation is to grant the request with the condition that the National Audubon Society provide the Commission with a copy of the resolution by November 12, 2008. Item IV. E. is being recommended for granting with conditions. It deals with consulting services related to federally sponsored program administration. The condition is that the Commission receive a certification from a high ranking official within the company by October 10, 2008. Item IV. F. is being recommended for granting with conditions. The request deals with a specialized math-based software. UCONN has been dealing with the contractor for approximately eight years and it appears that the contractor has not complied with the board resolution requirement. The recommendation is that the exemption be granted on a nonrenewable basis for one year, which would provide UCONN with enough time to search for another contractor or for this contractor to comply with the resolution requirement. The remaining requests, Items IV. G., H. and I, are being recommended to deny without prejudice. Mr. Brothers explained that the staff was working on these requests as of today. If the requesting agency has not provided the staff with sufficient information to prepare an adequate review within a timely fashion, the recommendation is to deny without prejudice. Prior to a motion, Michael Gerrard and John Bennett from UCONN addressed the Commissioners with respect to Item IV. G. Mr. Gerrard asked the Commissioners to reconsider denying this exemption inasmuch as UCONN has been working with the contractor since May with

regard to the renewal of a license that they have had for many years. In addition, Mr. Gerrard stated he submitted all the necessary information to the Commission as soon as it was possible to do so. The exemption request is for a software license that is used by the Engineering School for its faculty and students and will expire at the end of the month. Mr. Bennett indicated he believes the contractor will comply with the necessary requirements. Both Messrs. Gerrard and Bennett requested the Commission consider granting a one-time exemption, similar to the one granted in Item IV.F. between UCONN and MathWorks. Mr. Brothers indicated he would be willing to recommend that the request be granted with the condition that the contract and all related documentation must be reviewed by one of the attorneys in the Legal Division. There was no further discussion. A motion was made by Commissioner Mambruno and seconded by Commissioner Marshall to grant, with conditions, Items IV. A. – G. and deny without prejudice Items IV. H. and I. The motion carried unanimously, with the exception of Chairperson Norton who did not vote.

V. DIVISION REPORTS

A. Affirmative Action Program Manager's Report

The Affirmative Action Program Manager's reports were provided to the Commissioners in their mailing. Ms. Sparveri indicated there was no significant activity to report for the prior month. CHRO is subject to the hiring freeze, however, one HRO Representative vacancy in the Waterbury office was authorized for refill. The process for filling that vacancy is currently underway and will be reflected in next month's report. Since the Commission is in the process of hiring an Executive Director, Chairperson Norton confirmed that the goals for the Officials/Administrators category are one White female, one Hispanic female, one White male and one White male through upward promotion.

B. Fiscal Report

Michelle Provost, Fiscal Administrative Supervisor, provided a summary regarding the fiscal report. Copies of the personnel status report and financial status report for the month ending September 30, 2008 were provided to the Commissioners for their review. Ms. Provost indicated the current year budget has been decreased by a total of five percent. A ten percent reduction had to be submitted for the next two fiscal years. Ms. Provost confirmed that the agency is also subject to the ban on out-of-state travel, however, most of CHRO's travel is federally funded, which is exempt from the travel ban. There was a short discussion regarding the current salary range for the Executive Director position. The Chairperson asked Ms. Provost to confirm the salary range at her earliest convenience.

C. Field Operations Report

Mr. Brothers indicated that Mr. Newton is out of the office due to illness. A copy of the Report on Caseload Statistics was provided to the Commissioners in their mailing. Commissioner Cruz suggested that it might be beneficial to devote some time next month discussing the field operations report, specifically how the agency is doing with the cumulative pending cases and cases exceeding timeframes. Mr. Brothers indicated he has been working closely with Mr. Newton to get the number of pending cases that exceed the timeframes down. Mr. Brothers acknowledged the number of cases exceeding the timeframes is higher in the Bridgeport office due primarily to staff turnover. Mr. Brothers further noted that regional managers hold periodic case reviews with their investigative staff in order to keep cases moving and his expectation with respect to the quantity of cases to be processed by investigators has been disseminated through the managers.

D. Legislative Report

James O'Neill, Legislative and Regulations Specialist, indicated the Commission is in the process of preparing its 2009 legislative proposals. The legislative packet will include a proposal which will address the 90-day timeframe issue for affirmative action plans, as well as a technical revision bill to correct some inconsistencies in the language in the statutes. In addition, the agency will make another effort with respect to the contract compliance exemption issue. A copy of the agency's entire legislative package will be provided to the Commissioners next month.

A short discussion followed regarding the 90-day timeframe issue. Commissioner Cruz asked if the statutory revision would provide for the automatic disapproval of an affirmative action plan if filed beyond the 90-day timeframe and if so, would those plans have to come before the Commissioners. Mr. Brothers indicated plans automatically disapproved due to late filing would not have to come before the Commissioners, but the Commissioners would be advised of any plans disapproved for late filing. Mr. Brothers also stated a certificate of non-compliance is not issued automatically due to a disapproved plan and that he is not contemplating adding language regarding extensions into the statute.

E. Managing Director's/Acting Executive Director's Report

Mr. Brothers provided several highlights from the previous month for the Commissioners. He called their attention to three Law Tribune articles included the packet – the initial article, Mr. Brothers' response and a reply to Mr. Brothers' response. Mr. Brothers noted that he attended the Governor's staff meeting held

last month with agency heads at which time the Governor reiterated that additional budget cuts will be requested. Most of CHRO's cuts have been absorbed through open positions. The Central Office is in the process of relocating to a location in downtown Hartford. The two properties being considered are 20 Church Street and the old G. Fox Building. Mr. Brothers attended and spoke at the Connecticut Association of Affirmative Action Professionals annual meeting. During his presentation, he discussed the importance of closing the 90-day late filing loophole. Performance reviews have been completed for employees and he has begun the PARS evaluation process for managers. The Chairperson briefly noted that he also spoke at the Connecticut Association of Affirmative Action Professionals meeting. At that time, he discussed ways to make the affirmative action plan review process more collaborative than compliance-based. Mr. Brothers reported that he has been working closely with Mr. Bingham to develop training to assist the individuals responsible for preparing plans, as well as other avenues that can be explored to make the process better.

In closing, Mr. Brothers noted that Assistant Attorney General David Teed was unavailable for today's meeting because he is on vacation. The Chairperson stated there would be no need for an Executive Session.

VI. ADJOURNMENT

There being no further business to come before the Commission, it was moved by Commissioner Marshall and seconded by Commissioner Clarke to adjourn the meeting at 4:45 p.m. The motion carried unanimously. Chairperson Norton did not vote.