

**MINUTES OF THE REGULAR COMMISSION MEETING OF THE COMMISSION ON
HUMAN RIGHTS AND OPPORTUNITIES
THURSDAY, NOVEMBER 13, 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
Larry Conaway (joined the meeting in progress)
Shelley Copeland (joined the meeting in progress)
Alexia E. Cruz
Jimmie L. Griffin (participated telephonically)

COMMISSIONERS ABSENT

John Lobon

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
Gloria Sparveri, Affirmative Action Program Manager
David Teed, Assistant Attorney General
Linda Civitillo, Executive Secretary

I. CHAIRPERSON

A. Convene Meeting

Chairperson Andrew Norton convened the November 13, 2008 Regular monthly meeting of the Commission on Human Rights and Opportunities at 2:13 p.m.

II. SECRETARY

A. Review and Approval of Minutes of October 7, 2008 Regular Commission Meeting

Secretary Mambruno requested a motion approving the minutes of the October 7, 2008 Regular Commission meeting. A motion was made by Commissioner Clarke and seconded by Commissioner Cruz to approve the minutes of the October 7, 2008 Regular Commission meeting as presented. There was no discussion. The motion carried with Commissioners Clarke, Cruz, Griffin and Mambruno voting in favor of the motion. Commissioners Conaway and Copeland were not present for the vote and the Chairperson did not vote.

III. AFFIRMATIVE ACTION RECOMMENDATIONS

A. Agencies Proposed Affirmative Action Plans

Staff Recommendations: **Approvals**

1. State Elections Enforcement Commission
2. Workers' Compensation Commission
3. Southern Connecticut State University
4. Department of Labor

Chairperson Norton requested a motion to accept the staff recommendations for approval and retention of annual filing status for the State Elections Enforcement Commission, Workers' Compensation Commission, Southern Connecticut State University and Department of Labor. A motion was made by Commissioner Griffin and seconded by Commissioner Clarke to accept the staff recommendations for approval and retention of annual filing status for the four 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. (Commissioner Conaway joined the meeting)

Mr. Bingham introduced the following individuals in attendance from the State Elections Enforcement Commission: Jeffrey Garfield, Executive Director and General Counsel, and Jean Love, Fiscal Administrative Officer/Affirmative Action Officer. 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 and 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 9 out of 10 or 90% and total goal achievement was 9 out of 10 or 90%. No program goals were set in the prior plan. The plan was approved in 2007, which was the agency's first plan filing. Mr. Garfield responded to a question from Chairperson Norton and indicated the agency is responsible for producing the plan in house. He complimented the staff of the Commission on the assistance they received regarding the technical requirements. Commissioner Clarke asked Mr. Garfield to describe some of the job titles that fall within the categories of Officials/Administrators and Professionals. Mr. Garfield indicated some job titles within Officials/Administrators include Executive Director, Deputy Director, Director of the Citizen Election Program and Director of the Enforcement Unit. Job titles within the Professional category include all of the attorney positions and the professional accounting staff. Commissioner Cruz observed that there were a number of procedural items noted as deficient in the plan and asked if the agency felt they could be remedied for the next plan filing. Mr. Garfield noted that he has not seen the evaluation, but reiterated that he will continue to work

with the staff to cure any deficient issues. Susan Hom, HRO Representative, addressed the Commissioners and stated her understanding that there was a different person who prepared the first plan and indicated she will work closely with the new EEO person who is responsible for preparing the plan. Ms. Hom also explained the goals set last year when the agency's total workforce was 25 may be very different next year since the agency now has a larger total workforce. No further discussion followed.

Mr. Bingham introduced John Mastropietro, Chairman; Sandra Cunningham, HR/Affirmative Action Officer; Fran Wynn, Attorney General Designee; and Peter Miecznikowski, Research and Statistics, in attendance from the Workers' Compensation Commission. 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, promotion and program goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 3 out of 4 or 75%, total goal achievement was 3 out of 4 or 75% and promotion goal achievement was 6 out of 8 or 75%. The plan has been approved for each of the past five years. Chairperson Norton asked if the Governor appoints a lot of staff within the Workers' Compensation Commission. Chairman Mastropietro indicated the only appointments made by the Governor, with the approval of the Legislature, are the 16 Commissioners, with one serving as the Chairperson. Those individuals are not included in the 112 total employees. Chairperson Norton noted the workforce analysis chart for this agency is informative because it provides a breakdown of percentages within each category and not just for the totals. The Chair suggested it might be beneficial for all of the agency-wide workforce analyses to be broken down similarly. Commissioner Mambruno commended the agency on their substantial goal achievement. There was no further discussion.

The following individuals were in attendance representing Southern Connecticut State University: President Cheryl Norton and Marcia Smith Glasper, Director of Diversity. 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 23 out of 42 or 55%, total goal achievement was 23 out of 42 or 55% and promotion goal achievement was 16 out of 32 or 50%. The plan was approved in 2003 and 2004, conditionally approved in 2005 and 2006 and approved in 2007.

Mr. Bingham introduced Patricia Mayfield, Commissioner; Dr. Haskell Kennedy, Director of Diversity and Equity Programs; Lorna McLeod, Program Services Coordinator; and Sonia Fonseca, Customer Services Representative, in attendance from the Department of Labor. 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 3 out of 5 or 60%, total goal achievement was 3 out of 5 or 60% and promotion goal achievement was 14 out of 24 or 58%. The plan was approved in 2003, conditionally approved in 2004, disapproved in 2005 and approved in 2006 and 2007. Commissioner Mambruno acknowledged the Department of Labor has gone through some difficult times, however, the last two plans have been approved and commended the agency on its substantial improvement. No further discussion followed on this Item.

Prior to a vote on the motion, Chairperson Norton thanked all four agency heads for attending today's meeting. A motion having been made and properly seconded, the Chair called for a vote. The motion carried with Commissioners Clarke, Conaway, Cruz, Griffin and Mambruno voting in favor of the motion. Commissioner Copeland was not present for the vote and the Chairperson did not vote.

IV. NEW BUSINESS

- A. Request for Contract Compliance Exemption Between Department of Mental Health and Addiction Services and Trustees of Dartmouth College
- B. Request for Contract Compliance Exemption Between Department of Transportation and Transcom, Inc.
- C. Request for Contract Compliance Exemption Between UCONN and Oracle USA Corporation
- D. Request for Contract Compliance Exemption Between UCONN and Western New England School of Law
- E. Request for Contract Compliance Exemption Between UCONN Health Center and United Technologies Research Center
- F. Request for Contract Compliance Exemption Between UCONN and Keithley Instruments, Inc.
- G. Request Contract Compliance Exemption Between Connecticut Community Colleges and Blackboard, Inc.
- H. Request for Contract Compliance Exemption Between Board for State Academic Awards and Apple, Inc.

(Commissioner Copeland joined the meeting) Chairperson Norton introduced Reverend Shelley Copeland who was recently appointed to serve as a CHRO Commissioner by Governor Rell. The Chairperson also took a moment to express his gratitude to Commissioner George Marshall for his many years of service to the Commission.

Acting Executive Director Robert Brothers provided a brief summary regarding contract compliance exemption requests Items IV.A.–H. At the time of the mailing, decisions were made with respect to the requests. One recommendation has changed since the mailing regarding IV.A. Items IV.A., D. and H. are all being recommended for conditional approval. All three of the agencies making the requests have made representations to the Commission that they are bringing the resolution they are required to have by the contractor to their board of directors. They have further indicated they will report back to the Commission once the resolutions have been adopted as required. The remaining Items, IV. B., C., E., F. and G. are all recommended for denial without prejudice. The reason for the denial recommendation in each exemption request is due to the fact that, as of this time, the contractor or the state agencies have not provided the Commission with the information needed to grant the exemption. Mr. Brothers concluded by noting there are several agency representatives in attendance who would like to address the Commissioners regarding Items IV. B. and C.

The Chair requested a motion on the exemption requests being recommended for conditional approval. A motion was made by Commissioner Griffin and seconded by Commissioner Conaway to accept the staff recommendations for conditional approval in the case of Items IV. A., D. and H. The motion carried unanimously. Chairperson Norton did not vote.

A motion was made by Commissioner Mambruno and seconded by Commissioner Cruz to deny without prejudice, based on staff recommendations, Items IV. B., C., E., F. and G. Chairperson Norton asked for discussion on these Items as needed. Individuals from the Department of Transportation, University of Connecticut and UCONN Health Center expressed an interest in addressing the Commissioners.

Harold Decker from the Department of Transportation addressed the Commissioners regarding Item IV.B., Request for Contract Compliance Exemption Between Department of Transportation and Transcom, Inc. Mr. Decker stated he would like to provide any clarification or additional information that may be required regarding the two agreements with Transcom. Mr. Decker indicated the new agreements are renewal agreements and a similar request was approved in February 2005. Mr. Brothers responded by noting the staff review of the requested exemption indicated that supportive documents, specifically a copy of the contracts, were not available and that was the basis for

the recommendation. Mr. Brothers added that the DOT was provided with notification regarding the need for additional information by letter dated November 6.

Lengthy discussion followed regarding Item IV.C., Request for Contract Compliance Exemption Between UCONN and Oracle USA Corporation. Several individuals from UCONN addressed the Commissioners regarding this Item, including Leslie Langworthy, Contract Specialist; Michael Kerntke, Chief Information Officer; Kevin Wojcik, Director of UITS; and Jean Main, Director of Financial Aide. Ms. Langworthy stated that Oracle software and maintenance is essential to the administrative and academic operation of the University. This exemption request involves renewals of maintenance for eight agreements with Oracle. The other representatives from UCONN also addressed the Commissioners to explain the consequences of not being able to renew the contract. Ms. Langworthy further explained that UCONN submitted information to CHRO that Oracle has agreed to execute. Ms. Langworthy stated that Oracle has indicated that the main issue as to why they can't sign the non-discrimination certification is because this type of a matter is not typically brought to their board. Their board has appointed a specific person who now has the authority to handle these types of matters, which is essentially the modification they have made to the non-discrimination certification. Both Mr. Brothers and Principal Attorney Charlie Krich, who reviewed the request, emphasized that the law states the contractor shall provide the state with documentation in the form of a company or corporate policy adopted by resolution of the board of directors. For the board to empower a designee for this purpose is something less than what they're supposed to do. Mr. Brothers concluded by noting that since the agency has granted four prior exemptions with the same contractor, he would not be uncomfortable if the recommendation is moved to a conditional approval with the understanding that it is the last round of contracts with Oracle for the calendar year.

Matt Larson, from the UCONN Health Center, addressed the Commissioners regarding Item IV.E., Request for Contract Compliance Exemption Between UCONN Health Center and United Technologies Research Center. Mr. Larson indicated that while he does not disagree with the recommendation to deny the request, it is a revenue generator with the Health Center where physician services were going to be provided for UTC's occupational medical requirements. The contract is for \$50,000. a year.

Mr. Brothers noted that Item IV.G., Request for Contract Compliance Exemption Between Connecticut Community Colleges and Blackboard, Inc., was originally recommended for conditional approval, however, the requesting agency has withdrawn the request because they believe the contractor may come into compliance. The recommendation now is to deny the request without prejudice until next month.

Commissioners Mambruno and Cruz agreed to withdraw the original motion and second to deny without prejudice Items IV. B., C., E., F. and G. A motion was made by Commissioner Mambruno and seconded by Commissioner Griffin to accept staff recommendations for denial without prejudice Items IV. B., F. and G. The motion carried unanimously. Chairperson Norton did not vote. A motion was made by Commissioner Copeland and seconded by Commissioner Clarke to accept the staff recommendation to deny without prejudice Item IV. E. The motion carried unanimously, with the exception of Chairperson Norton who did not vote. A motion was made by Commissioner Clarke and seconded by Commissioner Griffin to grant Item IV. C. conditioned on submission of a non-discrimination certification acceptable to the Commission. The motion carried unanimously. Chairperson Norton did not vote on the motion.

I. Setting the Schedule for Commission Meetings, February 2009 through January 2010

Acting Executive Director Brothers noted a proposed schedule of Commission meetings for February 2009 through January 2010 was included with the Commissioners' mailing packet. Mr. Brothers explained that the schedule for the following year is typically set at the December meeting, however, notice must be provided to agencies whose affirmative action plans are due within 90 days. All the proposed dates are the second Thursday of each month with the exception of February and April 2009. The proposed dates for those months are Tuesdays and there is a notation as to why. Mr. Brothers emphasized that most affirmative action plans are due by the fifteenth of each month so it is important to hold the meetings within the first two weeks of the month. There was a short discussion regarding the proposed dates. It was the consensus of the Commissioners to move the meetings to the second Wednesday of each month at 2:00. A motion was made by Commissioner Clarke and seconded by Commissioner Copeland to move the Commission meetings to the second Wednesday of each month, with the exception of November 12, between February 2009 and January 2010. The motion carried with Commissioners Clarke, Conaway, Copeland, Cruz, and Griffin voting in favor of the motion. Commissioner Mambruno was no longer present and the Chairperson did not vote on the motion.

J. Approval of 2009 Legislative Proposals

The Commission's four legislative proposals for the 2009 Legislative Session were provided to the Commissioners in their mailing packet. James O'Neill, Legislative and Regulations Specialist, summarized each proposal. The first proposal, An Act Concerning Affirmative Action Plans, would establish a deadline by which affirmative action plans must be submitted or face automatic disapproval. The proposal would also make several other changes to create efficiencies, including requiring female and minority business enterprise data to be submitted to the General Assembly biennially rather than annually. Agency

proposal 2, An Act Concerning the Comprehensive Revision of the Human Rights and Opportunities Statutes, would bring the statutes up-to-date in an effort to standardize terminology and include sexual orientation with the other protected classes listed in each discriminatory act. The proposal would also make some technical corrections. Agency proposal 3, An Act Concerning Housing Discrimination and Attorney's Fees, would bring the agency closer to the federal fair housing acts and clarify intervener status. The fourth proposal, An Act Concerning the Enforcement Orders by the Commission on Human Rights and Opportunities and Complainants, deals with enforcement of a public hearing order. Mr. O'Neill added that with respect to the contract compliance exemption issue, CHRO did not submit a bill on the specific issue as the agency has been involved in ongoing negotiations with Senator McDonald and other interested parties. Commissioner Cruz requested clarification regarding the proposed language change regarding reopening requests. Acting Executive Director Brothers explained there are a number of reasons by which a complainant cannot have their complaint reopened, including if there is a decision by a Hearing Referee or if a party requests a Release of Jurisdiction, which allows a complainant to go from this administrative setting directly to court. The proposal seeks to ensure that a reopening will not be granted if the complainant has requested and been issued a Release of Jurisdiction and if a complainant has been issued a Release of Jurisdiction after a Merit Assessment Review dismissal and acted on such release by filing an action in Superior Court. In closing, Mr. Brothers indicated Mr. O'Neill will continue to keep the Commissioners apprised of the status of proposed bills during the upcoming Legislative session. No further discussion followed.

V. DIVISION REPORTS

A. Affirmative Action Program Manager's Report

There was a short discussion regarding the Affirmative Action Program Manager's Reports. Mr. Brothers noted that justifications for hires made during the current reporting period have been attached to Ms. Sparver's reports. Mr. Brothers explained that all managers have been asked to prepare justifications in the same format so they are uniform. The Commission's current plan period ended October 31, 2008 and Mr. Brothers is in the process of working with Ms. Sparver to compile the plan for its February 2009 due date.

B. Fiscal Report

At the request of the Chairperson, Michelle Provost, Fiscal Administrative Supervisor, provided a brief update with respect to the contract for the Executive Director Search firm. Ms. Provost indicated that additional documentation has been recently been received, but not yet reviewed, regarding the firm's

compliance with Connecticut anti-discrimination laws. The actual contract has not been come back from the search firm.

C. Field Operations Report

The Report on Caseload Statistics was furnished to the Commissioners in their mailing packet. Donald Newton, Chief of Field Operations, provided further explanation regarding the pending caseload, specifically with respect to the Southwest Regional Office. Mr. Newton indicated the Bridgeport office experienced a fairly high turnover of investigative staff and added that when the agency losses staff, the caseload that person carried may remain unassigned until it can be reassigned to current staff or assigned to new staff that can take over. Mr. Newton added that although there are currently eight individuals processing complaints and one individual who conducts merit assessment reviews, the Bridgeport office is still not fully staffed with investigators. The Bridgeport office currently is the only regional office with an intake officer who conducts intake exclusively. An investigator serves as back-up to the intake officer, which allows this individual to carry a caseload. Mr. Brothers added that the agency currently has three HRO Representative vacancies that it has not been authorized to refill.

D. Legislative Report

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

No reports were given.

VI. EXECUTIVE SESSION

In accordance with Section 1-225(c) of the Connecticut General Statutes, as amended, it was moved by Commissioner Conaway and seconded by Commissioner Griffin 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 on the motion. All members of the public were excused from the Executive Session.

VII. RETURN TO REGULAR SESSION

It was moved by Commissioner Griffin and seconded by Commissioner Conaway to return to Regular Session. The motion carried unanimously. Commissioner Copeland was no longer present and the Chair did not vote. The Chairperson indicated no votes were taken during the Executive Session.

VIII. VOTE ON EXECUTIVE SESSION ITEMS

A. Report on Pending Claims or Pending Litigation

There was no discussion and nothing to report on pending claims and pending litigation.

B. Reopening Request

1. Keesha Rodriguez v. Silverstar Diner – CHRO Case #0720239

A motion was made by Commissioner Conaway and seconded by Commissioner Clarke to accept the staff recommendation to deny the reopening request in the matter of Keesha Rodriguez v. Silverstar Diner, CHRO Case #0720239. Chairperson Norton noted for the record that the complainant in this matter failed to stay in contact with CHRO staff. The complainant was aware that it was her responsibility to keep in touch with the Commission and provide updated contact information. A reason later provided by the complainant did not apply to the timeframe that was relevant. The motion carried unanimously. Chairperson Norton did not vote on the motion.

C. Personnel Matters

There was no discussion and nothing to report.

IX. ADJOURNMENT

Before adjourning the meeting, Chairperson Norton asked Mr. Brothers to look into the feasibility of sending a questionnaire to individuals who just came out of the CHRO process to see how they feel about the service they received.

There being no further business to come before the Commission, it was moved by Commissioner Clarke and seconded by Commissioner Cruz to adjourn the meeting at 5:25 p.m. The motion carried unanimously. Chairperson Norton did not vote.