

STATE OF CONNECTICUT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

REGULAR COMMISSION MEETING

CHAIRPERSON ANDREW M. NORTON

21 GRAND STREET
HARTFORD, CONNECTICUT 06106
WEDNESDAY, FEBRUARY 11, 2009
2:03 P.M.

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RE: CHRO COMMISSION MEETING
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1 . . .Verbatim proceedings of the State of
2 Connecticut Commission on Human Rights and Opportunities,
3 Regular Commission Meeting, held on February 11, 2009 at
4 2:03 p.m., at the offices of the Commission, 21 Grand
5 Street, Hartford, Connecticut . . .

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7
8 CHAIRPERSON ANDREW M. NORTON: My name is
9 Andrew Norton. I'm Chairman of the Connecticut Commission
10 on Human Rights and Opportunities. And I would now
11 convene this February 11th meeting at 2:03.

12 And the second item on our agenda is for me
13 to turn to the secretary for a motion and action regarding
14 the minutes of the last meeting, January 8th. Commissioner
15 Mambruno.

16 MR. EDWARD MAMBRUNO: Thank you, Mr. Chair.
17 I'd like to make a motion to accept the minutes as
18 written for Thursday, January 8th, 2:00 p.m., 21 Grand
19 Street, Hartford, in the large conference room. Do I have
20 --

21 MR. MILTON JOHNSON: Sec -- so moved.

22 CHAIRPERSON NORTON: Commissioner Johnson
23 moves approval of the minutes. Is there a second from any
24 other commissioner?

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1 MS. ALEXIA CRUZ: Second.

2 CHAIRPERSON NORTON: Commissioner Cruz was
3 that?

4 MS. CRUZ: Yes.

5 CHAIRPERSON NORTON: Seconds the motion.

6 Is there any discussion of the minutes or any proposed
7 corrections or amendments or deletions to the minutes? I
8 don't hear any. I don't hear any discussion. All those
9 in favor or approving the minutes say aye.

10 VOICES: Aye.

11 CHAIRPERSON NORTON: Is there anyone
12 opposed? Is there anyone abstaining? Then the motion
13 carries --

14 MS. CHERYL LYNN CLARKE: I abstain.

15 CHAIRPERSON NORTON: Commissioner Clarke
16 abstains due to her absence I'm guessing.

17 And I will move to the third item on the
18 agenda, Roman Number III, and they are the recommendations
19 from our Affirmative Action Unit regarding the affirmative
20 action plans of four agencies. We sometimes break these
21 motions up. If -- I guess at this point in time, I would
22 entertain a motion from any commissioner regarding the --
23 separately the Department of Developmental Services. Is
24 there a motion from any commissioner to accept staff

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1 recommendations for approval and the retention of annual
2 filing status for the Department of Developmental
3 Services?

4 MR. MAMBRUNO: Mr. Chair, I would like to
5 take myself out of this.

6 CHAIRPERSON NORTON: The minutes will
7 reflect that Commissioner Mambruno is recusing himself
8 from the discussion of this particular agency. Is there
9 any motion from a commissioner to accept staff
10 recommendation for approval?

11 MS. CLARKE: So moved.

12 CHAIRPERSON NORTON: Commissioner Clarke
13 moves. Is there a second from any commissioner?

14 MS. CRUZ: Second.

15 CHAIRPERSON NORTON: Commissioner Cruz
16 seconds. And so I will then turn for the purposes of
17 discussion of the Affirmative Action Plan of Developmental
18 Services. Mr. Bingham.

19 MR. ALVIN BINGHAM: Here representing the
20 Department of Developmental Services is Commissioner Peter
21 O'Meara; Rita Kelley, the Director of EEO Assurance; Len
22 Erasmus, EEO Specialist; Levy Gillespie, EEO Specialist;
23 and Lorna Reid, the Affirmative Action EEO Assistant.

24 CHAIRPERSON NORTON: Do you mind standing

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1 up just for a second so we can attach faces to -- hello
2 back there -- but please have a seat again. I thank you
3 for doing that. And just other folks if you don't mind
4 standing up just for the briefest of moments to let us
5 glue names to faces at least a little bit. Mr. Bingham.

6 MR. BINGHAM: This plan for the Department
7 of Developmental Services recommended for approval of
8 baseline compliance with the following: The plan contains
9 all the elements required; the work force is not -- is in
10 not -- is not in parity with the relevant labor market
11 area; the agency has not met all -- substantially all its
12 hiring promotion goals; the agency has demonstrated a good
13 faith effort to achieve such goals; and there were no
14 deficient elements in the prior plan.

15 Goal achievement: Short-term, 42 out of
16 106, or 40 percent; long-term goal achievement, 6 out of
17 28, 21 percent; total goal achievement, 48 out of 134, for
18 36 percent; promotion goal achievement, 18 out of 53, for
19 34 percent.

20 The five-year history, 2005, '06, '07, '08,
21 the plan had been approved.

22 CHAIRPERSON NORTON: Are there any
23 questions from any commissioner for either our staff --
24 and I guess Paula Ross reviewed this plan -- there's Paula

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1 -- for Paula or also does anyone have a question for
2 anyone from the Department of Developmental Services?

3 MS. CRUZ: I have a question for --

4 CHAIRPERSON NORTON: Commissioner Cruz --

5 MS. CRUZ: -- the department and the
6 reviewer. In the -- you don't have what we have, but
7 there's a summary of deficiency and weaknesses. And the
8 only comment is that there were calculation errors
9 apparent in setting at least one goal. So, I just want to
10 make sure -- maybe our agency should address that and what
11 it was and make sure the agency is comfortable that they
12 know what it is, and we can fix that for next year.

13 MS. PAULA ROSS: Paula Ross from the
14 Commission. There were a number of rounding errors in the
15 calculations that occur usually as the result of the IT
16 person not understanding exactly how we do our
17 calculations. But there were -- there was at least one
18 rounding error that caused the outcome of the formula to
19 not have a goal set when there should have been a goal set
20 --

21 MS. CRUZ: Okay --

22 MS. ROSS: -- and that's something that we
23 will correct.

24 MS. CRUZ: And that's in a communication to

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1 them --

2 MS. ROSS: It -- it's in the review. And -
3 - they're back and forth with me all the time anyhow --

4 MS. CRUZ: Okay --

5 MS. ROSS: -- we have a very close working
6 relationship generally with this agency.

7 MS. CRUZ: Okay.

8 CHAIRPERSON NORTON: That's good to hear.
9 Any other questions from the commissioners? Any felt need
10 to speak on the part of the -- of the Department?
11 Commissioner Johnson, sure.

12 MR. JOHNSON: Under -- under the
13 Legislative and Regulations, it says that a goal candidate
14 who was also qualified was passed over and a non-goal was
15 hired. Due to I guess you felt the non-goal candidate was
16 better. Legislative and Regulations --

17 MS. ROSS: Yeah, I got it.

18 MR. JOHNSON: Could you explain that to me
19 please?

20 MS. ROSS: It -- we're talking about the
21 bottom of the page?

22 MR. JOHNSON: Yes.

23 MS. ROSS: Okay. The agency explained to
24 me that during her interview, she expressed that she would

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1 be very uncomfortable with having constant communication
2 and interaction with the legislators and being up at the
3 legislature and essentially acting as a lobbyist for the
4 agency.

5 MR. JOHNSON: Okay. Wouldn't that be a
6 requirement --

7 MS. ROSS: Yes, it is --

8 MR. JOHNSON: -- of the job --

9 MS. ROSS: It is, but the goal candidate --

10 MR. JOHNSON: So -- so technically she
11 wasn't qualified then?

12 MS. ROSS: Yes, correct.

13 MR. JOHNSON: Okay.

14 MS. ROSS: When -- when it became apparent
15 at the interview -- on paper up 'til then, she was well
16 qualified.

17 MR. JOHNSON: Okay --

18 MS. ROSS: But once they had the interview
19 and she actually expressed this to the search committee or
20 the interview panel, it was felt that she wasn't the
21 appropriate -- because -- she kind of put herself out of
22 the running.

23 MR. JOHNSON: Okay.

24 MS. ROSS: Okay? Any other questions?

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1 CHAIRPERSON NORTON: I'll just say that not
2 wanting to interact with the legislators constantly is a
3 very human reaction -- (laughter) -- but it probably
4 wouldn't work so well in this job.

5 MS. ROSS: Well, you know, it all depends
6 upon the personality of the individual --

7 CHAIRPERSON NORTON: Yeah --

8 MS. ROSS: -- she may not be outgoing.

9 CHAIRPERSON NORTON: Yeah -- no, that might
10 be -- she might have been qualified in a million different
11 ways --

12 MS. ROSS: Yeah --

13 CHAIRPERSON NORTON: -- but that one.

14 MS. SHELLEY COPELAND: I have a question.

15 CHAIRPERSON NORTON: Commissioner Copeland.

16 MS. COPELAND: I have a question about the
17 good faith effort to diversify the work force. It just
18 says all good faith efforts were made, but what does that
19 mean? Where there programs? What was the outreach --

20 MS. ROSS: Well that means that each time
21 they made a hire that was not a goal hire, they explained
22 how they reached the conclusion for that individual. And
23 it was my analysis that their explanation was appropriate
24 as opposed to an explanation I would not accept.

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1 MS. COPELAND: I guess I didn't ask the
2 question correctly. I'm more curious about what
3 programmatic efforts they made to diversify the work
4 force, what is their recruitment strategy. And I guess I
5 have to hear from the agency. What are they doing?

6 MS. ROSS: Well --

7 MS. COPELAND: Good faith effort is a
8 phrase --

9 MS. ROSS: Yes --

10 MS. COPELAND: -- but I'd like to hear what
11 the program is.

12 MS. ROSS: Yes --

13 CHAIRPERSON NORTON: I'm going to -- I'm
14 sorry, am I cutting you off or are you --

15 MS. ROSS: That's a very complicated
16 question. The whole plan is what they are doing.

17 CHAIRPERSON NORTON: Sure. Just a -- just
18 a quick aside, Commissioner --

19 MS. COPELAND: But they must have some like
20 blue ribbon things they're doing. And I'd like to hear
21 that.

22 CHAIRPERSON NORTON: And just a quick aside
23 to Commissioner Johnson, who is the newest among us, good
24 faith effort sounds like a rather broad base term, but in

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1 our -- in this business it has a very specific meaning.
2 It means when you hired someone and it didn't turn out to
3 be a goal candidate, did you explain yourself believably
4 that you didn't hire the goal candidate that society wants
5 you to hire for a darn good reason, and you have to
6 explain that. If you fail -- and some agencies do
7 regularly -- fail to give an explanation, then the world
8 is left to wonder well then maybe you didn't hire the goal
9 candidate because of some prejudice. So we want a very
10 good explanation. Commissioner Copeland is trying to dig
11 deeper into the whole issue of what an agency is doing in
12 every facet to get more --

13 MS. COPELAND: Just in a nutshell tell me
14 your best --

15 MS. ROSS: I'm going to --

16 MS. COPELAND: -- what are your best
17 strategies? What are you doing?

18 MS. ROSS: I'm going to ask Rita -- Rita
19 Kelley from the agency to answer that --

20 MS. COPELAND: Thank you --

21 MS. ROSS: -- but in -- I just want to
22 point out in this case, this agency, probably 40 percent
23 or more of their hires were dictated by the union. And
24 they really had no choices whom to hire in those cases.

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1 CHAIRPERSON NORTON: If -- still coming off
2 CPEP (phonetic) lists or --
3 MS. ROSS: No, these are people who are
4 part-time --
5 CHAIRPERSON NORTON: Oh --
6 MS. ROSS: -- but they're union --
7 CHAIRPERSON NORTON: Okay --
8 MS. ROSS: -- and when the position is
9 open, those with seniority have the first refusal --
10 CHAIRPERSON NORTON: Okay --
11 MS. ROSS: -- so they have to take them if
12 the person wants the job.
13 CHAIRPERSON NORTON: Do they have to adhere
14 to CHRO's regulations and guidance in initially hiring
15 those part-time people?
16 MS. ROSS: That's something we're working
17 on.
18 CHAIRPERSON NORTON: Okay.
19 MS. ROSS: It's -- it's not required now,
20 but that -- that's particularly been an initiative of some
21 of the agencies.
22 CHAIRPERSON NORTON: So this kind of
23 creates a destiny --
24 MS. ROSS: Yes --

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1 CHAIRPERSON NORTON: -- in a way. Okay.

2 MS. ROSS: That's part of the reason why
3 one agency in particular is going to do a study in
4 outreach in that case. And I know there are a couple of
5 other agencies that -- but I'm going to ask Rita Kelley to
6 answer your question --

7 MS. COPELAND: Thank you --

8 MS. ROSS: -- okay. Thank you.

9 MS. RITA KELLEY: Hello. Good afternoon.

10 MS. COPELAND: Good afternoon.

11 MS. KELLEY: I think -- I want to thank
12 Paula because she gave a great explanation in terms of the
13 issues that you raised. But basically in answer to your
14 question about part-time employees, when we do our
15 outreach efforts -- and I'll tell you more about them in a
16 couple of seconds -- we do include our part-time people.
17 When there are part-time openings, those openings also are
18 included in our outreach effort because we do know that's
19 our pool of candidates. When we set goals, we incorporate
20 individuals who are in the part-time work force. And
21 basically, our part-time work force, I must say, is very
22 diverse. So a lot of times when we do draw people from
23 part-time, it does meet an Affirmative Action goal.

24 But in terms of Commissioner Copeland's

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1 question about, you know, what we've done around outreach,
2 I think one of our premiere programs would be
3 CThealthjobs.org. And basically what we've done over the
4 last year -- this it was -- this was a partnership with
5 our HR office, and in fact it's been going on for a couple
6 of years, we do have an on-line service where people can
7 go on-line and apply for jobs. And also we've had this
8 effort where Affirmative Action and members of our HR
9 staff have gone out to the Department of Labor and other
10 organizations and explained to them and gave them like in-
11 services in terms of how to apply for a job on-line.

12 Also we've included in this effort our -- a
13 lot of our jobs are also -- well let me rephrase that --
14 we do subcontract a lot with private providers. And they
15 really hire from the same pool that we do. So also their
16 jobs will be on CThealthjobs.org. And we really have, you
17 know, been out there very strongly selling this program
18 to, you know, organizations that are -- you know, that
19 serve minority people and assist them in terms of job
20 placement.

21 Another effort, if -- if you -- as you read
22 through this, one of our problems is that a lot of the
23 jobs we filled during the last year or so were jobs like a
24 registered nurse, occupational therapists, physical

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1 therapists. Those are positions that it's very difficult
2 for a state agency to compete with hospitals because
3 usually hospitals can give better deals. So what we've
4 been doing is we've been going to schools that offer these
5 programs and we've been recruiting through those to kind
6 of -- to target, you know, goal candidates. But we've had
7 limited success with that because when people graduate
8 from those positions, they can kind of write their ticket.

9 One thing that we've done that was, you
10 know, I think very innovative is -- it was through I think
11 the U-CONN nursing school -- we do have a program in our
12 office where we bring in some of the student nurses and
13 they do an internship within the department. Okay?

14 MS. COPELAND: Thank you.

15 MS. KELLEY: Okay. You're very welcome.

16 CHAIRPERSON NORTON: Are there any other
17 questions from commissioners for either the agency or our
18 agency staff? I don't hear any, so why don't I call for a
19 vote. All those in favor of accepting staff
20 recommendation for full approval and retention of annual
21 filing status, please say aye.

22 VOICES: Aye.

23 CHAIRPERSON NORTON: And all those opposed
24 say nay. If there are any abstentions, speak now.

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1 MR. MAMBRUNO: Aye.

2 CHAIRPERSON NORTON: Well actually, I would
3 -- I think what I would do -- as you were not even in the
4 vote, but --

5 A VOICE: Not even in the room --

6 A VOICE: Wow --

7 CHAIRPERSON NORTON: So, I think that's how
8 I would see that; that you just weren't a party to this
9 bit -- but I see Ed walking back in now, so -- (laughter)
10 --

11 MR. MAMBRUNO: Thank you, Mr. Chairman --

12 CHAIRPERSON NORTON: You're -- you're
13 welcome -- welcome back. So they -- that vote passes. I
14 didn't when I repeated the motion say DDS, but it was DDS.

15 And so now for the purposes of the rest of
16 this agenda item, I would entertain a motion from any
17 commissioner to accept staff recommendation for approval
18 and retention of annual filing status for the Department
19 of Children and Families, the Department of Environmental
20 Protection, and the University of Connecticut. Is there
21 such a motion?

22 MR. MAMBRUNO: So moved.

23 CHAIRPERSON NORTON: Commissioner Mambruno
24 moves. Is there a second?

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1 MS. CLARKE: Second.

2 CHAIRPERSON NORTON: Commissioner Clarke
3 seconds. The motion is on the floor. Mr. Bingham.

4 MR. BINGHAM: And here representing the
5 Department of Children and Family Services is Commissioner
6 Susan Hamilton; Debi Freund, the Director of Diversity;
7 Sharon Getty; Victor Brathwaite; Terri-Lynn Johnston; Nick
8 D'Agostino; and Shirley Amos Cooper.

9 CHAIRPERSON NORTON: Welcome all. Welcome
10 Commissioner.

11 MR. BINGHAM: This plan is recommended for
12 approval based on compliance with the following: The plan
13 contains all the elements required; the agency has
14 demonstrated every good faith effort to achieve such
15 goals; and the agency has substantially addressed
16 deficiencies noted by the Commission in the prior plan
17 review.

18 Goal achievement: Short-term 121 out of
19 248, 49 percent; total goal achievement, 121 out of 248,
20 49 percent; promotion goal achievement, 27 out of 51, for
21 53 percent.

22 Five-year history, 2003, '04, '05, '06,
23 '07, the plan has been approved.

24 CHAIRPERSON NORTON: Are there any

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1 questions from any commissioners for either our staff --
2 and in this case it was Neva Vagencia who reviewed the
3 plan -- did I say that right -- I did -- or for anyone
4 from the Department of Children and Families?
5 Commissioner Mambruno.

6 MR. MAMBRUNO: Is there a specific reason -
7 - and this could be for either an analyst or the
8 department. Is there a specific reason why all goals were
9 established in a short-term time frame?

10 MS. NEVA VAGENCIA: I'm Neva Vagencia,
11 Affirmative Action Program Analyst.

12 The regulations call for goals to be set
13 either with a short-term or a long-term timetable. When
14 we analyze goal achievement, we expect if an agency had an
15 opportunity to meet a goal, it should be meeting the goal
16 or explaining why it didn't meet the goal, regardless of
17 what the timetable is. Now many agencies just set their
18 goal with a short-term timetable because it's all analyzed
19 as a group anyway, and it makes it a little bit clearer to
20 pass around the goals to their managers if you just have
21 set of goals and they're not broken up by a timetable. A
22 timetable tends to be a little confusing and it's not in
23 keeping with how we analyze the goals.

24 MR. MAMBRUNO: Do you think this is

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1 something that should be standardized for all agencies?

2 MS. VAGENCIA: Well the regulations call
3 for short and long-term time -- they can be established
4 with a short or a long-term timetable if an agency chooses
5 to do so. And I don't think we can because the
6 regulations are still in effect. I don't think we can
7 tell agencies don't establish any long goals with long-
8 term timetables. But we are still working on revising the
9 regulations. And that is one of the things we're going to
10 revise; we're just going to have goals without any
11 timetables associated with them.

12 MR. MAMBRUNO: What --

13 CHAIRPERSON NORTON: Oh, I'm sorry. What
14 does a -- what motivates an agency, to the best of your
15 knowledge, to keep using long-term goals now that kind of
16 the other path has been shown? Is it just comfort with
17 tradition or is there some way of planning that helps?

18 MS. VAGENCIA: I can't answer for agencies,
19 but I suspect that it's part of their own planning. Maybe
20 there are certain race, sex groups that they want to
21 target first or they have more of an under-utilization in
22 a certain area. But again, our philosophy and our
23 practice is if an agency has had an opportunity to hire,
24 it has to address the goal regardless of what the

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1 timetable is.

2 CHAIRPERSON NORTON: So they -- okay, so if
3 they're supposed to be hiring three other females, they
4 can't say well we didn't do that because that's a long-
5 term goal, we'll do that next year --

6 MS. VAGENCIA: Correct --

7 CHAIRPERSON NORTON: -- they can't --

8 MS. VAGENCIA: You know, if they've had
9 hires and they had an opportunity, they need to address
10 those goals.

11 CHAIRPERSON NORTON: Are there -- were you
12 complete -- or finished at least to that question? Are
13 there any other questions for Neva since she's standing
14 there? Commissioner --

15 MS. CLARKE: Well -- no, no --

16 CHAIRPERSON NORTON: Okay. Any other
17 questions? Any questions from any commissioners for the
18 agency?

19 MS. CLARKE: I just wanted to make a
20 comment to the agency. Can I?

21 CHAIRPERSON NORTON: Commissioner Clarke,
22 please do.

23 MS. CLARKE: Well, I wanted to say publicly
24 that this was a very impressive plan --

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1 MS. COPELAND: Mmm-hmm --

2 MS. CLARKE: -- it was extremely well done,
3 thorough, completely descriptive. And kudos to everyone
4 that had a hand in this plan because it was quite an
5 effort. I loved the numbers, the percentages. A nice
6 job.

7 CHAIRPERSON NORTON: And that's with a
8 brand new Affirmative Action manager too.

9 MS. COPELAND: I want to add to that also -
10 - (laughter) --

11 CHAIRPERSON NORTON: I was just joking --
12 (laughter) -- Commissioner Copeland.

13 MS. COPELAND: I would like to add to that
14 comment as well. I was very impressed with this plan
15 because even though we have paperwork to do, I think
16 what's powerful is this plan shows innovation and it shows
17 that the agency has a philosophy and commitment to
18 diversity. And so while I know that we can all fill in
19 the blanks, it behooves all of us to show our innovation
20 and show the ways in which we really are enriching the
21 work force. So, I too want to commend the Department of
22 Children and Families and say this was a fantastic plan
23 and it really shows innovation. And in state service a
24 lot of times you don't have to show innovation, but I

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1 think it means a lot, especially if we're going to change
2 the climate in the State of Connecticut when it comes to
3 human rights. So kudos to the Department of Children and
4 Families.

5 A VOICE: Here, here.

6 CHAIRPERSON NORTON: Well, I wanted to add
7 to that, and particular the observation that I find most
8 lacking unfortunately is state government, but only
9 because it mirrors our society, that Black males aren't a
10 big part of the force work as they ought to be, and
11 certainly not as a big part of the upper reaches of the
12 work force. But you've got a decent number of Black males
13 in the professional category. And I like it when that
14 happens. And I -- I wanted to say that.

15 MS. CLARKE: So do we.

16 CHAIRPERSON NORTON: Oh, yeah -- yes --
17 (laughter) -- we --

18 A VOICE: No, only Andrew likes --
19 (laughter) --

20 CHAIRPERSON NORTON: Well that's my, you
21 know -- that seems to be an error -- an area where we all
22 -- it isn't one -- there's no agency out there I think
23 working hard to make sure they don't hire Black males.
24 But nonetheless, it is a failing --

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1 A VOICE: Yes --

2 CHAIRPERSON NORTON: -- broadly in our
3 government, in our state, in our country. And you know,
4 you guys are above the mean on that one. Any other
5 questions or comments --

6 MR. BINGHAM: The commissioner would like
7 to --

8 CHAIRPERSON NORTON: Certainly. You're
9 absolutely welcome.

10 MS. SUSAN HAMILTON: I just wanted to echo
11 --

12 A VOICE: Give your name for the record.

13 MS. HAMILTON: I'm sorry. For the record
14 my name is Susan Hamilton, Commissioner of the Department
15 of Children and Families. And I would be remiss if I did
16 not recognize the efforts of my staff that are all here
17 today. I just wanted to publicly recognize them for their
18 continuous dedication to the mission of Affirmative Action
19 and their hard work on the plan. And I did also want to
20 say thank you to the staff here that have helped. Neva in
21 particular has been a real asset to us as a department in
22 putting together the plan and working with us to
23 accomplish the goals that we collectively share. So, I
24 just wanted to put that on the record. And I thank you

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1 for hearing me out.

2 CHAIRPERSON NORTON: Sure. Thank you. So
3 then no other questions, next on to the Department of
4 Environmental Protection.

5 MR. BINGHAM: Here representing the
6 Department of Environmental Protection is Marcia Bonitto,
7 the EEO Manager, and Barbara Viadella, EEO Specialist 2.

8 This plan is recommended for approval based
9 on compliance with the following: The plan contains all
10 elements required; the agency has demonstrated every good
11 faith effort to achieve such goals; and the agency has
12 substantially addressed deficiencies noted by the
13 Commission in a prior plan review.

14 Goal achievement: Short-term, 11 out of
15 35, 31 percent; long-term goal achievement, 6 out of 15,
16 40 percent; total goal achievement, 17 out of 50, 34
17 percent; promotion goal achievement, 17 out of 22, 77
18 percent.

19 Five-year history, 2003, '04, '05, the plan
20 was approved; 2006 it was disapproved; 2007 the plan was
21 approved.

22 CHAIRPERSON NORTON: Thank you, Mr.
23 Bingham. Are there any questions from commissioners for
24 either the DEP staff who have joined us or for Valerie

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1 Kennedy?

2 MR. BINGHAM: Dr. Kennedy is not here.
3 Neva Vagencia is pinch-hitting for Dr. Kennedy.

4 CHAIRPERSON NORTON: Excellent.
5 Commissioner Mambruno would like to say something.
6 Commissioner Mambruno.

7 MR. MAMBRUNO: I'd just like to commend the
8 agency on their -- on their recruitment and the -- the way
9 that they're able to get out there in the community and
10 grassroots and really stick to a different way of doing
11 things. They're thinking outside the box. They're
12 holding -- they're targeting middle school, high school
13 students, and even the U-CONN School of Engineering. And
14 I think this is something that should be commended because
15 they -- they have found an idea, they -- I know they use
16 the drums -- one year -- I don't know if -- I believe
17 you're still doing that, correct -- and that caught on.
18 And it seems like you're using a lot of different and
19 exciting ways of getting people's attention. And I just
20 wanted to thank you for that and hope that it continues.
21 And I know budgets are tight, but I'm hoping that you're
22 able to keep this going. Thank you.

23 CHAIRPERSON NORTON: I had another
24 question, but I don't mean to cut in front of anyone,

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1 which was the -- much more than half or a good bit more
2 than half of the agency are in the professional category.
3 Not so many Blacks in -- what -- what's the percentage of
4 the State right now are Blacks -- do we know -- is it 11 -
5 -

6 MS. CLARKE: Eleven, twelve percent.

7 CHAIRPERSON NORTON: And what about for
8 Latins, is that --

9 MS. CLARKE: I believe it's about 14
10 percent --

11 CHAIRPERSON NORTON: Four -- is it -- has
12 it been higher -- well -- well I'm asking anyone -- anyone
13 who wants to field the question -- Commissioner Copeland
14 was -- but in any case, the number of Blacks and Hispanics
15 is not very large. And I'm not sure that's actually the
16 fault of the agency. But in the professional category
17 what would make up -- what kind of job would make up most
18 of those men and women? Is it a lot of scientific sort of
19 jobs or are we talking soil scientists, air quality type
20 or -- I'm just kind of wondering --

21 A VOICE: Name for the record.

22 MS. MARCIA BONITTO: Sure. For the record,
23 Marcia Bonitto, EEO Manager for the Department of
24 Environmental Protection. Most of the jobs at the DEP in

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1 the professional category are very technical jobs. We
2 hire engineers from different type of -- different areas,
3 civil engineers, mechanical engineers, sanitary engineers,
4 or environmental engineers.

5 In addition to that, in our environmental
6 analyst series, we require a very strong background in the
7 sciences. And it makes it very difficult in these fields
8 to compete with the private industry. We, for instance,
9 compete with Pratt and Whitney for engineers. And as you
10 know, they provide a lot of incentives for graduates to
11 apply and accept employment with them. Just to give you
12 an example, we recently did a recruitment. We sent out
13 180 mail documents to individuals and organizations for a
14 position of civil engineer, and we had one response. So
15 it's --

16 CHAIRPERSON NORTON: What -- I'm sorry --
17 you sent out 180 what? Advertisements for -- for the job
18 or --

19 MS. BONITTO: Notices for position of
20 environmental intern --

21 CHAIRPERSON NORTON: To people --

22 MS. BONITTO: To mostly individuals. And
23 we had one response.

24 CHAIRPERSON NORTON: And why is that? It

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1 didn't pay anything?

2 MS. BONITTO: Because of the market. At
3 the time, as I mentioned before, a lot of engineers prefer
4 to go to the private sector.

5 CHAIRPERSON NORTON: Now are there not a
6 lot of black and Hispanic engineers or would they -- well
7 does Pratt and Whitney have Affirmative Action where they
8 might be making an extra effort --

9 MS. BONITTO: Yes, they do --

10 CHAIRPERSON NORTON: -- because --

11 MS. BONITTO: We are competing for the same
12 pool of applicants. And it's a very small pool of
13 applicants. It's -- the private sector has a lot more
14 incentives than the State has. And even within the State
15 system we are competing with -- for instance with DOT and
16 other agencies that hire the same -- from the same pool.

17 CHAIRPERSON NORTON: Does --

18 MS. COPELAND: It's historically Black
19 colleges. It's not like there's not engineers being
20 produced --

21 CHAIRPERSON NORTON: Okay --

22 MS. COPELAND: -- it's what we're not --
23 Connecticut allows those kind of efforts for recruitment.
24 I mean --

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1 MS. BONITTO: We do -- we do --

2 MS. COPELAND: Okay --

3 MS. BONITTO: -- we -- we work with -- for
4 instance, with the U-CONN School of Engineering. We have
5 personally taken engineers from the department from
6 different engineering fields, and we have met even after
7 working hours with the students. We have -- at the
8 Affirmative Action Office, for instance, we have developed
9 a tracking system of students that we meet during career
10 fairs who have not graduated, they might have been just
11 beginning their engineering career, and we keep a record
12 of those students and we invite them to apply for seasonal
13 jobs, for equal opportunities, and any other career fairs
14 at the department, to meet with our staff, to just come
15 and learn a little more about what DEP does. We are very
16 creative. We are in the process of creating a brochure
17 that is going to focus on our entry level jobs and/or the
18 benefits -- I don't know with the -- with the economy how
19 that's going to work, but the benefits for working in
20 state service, to try to emphasize that aspect of it.

21 MS. COPELAND: I do have a question for
22 you. Clearly you can be as creative as possible in your
23 recruitment, video, etcetera, your materials, your
24 outreach activities, but just because you're creative

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1 doesn't mean the people get hired by other people outside
2 of Affirmative Action. So my question would be in your
3 effort to recruit, spread the word, what has produced the
4 greatest results for people coming to knock on the door?
5 Is it the challenge that people aren't coming to knock
6 after recruitment, or they're not actually getting hired
7 when they come to interview at your agency?

8 MS. BONITTO: I think one of the -- the
9 efforts that have been positive in terms of getting
10 students and individuals in general to knock on the door
11 is the personal attention that for instance the
12 Affirmative Action Office places --

13 MS. COPELAND: Mmm-hmm --

14 MS. BONITTO: -- Barbara Viadella and I, we
15 personally call individuals, we meet with individuals. We
16 can really identify individuals in the agency that we met
17 with them, explained the process for taking the State
18 examination and walk them through, because a lot of
19 individuals, especially recent student college graduates
20 or individuals who are not familiar with the state service
21 are not familiar with the process. So we take the time to
22 sit down with individuals and explain that process. I --
23 I don't know if that answers your question.

24 MS. COPELAND: I guess what I'm getting at

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1 is how -- let me see how I can explain this --

2 A VOICE: What happens once they apply --

3 MS. BONITTO: Once they apply --

4 MS. COPELAND: How warm is the agency to
5 receiving diversity --

6 MS. BONITTO: We have --

7 MS. COPELAND: -- is there a culture of
8 receptivity once they get there --

9 MS. BONITTO: Yeah, we have --

10 MS. COPELAND: -- is that there?

11 MS. BONITTO: We have a very good
12 Affirmative Action Office. We have commitment from the
13 top. There is the process in place that for all hires and
14 promotions, it has to be signed off by myself. I have to
15 approve. And if I find that there are goal applicants in
16 the pool who should have been interviewed, believe me,
17 they -- it goes back and they are interviewed. Our
18 managers are very committed to Affirmative Action and I
19 would say that they are very respectful to the principles
20 of the Affirmative Action.

21 MR. MAMBRUNO: I think your --

22 CHAIRPERSON NORTON: Commissioner Mambruno.

23 MR. MAMBRUNO: I think your commitment
24 shows with your numbers of -- your minority satisfied and

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1 your small business satisfied. So I think looking at your
2 percentages shows that you have a commitment to
3 Affirmative Action, and your numbers are quite good.

4 MS. CRUZ: I have a question for the
5 agency.

6 MS. BONITTO: Thank you.

7 CHAIRPERSON NORTON: Commissioner Cruz.

8 MS. CRUZ: The promotional numbers, there's
9 -- and that's why I -- you just mentioned that you do work
10 -- to see the pool of applicants and work on the
11 promotions. So, I was wondering if you are struggling
12 with the promotional pool -- I mean as I look at the
13 promotions that happened this year, you did meet a lot of
14 goals. You know, all of them were met basically with
15 White candidates, except for one, 38 new candidates and 2
16 non-White candidates. And I know you're meeting goals.
17 And if Bob Brothers was here, he'd slap my hand and say,
18 you know, the important thing is the goals. But when you
19 look at -- you know, one of the things that's nice to see
20 is some minorities getting promoted within the agency.
21 And this to me is -- it shouted out at me that there were
22 so many White candidates that got promoted this year and
23 only two non-White. And then if I look at your workplace
24 -- you don't have a huge pool to pull from for promotions.

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1 So, I guess the second part of my question
2 is if you could comment on the promotional challenges
3 you're having? Do you have a mentorship -- you're talking
4 about struggling to get the engineers in. Do you try to
5 match them up to -- just curiosity stake -- to keep them
6 there and to put them on the promotional track, or is
7 there anything in the way of thinking about that sort of
8 process for them?

9 MS. BONITTO: Yeah, we don't have a
10 mentoring program -- or a mentorship program in the
11 department for employees that are already there. But one
12 of the things that we have been working very hard at is to
13 develop a pool of entrance -- new entrance to the
14 department so that we can have employees to promote into
15 those other positions. And a lot of our positions are
16 continuously reclassified to the entry level internship
17 level to give us that flexibility to draw from a more
18 diverse pool. And that would create a promotional pool
19 that we would be able to dip into later on.

20 MS. CRUZ: So I'm guessing then in two
21 years, you see this promotional chart a lot differently?

22 MS. BONITTO: We hope so.

23 CHAIRPERSON NORTON: Are there --

24 MS. CLARKE: Andrew.

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1 CHAIRPERSON NORTON: Commissioner Clarke.

2 MS. CLARKE: I have a question that
3 actually is piggyback to your question. You were asking
4 about mentorships internally. And I understand that
5 you've been going out to the elementary schools and the
6 middle schools and the high schools. Other than tell them
7 that these jobs are available, are you doing any kind of
8 mentorship so that you can say maybe it would be better
9 not to take all of those art classes, here are the classes
10 that you need, or here's the curriculum that you have to
11 embrace in order to one day pursue an engineering degree?

12 The only reason why I ask that is we have -
13 - one of the agencies that I'm affiliated with, we have a
14 -- we were trying to give out scholarships for engineers,
15 a big surprise, electrical engineers, and we couldn't find
16 many Black and Hispanic students to take advantage of
17 them. So we realized we had to grow our own -- pardon the
18 pun -- but we really did have to develop students from a
19 very early age to get them on the right track so some day
20 they could have an internship with NU and some day they
21 would be able to be slotted into an electrical engineering
22 position, because you just can't wait until the time that
23 you're interviewing to find out your whole pool of diverse
24 candidates is not prepared, that they can't even apply for

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1 your jobs because they can't meet the minimum
2 qualifications. So if you could answer that question;
3 what are you doing to develop that feeder pool, excuse me,
4 of young people that some day would be eligible for these
5 and fully prepared?

6 MS. BONITTO: Absolutely, I totally agree
7 with you. And I must say that some of the things that we
8 are doing at DEP are somewhat a little different than
9 traditional --

10 MS. CLARKE: Mmm-hmm --

11 MS. BONITTO: -- for instance, I sit on the
12 board of the Connecticut Engineering Program, I represent
13 DEP on that board --

14 MS. CLARKE: Okay --

15 MS. BONITTO: -- DEP just gave last year
16 \$7,000.00 to CPEP for them to incorporate into their
17 program an environmental aspect of it --

18 MS. CLARKE: Okay --

19 MS. BONITTO: -- to expose students to the
20 environmental field. Last year we held a career fair with
21 middle school students from the Greater Hartford area --

22 MS. CLARKE: Okay --

23 MS. BONITTO: -- they came to the
24 department. We had actual -- we had at least a dozen

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1 stations set up where our employees spoke to these
2 students about their jobs, what they entailed. They had
3 hands-on opportunities to learn about some of the jobs.
4 We followed that up with those students that were able to
5 work or apply for a summer job. You know, we made sure
6 that those that were interested, that they submitted a
7 seasonal application and were considered for seasonal
8 jobs. We use our seasonal jobs as an opportunity to
9 provide students with the opportunity to come into the
10 department and learning about different careers that, you
11 know, might open their interest and the doors to working
12 with DEP. Our employees do a lot of work going to schools
13 and talking to students about what we do, recycling, and
14 just general environmental issues.

15 MS. CLARKE: Okay. Thank you.

16 MS. COPELAND: I would --

17 CHAIRPERSON NORTON: Commissioner Copeland.

18 MS. COPELAND: I would just add that I
19 would like to see more of a philosophical commitment to
20 diversity within the agency. I think you are being very
21 creative in your role, but you are not the Commissioner.
22 And I think it would have greater meaning if the
23 Commissioner were here to hear this comment. So it would
24 be my encouragement that you deliver the message back that

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1 we want to see something else going on programmatically to
2 develop the network of diverse staff within the agency,
3 and we would hope that there would be evidence of a
4 commitment to diversity within the agency from management,
5 meaning the Commissioner and others. So that's just a
6 little comment. I think you're doing a good job, but you
7 don't have perfect control.

8 MS. BONITTO: Yeah -- well, I -- my last
9 statement was to express regrets for Commissioner
10 McCarthy. Actually, she ran to our car -- we wound up
11 parking and she -- we were waiting and she ran and she
12 said -- up to 20 minutes ago she was planning on coming. I
13 gave Mr. Bingham the card with her name on it because she
14 planned on being here, but something came up and she
15 wasn't able to come and she -- you know, she wanted me to
16 express her regrets. And the only reason -- or the main
17 reason why Barbara and I are able to do the job that we do
18 is because we have the commitment, otherwise we cannot, so
19 --

20 MS. COPELAND: Thank you.

21 CHAIRPERSON NORTON: Thank you. Were there
22 any other questions from the commissioners for DEP or our
23 staff on DEP? It doesn't look like it, so I guess on to
24 the University of Connecticut.

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1 MR. BINGHAM: And here representing the
2 University of Connecticut is Donna Monroe, the Association
3 Vice President of Human Resources and Payroll; Hanna
4 Prytko, Search Compliance Coordinator; and Katherine
5 Kenyon, Search Compliance Coordinator.

6 This plan is recommended for approval based
7 on compliance with the following: The plan contains all
8 the elements required; the work force is not in parity
9 with the relevant labor market area; the agency has not
10 met all -- or substantially all of its hiring promotion
11 goals; the agency has demonstrated a good faith effort to
12 achieve such goals; and there were no deficient elements
13 in the prior plan.

14 Short-term goal achievement, 66 out of 142,
15 for 47 percent; long-term goal achievement, 30 out of 138,
16 for 22 percent; total goal achievement, 96 out of 280, for
17 34 percent; promotion goal achievement, 40 out of 57, for
18 70 percent.

19 Five-year history, 2004, '05, '06, '07,
20 '08, the plan has been approved.

21 CHAIRPERSON NORTON: Are there any
22 questions from any commissioners for the University of
23 Connecticut or for Paula Ross regarding U-CONN's plan?

24 MS. CRUZ: Yeah. I'd like to hear from the

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1 agency. We've had -- you know, the state schools come
2 before us and talk on how they're struggling getting any
3 diversity at the professor level. We'd like to hear from
4 the school about -- we got only a shortened version of
5 what you're doing. There could be lots of stuff you're
6 doing and I'd like to hear what efforts, what struggles
7 you're going through. Is it just the science programs or
8 is it all programs? Because I think we've been hearing it
9 over and over again from the state schools and I'd like to
10 see what's going on at U-CONN.

11 CHAIRPERSON NORTON: Have you thought about
12 hiring retirees maybe -- (laughter) --

13 A VOICE: At a high rate and they get their
14 pension -- (laughter).

15 CHAIRPERSON NORTON: Sorry.

16 MS. HANNA PRYTKO: My name is Hanna Prytko.
17 I'm a Search Compliance Coordinator. First I'd like to
18 express regrets from our Chief Affirmative Action Officer,
19 Dana McGee, she's not able to be here, she's been
20 hospitalized --

21 CHAIRPERSON NORTON: Oh --

22 MS. PRYTKO: -- so you'll have to bear with
23 our explanations. We do face challenges with hiring
24 diverse faculty. We have a system in place where any

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1 search that is done, whether it's faculty or staff, goes
2 through out office. So we look at recruitment sources
3 that the departments are using. We have a whole website
4 where we try to offer people recruitment sources. We look
5 at previous sources that other search committees use that
6 were successful. We work on search orientations that kind
7 of -- try to teach people to not just do advertising but
8 do networking, associations, conferences, all sorts of
9 out-of-the-box recruiting. But we are facing a struggle
10 because a lot of the professor, associate professor,
11 assistant professor levels -- there's just not enough
12 people out there. And we are competing with other
13 research among universities and other universities
14 nationally for some of these people.

15 All of our search committees get their
16 goals at the time they begin the search, so they know who
17 they're targeting. And they are using -- a lot of our
18 search committees will come back with pages and pages of
19 recruitment sources and networking that they have done,
20 and they still don't get the candidates. It is happening
21 in all areas. Liberal arts, sciences, engineering, fine
22 arts, the law school, they all face the same challenges.

23 MS. CRUZ: Are you sending diverse
24 candidates out there to recruit or is it --

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1 MS. PRYTKO: Yes. In the past several
2 years all of the schools have -- the provost has initiated
3 diversity plans for all of the schools at U-CONN. So they
4 are not just our office standing there telling them. The
5 provost has made it clear that they have to have diversity
6 plans, they have to come back with -- every year
7 explaining what they have done and how their metrics are
8 working and what outreach they have done. So there are a
9 lot of programs that they are developing in trying to
10 reach these diverse candidates.

11 MS. CRUZ: I guess my concern is -- because
12 we have pages and pages -- you did meet a lot of goals,
13 but pages and pages of White candidates being hired at the
14 professional level and just -- most of your goals are, you
15 know, the White professors -- because that's obviously
16 part of the pool -- and you have these programs going on,
17 but they're not working. So, I guess my concern is -- you
18 know, the numbers we get -- we get a percentage of numbers
19 at the end of this report kind of showing us a percentage
20 of minorities you have. Yours are -- are just very very
21 low --

22 MS. COPELAND: Pitiful --

23 MS. CRUZ: -- for a state university. And
24 I would think U-CONN would have much higher ones than

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1 let's say Central --

2 MS. PRYTKO: I think they are -- they are
3 working very hard. Our new academic plan that has come
4 out has actual goals through the year 2014 to increase
5 from the percentages now, a good significant increase. So
6 there's a greater emphasis on diversity during this --

7 A VOICE: It's so ridiculous --

8 MS. PRYTKO: -- so, I think the programs
9 are going to get even more intensified --

10 MS. CRUZ: And then you reevaluate if it's
11 not working --

12 MS. PRYTKO: Yes --

13 MS. CRUZ: -- and you guys go back to the
14 drawing board --

15 MS. PRYTKO: Mmm-hmm. So it is embedded in
16 the mission, in the new academic plan that just came out
17 for the next five years. So it is --

18 (Pause - tape change)

19 MS. PRYTKO: -- (indiscernible) --
20 networking, trying to get these associations. And they
21 are doing what they can. Sometimes you just do not get
22 the candidates.

23 MS. CRUZ: Okay. And I notice the same
24 thing is going on with the promotional goal. So is there

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1 some, you know, program where you're trying to foster some
2 of the strong diverse candidates you have and -- or is
3 there something else going on with the promotions that I'm
4 not aware of?

5 MS. PRYTKO: No. They are looking at
6 trying to get diverse candidates in and then trying to get
7 the diversity that we do have, to go out there and try to
8 increase -- try to keep and retain our diverse faculty.
9 There are -- there's -- they're planning and talking about
10 that. It's going to be something that's not going to
11 happen for us, unfortunately, in a year or two, but it is
12 in the academic plan and it is set as goals for each
13 school in the University.

14 MS. CRUZ: And you said it's not just the
15 sciences --

16 MS. PRYTKO: No --

17 MS. CRUZ: -- you guys are struggling --

18 MS. PRYTKO: Yeah. Liberal Arts is a very
19 hard area --

20 MS. CRUZ: Really --

21 A VOICE: That's --

22 MS. CRUZ: -- that's a surprise.

23 MS. PRYTKO: In some of the sciences, even
24 the law school, we see the same thing. They are doing a

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1 lot of recruiting, a lot of casting as we tell them to do,
2 and they're still not necessarily getting the candidates.

3 MS. COPELAND: I'd like to know what has
4 been your most successful strategy to diversify the work
5 force at U-CONN? What has worked?

6 MS. PRYTKO: A lot of professional
7 networking, people who are actually on search committees
8 who are taking the time to contact other universities who
9 have programs, who have faculty that, you know, may turn
10 around and say yes, we know somebody who graduated, maybe
11 they weren't quite qualified now, they will be in a few
12 years, and growing those relationships with other
13 universities who are graduating people, or they're out
14 there somewhere else. That seems to have been the best
15 one as opposed to just straight advertising.

16 MS. COPELAND: And then my other question
17 is you said that the provost has recommended that each
18 campus have a diversity plan?

19 MS. PRYTKO: Each school, yes.

20 MS. COPELAND: A plan does not mean you do
21 anything. It could just be papers. So are there
22 activities that come out of this plan?

23 MS. PRYTKO: Yes --

24 MS. COPELAND: Do people actually work the

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1 plan or do they just create a plan and it's in a notebook
2 someplace?

3 MS. PRYTKO: No, they actually have to
4 provide plans and updates every year. They're held to --
5 they're accountable for their numbers and they are
6 accountable for what they have done. It is reviewed and
7 it is -- we put pieces of it in our plan. Our office --
8 our Affirmative Action officer reviews it. She is part of
9 the committee that set up these plans. So yes, they are -
10 - they are being held accountable.

11 MS. COPELAND: I -- I think it's an
12 embarrassment quite frankly. I'm embarrassed to see this
13 Affirmative Action plan because for the State of
14 Connecticut I just think for the goals and what's been
15 hired in each one of these positions, it's really quite
16 pitiful. I think we should be ashamed. And so that's
17 just something to contemplate because I don't see how this
18 is really a plan that passes quite frankly. I don't see
19 what this is quite frankly. I'm quite shocked and I'm
20 embarrassed for the State of Connecticut.

21 CHAIRPERSON NORTON: Commissioner Mambruno.

22 MR. MAMBRUNO: That being said, I do want
23 to commend you on what the Department of Physics did. It
24 looks like you really won -- Harvard University had a

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1 candidate that was preeminent in his field in Astrophysics
2 -- and as someone who just loved physics in college, I
3 just wanted to bring that up -- and you know, someone who
4 has several ongoing NASA grants, I'm sure there were many
5 schools, including Harvard, that, you know, missed --
6 missed the opportunity to get that one on their staff.
7 And I'm sure hopefully in the future this will bring more
8 publicity to the State of Connecticut and the department.

9 MS. PRYTKO: We do have some success
10 stories. It's just going to be a very long process to --

11 MS. COPELAND: Well how long has U-CONN
12 been around -- (laughter).

13 A VOICE: (Indiscernible) --

14 MS. COPELAND: Okay.

15 CHAIRPERSON NORTON: Sure -- sure.

16 MS. DONNA MONROE: Thank you. I'm Donna
17 Monroe, Associate Vice President for Human Resources and
18 Payroll Services. And I did want to take a moment to --
19 to comment. I thank you for your time.

20 Your -- your observations are very well
21 received. And I do want to share with you the fact that
22 President Mike Hogan, who has been with the University for
23 a little over a year and a half, has I think noticed
24 shortcomings in our efforts to diversify the work force.

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1 And to that end, he truly has elevated the significance of
2 diversifying the work force as well as the student body
3 since he's arrived. One demonstrable aspect of that is
4 the fact that he did elevate Dana McGee, who's
5 unfortunately quite ill, to the position of Associate Vice
6 President for Diversity and Equity, to cover all campuses
7 of the University -- so it's a Storrs based program as
8 well as the Health Center -- and charged her with
9 developing and implementing a far more in depth plan to
10 diversify our work force. And in fact it was just this
11 fall that the President, the provost, his vice presidents,
12 Dana McGee, and several others of the OBE staff met to
13 brainstorm about how we could improve our outreach and
14 penetrate the market of African-American, Latino, Asian
15 and so forth, to better recruit and build a pipeline
16 frankly.

17 So, I do want to make note of the fact that
18 I think President Hogan is very committed to this. I
19 think he recognized the fact that there was more that we
20 could do and has taken steps to elevate the University
21 wide interest and commitment to this. And in fact, Dana
22 is a member of the President's senior administrative team,
23 she joins us every Wednesday morning, which heretofore had
24 not been the fact. So we do have representation among the

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1 President's senior staff now that every week we sit down
2 and talk about these issues. So it's not that we don't I
3 think recognize there's more work to be done, but I think
4 it's -- I would like you to consider the fact that
5 President Hogan has taken this very seriously, elevated
6 the profile of diversity at the institution, and -- and
7 charged Dana -- and frankly, she's a little exhausted --
8 with improving our efforts to diversify as I said the work
9 force as well as the student body. Thank you.

10 CHAIRPERSON NORTON: Commissioner Clarke.

11 MS. CLARKE: Yes. The only comment I
12 wanted to make, and I think a couple of people made it
13 earlier, we certainly like to know what you are doing, and
14 that was a great explanation moving forward, because we
15 certainly didn't want you to do the same thing over and
16 over again and still see the same results, and gosh, darn,
17 how come that's happening.

18 One of the things that I might want to
19 suggest -- and I can't recall -- a particular university -
20 - we see them all as they pass through our doors, but I
21 would certainly think there are a number of them that are
22 being quite successful in their recruitment efforts. And
23 I'm sure they would be willing to share their techniques
24 with you so you could also enjoy some success. I mean

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1 there's certainly no reason to reinvent the wheel. If
2 someone has figured out how to do it and there's a primer
3 and says this is how we do it and these are the results we
4 get, why not just borrow from that rather than to start
5 from scratch. And I know we have seen several
6 universities that I can think of, and none I can call to
7 mind -- and I will attribute that to age -- but there are
8 several universities that have crossed our path just
9 recently that have done a very effective job in
10 identifying, hiring, and retaining some really top flight
11 talent, and their numbers certainly reflect that. So
12 that's just a -- just an idea as you're doing your
13 networking, as you're talking to Harvard and stealing
14 their resources -- no just kidding -- as you're -- as
15 you're talking to some of these schools that are similarly
16 situated, you know, talk to them about it. And I'm sure
17 they'll be willing to, you know, toot their own horn and
18 tell you, hey, we can do this and this is what we did.
19 And they might come up with some things that would
20 naturally surprise you.

21 CHAIRPERSON NORTON: Miss Ross, did you
22 have a comment or -- you don't have to, but did you?
23 Before you start, I just wanted to say -- and I don't know
24 who I'm asking this question to -- certainly to our agency

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1 -- do we ever -- how many other states and their agencies
2 have an Affirmative Action regime that they operate under?

3 Do we know?

4 MS. ROSS: There's no other state in the
5 union that requires Affirmative Action plans from their
6 state agencies, every one. We require it from all the
7 Executive Branch.

8 CHAIRPERSON NORTON: I'm sorry? No other
9 state does --

10 MS. ROSS: No other state requires
11 Affirmative Action plans from every executive branch --

12 CHAIRPERSON NORTON: Okay --

13 MS. ROSS: -- of state agency.

14 CHAIRPERSON NORTON: And the reason I was
15 asking that is whether or not we might ever aspire or
16 study the racial, gender makeup of say the Environmental
17 Protection Department in Minnesota or Vermont or West
18 Virginia or Texas, or the colleges in those places. And
19 every state is differently complexed, but whether we might
20 at times be able to study how we fair visa vie other
21 states. Recognizing that labor pools are different, but
22 certainly there's probably a dozen states out there that
23 are pretty similar socio-economically to Connecticut and
24 it might be interesting to know -- I'm sort of picking off

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1 what Commissioner Clarke was saying and finding out that -
2 - they could be far worse, but that maybe the University
3 of Massachusetts or Rutgers or Ohio State is marvelously
4 successful, or similarly the Department of Children and
5 Families or the Department of Environmental Management in
6 various states has a knack for succeeding in ways that we
7 would -- we would aspire to. And I was wondering if
8 someone on our staff might be able to -- at least
9 preliminarily research what data is available from the
10 agencies and universities of the other 49 states, even if
11 -- it may be very little compared to ours if they don't
12 have the same requirements. But I guess I'd like to --
13 it's something that hadn't occurred to me before, but I
14 guess I'd like to know how we stand up against other
15 states, and then perhaps if there's any places we can
16 learn from. But Miss Ross.

17 MS. ROSS: Just a couple of quick points.
18 First of all, promotions, particularly on the faculty
19 level are dictated by union contract. The faculty is
20 unionized at the University of Connecticut, so it's --
21 it's dictated by how long you're there and how many
22 publications and how many conferences and how many
23 presentations and so on before you can be promoted. So
24 that's one issue in relation to promotions.

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1 MS. CRUZ: Thank you. That's helpful to
2 know. I appreciate that.

3 MS. ROSS: Another issue which was referred
4 to -- and I noticed in their plan as I was going through
5 it, there were transcripts and copies of speeches and
6 pieces of journalism written by the new president, and he
7 definitely emphasized diversification in every one of them
8 that were included in the plan. And I did debate whether
9 or not to xerox and put them in the plan for you, but it's
10 such a lengthy plan, I didn't think you wanted any more
11 paper --

12 MS. COPELAND: It would have been good
13 reading though -- (laughter) --

14 MS. ROSS: Well if you'd like, I can bring
15 you the plan down -- (laughter) --

16 MS. COPELAND: No --

17 MS. ROSS: -- even though I can't lift it -
18 -

19 MS. COPELAND: -- you can e-mail it to me
20 though.

21 MS. ROSS: But ample information is
22 provided that the new president really is concerned and
23 has made it a special area of concern and emphasis. The
24 other thing --

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1 MS. COPELAND: So next year we know it will
2 be better, right?

3 MS. ROSS: Well, I don't know about next
4 year --

5 MS. COPELAND: Okay --

6 MS. ROSS: -- because it takes a while --

7 MS. COPELAND: Alright --

8 MS. ROSS: -- you know, even -- anything
9 you grow from -- it takes a while to bear fruit. The
10 other thing about working with the other universities,
11 which is a good idea because some of the universities have
12 very good results, this is an entirely different pool of
13 candidates than the other universities -- public
14 universities in Connecticut. This is an R1 university,
15 which is a very prestigious ranking, and they don't just
16 take people who graduated with their Ph.D. routinely.
17 They're competing with other top 10 universities in the
18 country, R1 universities, and they have to maintain
19 certain levels in order to maintain that ranking. And
20 that ranking means their primary goal is -- or the primary
21 mission is research, not teaching. So they go out and
22 look for the best researchers. And if they have a
23 candidate who's a non-goal candidate but he brings lots of
24 grant money with him, that's important to the University.

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1 It all comes down to money in the end. A lot of people
2 were offered jobs and didn't accept them because of salary
3 levels.

4 And you know, I cut down 200 pages to 36
5 for you. That was the hardest part of my job, reducing
6 the information for you. But the people from U-CONN
7 routinely gave me for each job the exact duties, how they
8 recruited, the exact requirements for the position, and
9 they provided some tear-sheets from the publications and
10 so on that stated exactly what was required, and yet they
11 have dozens of candidates who apply who are not qualified
12 unfortunately. And that's probably where most of the goal
13 candidates are.

14 MS. COPELAND: Well as a person of color
15 well acquainted with the academic system, I do know that
16 there are top level people of color that are top level
17 researchers nationally. And so I would just hope that in
18 Connecticut we would use that kind of --

19 MS. ROSS: Well, I think that it's being
20 used routinely. And I think the University is going to be
21 showing a higher level of achievement perhaps in the next
22 three years. It's going to take a little bit, but it will
23 happen. Thank you.

24 CHAIRPERSON NORTON: Are there other

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1 comments or questions from any commissioners for either
2 our staff or the agency? I don't hear any. We have
3 before us a motion to approve or accept the
4 recommendations for approval for the Affirmative Action
5 Plans for three agencies, DCF, DEP, and U-CONN. Hearing
6 no discussion, all those in favor -- and retention of
7 annual filing status -- all those in favor, please say
8 aye.

9 VOICES: Aye.

10 CHAIRPERSON NORTON: Anyone opposed?
11 Anyone abstaining? Then those --

12 MS. COPELAND: I'm abstaining.

13 CHAIRPERSON NORTON: Commissioner -- do you
14 want to be abstaining in all three or do you want me to
15 break up --

16 MS. COPELAND: I'd like to break it up
17 actually. I'd rather abstain from U-CONN.

18 CHAIRPERSON NORTON: Okay. Who made the
19 original motion?

20 MR. MAMBRUNO: I did.

21 CHAIRPERSON NORTON: Commissioner Mambruno
22 made the original motion. Commissioner Clarke seconded.
23 Would you accept an amendment to break out the University
24 of Connecticut from that motion?

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1 MS. COPELAND: I would.

2 CHAIRPERSON NORTON: So then the motion is
3 -- because I hadn't ruled on the vote yet I don't think --
4 that the Commission accepts staff recommendation for
5 approval and retention of annual filing status for the
6 Department of Environmental Protection and Children and
7 Families. All those in favor say aye.

8 VOICES: Aye.

9 CHAIRPERSON NORTON: Anyone opposed?
10 Anyone abstaining? I'll entertain a motion from any
11 commissioner to accept staff recommendation for approval
12 and retention of annual filing status for the University
13 of Connecticut. Is there such a motion?

14 MR. MAMBRUNO: I make a motion to accept
15 staff recommendation for approval.

16 CHAIRPERSON NORTON: For the University of
17 Connecticut. Mr. -- Commissioner Mambruno moves. Is
18 there a second?

19 MS. CRUZ: Second.

20 CHAIRPERSON NORTON: Commissioner Cruz
21 seconds. All those in favor say aye.

22 VOICES: Aye.

23 CHAIRPERSON NORTON: Anyone opposed?

24 MS. COPELAND: Nay.

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1 CHAIRPERSON NORTON: Anyone abstaining?

2 The motion carries with a nay vote.

3 At this point in time, I guess why don't we
4 let -- take just the briefest of breaks so agency people
5 who would like -- but you're welcome to stay, but if you
6 would like to return to your agencies, you may do so now.

7 (Whereupon, a short recess was taken.)

8 CHAIRPERSON NORTON: The recess is over.

9 And we need to move on to Item 4, New Business. And we
10 have five requests for contract compliance exemptions; one
11 from the Department of Transportation and -- working with
12 Transcom; one for two agreements between DOT and Metro-
13 North; one between U-CONN and Digilab; one between U-CONN
14 and Standard and Poor's; and then finally, one from the
15 Judicial Branch to work with TimeKeeping Systems, Inc.
16 Those are Items A through E. I take it we will be hearing
17 the -- some just brief rundown of the recommendations of
18 each --

19 MR. JAMES O'NEIL: (Indiscernible) --
20 principal Attorney Charlie Krich will address the new
21 business, the contract compliance exemptions --

22 CHAIRPERSON NORTON: Okay. Do you mind
23 taking the podium and running down Recommendation A
24 through -- why don't I entertain a motion from any

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1 commissioner -- and stop me, Charlie, if I shouldn't be
2 grouping these, but I was going to cluster the first five
3 and entertain a motion from any commissioner to accept
4 staff's -- legal staff's recommendation in regard to
5 contract compliance exemption requests, Items A through E.

6 Is there such a motion?

7 MS. CLARKE: So moved --

8 MR. MAMBRUNO: I move --

9 CHAIRPERSON NORTON: Commissioner Clarke
10 moves. Commissioner Mambruno seconds. And then would you
11 in a somewhat elaborate way describe to us these A through
12 E requests.

13 MR. CHARLES KRICH: Yeah, I'd be pleased
14 to. Hi everybody. I'm Charlie Krich. I'm a lawyer. I
15 work with Bob Brothers in the legal department. He's on
16 vacation I think as everyone knows. And in his absence,
17 he's asked that I present staff recommendations on A
18 through E of Item IV.

19 The staff recommendation on Item A is a
20 conditional approval. That's the contract between DOT and
21 Transcom, which provides -- it's a -- it's a
22 transportation consortium with various local
23 transportation agencies. They will provide a broad
24 resolution. But the board doesn't meet until this summer,

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1 so the recommendation is to allow the board an opportunity
2 to meet.

3 On Item B, our staff recommendation is to
4 deny without prejudice. One of the contracts is not yet
5 ready and there's ongoing discussions with Attorney Alix
6 Simonetti in our office concerning getting a board
7 resolution. Item C, the --

8 CHAIRPERSON NORTON: Wait, we never -- we
9 must have regular dealings with Metro-North. Has that
10 never come up before?

11 MR. KRICH: It's -- yeah, there's a whole -
12 - there are -- there are very difficult legal issues
13 involved in --

14 CHAIRPERSON NORTON: Okay --

15 MR. KRICH: -- in jurisdiction. Some of
16 which are in court and others of which Attorney Simonetti
17 is dealing with.

18 CHAIRPERSON NORTON: Okay.

19 MR. KRICH: Item C, the recommendation is a
20 conditional approval. This is for the purchase of a
21 scientific piece of apparatus. The board will be meeting
22 to provide a resolution, but the board will not meet until
23 April. Another condition that's being added is that the
24 employees who are working on the Connecticut contract, be

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1 given notice of their enhanced rights under Connecticut
2 law because this company's Equal Employment Opportunity
3 policy would be pretty deficient by Connecticut standards.

4 Under D --

5 CHAIRPERSON NORTON: Oh, is that a normal
6 thing where --

7 MR. KRICH: Yeah --

8 CHAIRPERSON NORTON: -- where -- why --
9 where are they headquartered the company? Is --

10 MR. KRICH: They're -- they're from Texas -
11 -

12 CHAIRPERSON NORTON: Okay --

13 MR. KRICH: -- so the -- the actual -- the
14 instrument itself is manufactured in Texas. There -- the
15 laws of Texas are not equivalent to Connecticut's in any
16 number of ways. There's about four or five ways in which
17 Connecticut provides greater protection. So Alix when she
18 did this review, wanted to make sure that the employees
19 working under contract were aware that they had these
20 rights and that the company was adequately protecting
21 employees working on the Connecticut contract.

22 MR. JOHNSON: I have a question, if I may.

23 CHAIRPERSON NORTON: Commissioner Johnson.

24 MR. JOHNSON: This machine, it's -- do you

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1 know -- the machine, is this a one time purchase or is
2 this something that they would actually have to come here
3 to service? Because it says the cost value is
4 approximately 15,000. Is this just a one time purchase or
5 is it something that they would actually come and service
6 on an on-going basis?

7 MR. KRICH: I apologize for not having that
8 answer. My understanding was it's a one time purchase,
9 but there's almost always servicing agreements for some of
10 this -- this is some sort of a DNA machine. I'm guessing
11 that it requires servicing that probably has to be done by
12 that particular company --

13 MR. JOHNSON: So they would have to send
14 someone --

15 MR. KRICH: They would have to send someone
16 potentially to Connecticut. So there may be some
17 connection in the future.

18 MR. JOHNSON: Okay.

19 CHAIRPERSON NORTON: I don't -- I'm sorry,
20 were you done?

21 MR. JOHNSON: Yes.

22 CHAIRPERSON NORTON: I -- I -- my memory
23 isn't serving me well. I don't know if -- is that a
24 precedent that we -- I'm not criticizing at all -- that

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1 we've asked companies to kind of send out an alert to
2 people that you're now being under the umbrella of
3 Connecticut's antidiscrimination if it seems -- as opposed
4 to Massachusetts, but in Texas where it's very different,
5 are we --

6 MR. KRICH: It's --

7 CHAIRPERSON NORTON: -- have we done that
8 before?

9 MR. KRICH: I'd say within the past --
10 since September, certainly that's becoming much more
11 routine. And I think -- generally when Alix and I review
12 these requests now, because the law has been in effect for
13 a year and a half -- we're a lot stricter in terms of
14 looking at contracts to make sure that all the policies
15 are equivalent, meaning essential identical to
16 Connecticut's -- we've found, for instance, a lot of
17 companies will have policies say that prohibit age
18 discrimination, but they're looking at the federal law,
19 which is 40 and above, and Connecticut's starts, you know,
20 from the day you're born. So it's -- it's -- in
21 Connecticut it's illegal to discrimination because of
22 youth, whereas most all these policies are because of age
23 --

24 MS. CRUZ: And I thought it was part of the

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1 statute that they had to do that.

2 MR. KRICH: They -- yes -- yes, it is --

3 CHAIRPERSON NORTON: Okay --

4 MS. CRUZ: That's where --

5 MR. KRICH: -- so this is part of --

6 CHAIRPERSON NORTON: Okay. And I -- you
7 said -- you have a better memory than I do -- and I hadn't
8 realized and I hadn't heard this, but that's -- that's I
9 think a good thing.

10 MR. KRICH: And we find that a lot of
11 companies they'll say well I guess we're equivalent
12 because we say age, we say disability. And it's like yes
13 that's true, but Connecticut's law on disability goes well
14 beyond the Americans with Disabilities Act. So it's an
15 education process that we go through here as well. And
16 that's why Alix had put that particular term in.

17 MR. JOHNSON: I have another question
18 actually.

19 MR. KRICH: Sure.

20 CHAIRPERSON NORTON: Commissioner Johnson.

21 MR. JOHNSON: For contracts such as this,
22 does this goes out through an RFP or is this something
23 that we reach out to this particular company?

24 MR. KRICH: The -- we're seeing this at a

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1 really late stage. The contract has already been awarded
2 when we get it. And the Attorney General would be
3 reviewing this contract. If the Attorney General signs
4 off on it, this agency won't see it at all. The only
5 reason we get it is for whatever reason the Attorney
6 General is not willing to sign off on the contract,
7 presumably because there's no board resolution. And the
8 statute requires that every contract awarded or contractor
9 have its board of directors or if it's a partnership, the
10 partners adopt a resolution stating that they support the
11 nondiscrimination terms that are embedded into the
12 contract with the State of Connecticut.

13 MR. JOHNSON: So those non-resolution terms
14 are actually in the contract?

15 MR. KRICH: Well, the -- the language from
16 General Statutes 4a-60 and 4a-60a is in there. And that
17 language basically commits a contractor to five things.
18 First is not to discriminate in the performance of the
19 contract with respect to age, disability, sex, race,
20 color, the whole -- the whole list.

21 MR. JOHNSON: Alright.

22 MR. KRICH: Anytime we see anything that's
23 not there, we -- immediately that sends up a red flag and
24 we say you're not equivalent to Connecticut.

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1 The other thing is contractors are required
2 to provide notice that they're an Equal Employment and
3 Affirmation Action employer. They have to notify labor
4 unions of this fact. If it's a construction contract,
5 they have to submit an Affirmative Action plan to this
6 agency, which will review it.

7 And the fifth thing is that they also agree
8 that our agency -- say this is a contract with a Texas
9 company, our agency is permitted to request information on
10 the employment practices just to make sure that all of
11 Connecticut laws are being complied with. Okay. So all
12 of that is embedded into the contract; the contract will
13 have all those provisions in it.

14 And then there's also -- the second kind of
15 requirement is the board resolution. So it's not enough
16 to say you as the president of the company sign that
17 contract. If this -- the rest of the members or the board
18 of directors, you have to take that to your board and get
19 them to approve that and submit a resolution to the
20 Attorney General, or if it comes to us, to the Commission.

21 MR. JOHNSON: So how does a contract then -
22 - if it's before us, that means this company wants to do
23 business with us. How does it come to us incomplete? If
24 they're sending a contract in to us, they should have met

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1 all the requirements of the contract before it gets here.

2 MR. KRICH: Well, they're asking for an
3 exemption from the contract requirements. In other words,
4 if -- if -- say I'm the contractor and I'm willing to do
5 everything Connecticut law requires, I never go to the
6 Commission on Human Rights.

7 The only way any of these requests get here
8 is if someone said I can't do this or I don't want to do
9 this, can you excuse me. And that's what you have the
10 right to do; you can say yes or you can say no, comply
11 with Connecticut law. So that's why these are being
12 presented. Our recommendations are we reviewed these, but
13 it's up to you. You're the final say. Do you want to
14 allow an exemption or do you not want to allow the
15 exemption.

16 Generally what we try to do when we get the
17 request in is we will -- Alix and I will then contact the
18 companies directly to see if we can work something out,
19 because sometimes it's just a matter of miscommunication.

20 Companies often think we -- we're not a Connecticut
21 company and we can't -- Connecticut can't make us adopt as
22 our whole corporate policy to follow Connecticut law. And
23 so what we say is well you do in terms of your contract
24 with the State of Connecticut. You don't necessarily have

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1 to do it for other operations. If you have an operation in
2 another foreign country -- and some of these are very very
3 large corporations -- there's different laws -- they have
4 many different laws, but as to the Connecticut component
5 of it, you will comply with Connecticut law, you must.

6 MR. JOHNSON: Okay.

7 MR. KRICH: Okay. And that's what you --
8 you can say in this case we see a valid reason for not
9 requiring that --

10 MR. JOHNSON: So as far as -- as far as --
11 let's take Digilab for instance --

12 MR. KRICH: Yes --

13 MR. JOHNSON: -- this particular company
14 here who makes this particular machine, they're asking for
15 an exemption so that their board can get to it at some
16 point in July. Is there another company out there that
17 does the same thing who is willing to comply or --

18 MR. KRICH: That's -- that's a great
19 question. The problem is we don't see any of that --

20 A VOICE: (Indiscernible) -- can I --

21 MR. KRICH: -- because all we get is the --

22 A VOICE: I can --

23 CHAIRPERSON NORTON: I -- I'm going to --
24 I'm going to -- if there's someone from the public who --

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1 I assume you're from the public?

2 MR. KRICH: No, this is from U-CONN.

3 A VOICE: I'm from the University --

4 CHAIRPERSON NORTON: Of Connecticut, okay.

5 Do you mind if I wait until we're done asking him
6 questions and then you can have at it?

7 A VOICE: Sure.

8 CHAIRPERSON NORTON: So -- so I take it,
9 you want to just yield that question until she --

10 MR. KRICH: Oh, sure, I'd be happy to.

11 CHAIRPERSON NORTON: But I actually had a
12 question --

13 MR. KRICH: Mmm-hmm --

14 CHAIRPERSON NORTON: -- it's sort of
15 generic. You're -- if we contracted with a company for a
16 service like, I don't know, a poll, let's say DEP wanted a
17 poll on what kind of parks do you like going to, and
18 Connecticut -- the polling operation would have a thousand
19 employees. They might only use a few people to do the
20 poll for us, but would they need to warrant that these
21 discrimination policies are in play for the thousand
22 people in the division providing the service to us?

23 MR. KRICH: Yeah -- well you mean there's
24 only three people working on the Connecticut contract?

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1 CHAIRPERSON NORTON: Then the three -- you
2 have to make sure the three people aren't discriminated
3 against --

4 MR. KRICH: Three people working on the
5 Connecticut contract --

6 CHAIRPERSON NORTON: -- and then --

7 MR. KRICH: Generally what we find is that
8 a lot of companies are a bit more sophisticated at least
9 on paper than they used to be. And so just reading the
10 policies, they are somewhat close. You know, I don't
11 think either Alix or I would have great reservations. In
12 this case we did because if you look at page 2 on the list
13 there were -- 1, 2, 3, 4, 5, 6, 7 -- there were nine
14 protected classes under Connecticut law that aren't
15 covered by this company's policy. And that's -- that's
16 pretty outrageous really. So that's why Alix had insisted
17 that the company notify the employees of their rights
18 under Connecticut law.

19 CHAIRPERSON NORTON: Yeah. The other
20 question I had -- and then I'll let you continue, and then
21 certainly the folks of U-CONN to talk -- the other
22 question I had was then -- you're describing this stream
23 of requests as, in essence, a product of the Attorney
24 General's office -- and I don't mean to say it's their

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1 responsibility that we have these -- but every contract
2 compliance exemption request we get comes from an
3 Assistant Attorney General who has determined that this
4 law is not being -- that that one is required?

5 MR. KRICH: Well it -- it comes not from
6 the Attorney General. It comes from either the agency or
7 the potential contractor who has found that the contract
8 has been held up by the Attorney General --

9 CHAIRPERSON NORTON: Okay --

10 MR. KRICH: -- and then someone comes here
11 to request -- the interesting thing is that over this year
12 and half -- at first it was always the agencies who were
13 coming here. And now because I think agencies are getting
14 much more sophisticated, they know that we're just not
15 going to routinely grant these things --

16 CHAIRPERSON NORTON: Okay --

17 MR. KRICH: -- so they're forcing the
18 contractor to basically call the Commission and explain
19 why they can't get a resolution. I mean a lot of this is
20 really -- you know, it's silly, because they can get the
21 resolution. They just for whatever reason choose not to.

22 One of -- the last one on here, this
23 TimeKeeping thing or contract with the Judicial
24 Department, it came up here because the Judicial

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1 Department could not get a resolution. And so I called
2 the guy up in Ohio and magically in two days there was a
3 board resolution. So you know, it's -- it's -- but again,
4 Judicial wasn't going to -- in fact I spoke to the person
5 from Judicial and she was aware that there weren't really
6 good reasons for why the resolution wasn't being put
7 forward, it was just people don't want to do it sometimes.

8 CHAIRPERSON NORTON: So the board
9 resolution has to say that they will not discriminate in
10 the execution of the contract with Connecticut?

11 MR. KRICH: Well it can, yes. Yes. I mean
12 --

13 CHAIRPERSON NORTON: I mean obviously they
14 might have an all encompassing resolution --

15 MR. KRICH: Right --

16 CHAIRPERSON NORTON: Is that what they
17 typically choose to do, they pass --

18 MR. KRICH: They -- unfortunately, the
19 Attorney General has a certain form that's about one
20 paragraph long, and it's not very informative, and it just
21 says that the board supports the nondiscrimination
22 provisions in the contract. So what we have sometimes
23 done is if we're not really sure how much information is
24 getting through, we require that there be -- we send out

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1 kind of like a form letter saying age means all ages, it
2 doesn't mean just 40 and above, disability means -- and oh
3 by the way, when it says marital status, that includes
4 civil union status, same sex marriage status -- we -- we
5 go through all of the classes, so that everyone should
6 know that this isn't just a little paper kind of thing
7 that you just sign off on or one-paragraph thing, that
8 you're really aware of what these requirements are. And
9 it comes as a surprise to some companies because they
10 think they have very generous policies. And when they're
11 measured up to Connecticut's, they're almost always found
12 to be short in some area.

13 CHAIRPERSON NORTON: So if a company
14 creates -- has a resolution that we're going to buy tomato
15 soup from, if a year later we were going to buy golf shoes
16 from them, would they have to pass that resolution again
17 because the first resolution just applied to the
18 production of tomato soup? Would they have to get another
19 resolution for the golf shoes because that first
20 resolution didn't apply to the -- the factory made golf
21 shoes -- am I -- did I ask that well? Do you understand
22 what I'm saying?

23 MR. KRICH: No, you asked it really well.

24 CHAIRPERSON NORTON: Okay.

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1 MR. KRICH: Did you want me to compliment
2 you on that --

3 CHAIRPERSON NORTON: No, I --
4 (laughter)

5 A VOICE: Wow --

6 CHAIRPERSON NORTON: No, I wanted to know
7 were there --

8 MR. KRICH: No, it was perfect. It was
9 absolutely perfect. And we sort of anticipate this,
10 because it's kind of crazy to go back to a board --
11 especially when you've got contracts with Nike and, you
12 know, Bank of America, I mean like they're not sitting,
13 you know, someplace with people coming in from London just
14 to, you know, approve this Connecticut contract thing. So
15 we are permitting language to be inserted into the
16 resolution that says in this and all future contracts with
17 the State of Connecticut.

18 MR. MAMBRUNO: But what if they're making
19 the golf shoes in Vietnam or another country, Cambodia --

20 MR. KRICH: Mmm-hmm --

21 MR. MAMBRUNO: -- that --

22 CHAIRPERSON NORTON: If a Vietnamese guy
23 shows up at the door, they've got to hire him?

24 MR. MAMBRUNO: -- maybe it doesn't comply

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1 with that, would we need a separate contract?

2 MR. KRICH: We -- we will take the one
3 resolution that says they're going to comply with -- in
4 the performance of this contract. We're not stating that
5 for the Vietnamese factory that you have to comply with
6 Connecticut law as to -- well, say -- say a factory in
7 some other country, Malaysia, okay, if they're not making
8 the shoes for Connecticut, then we don't have any
9 jurisdiction. But to the extent that they were making
10 them in Vietnam and you were going to hire people in
11 Vietnam to make shoes for the Connecticut track team,
12 you're going to have to comply with Connecticut law or
13 else you don't get the contract. It's just real simple,
14 unless you say they get it. But the staff recommendation
15 will almost always be no --

16 CHAIRPERSON NORTON: Any -- why don't you -
17 -

18 MR. KRICH: -- because there's other shoes
19 out there. You know, it's --

20 CHAIRPERSON NORTON: So we're on Digilab
21 and actually did touch on the TimeKeeping, but why don't
22 you complete that --

23 MR. KRICH: Sure --

24 CHAIRPERSON NORTON: -- and then we can --

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1 then we'll listen to them, and then we'll bounce back to
2 you --

3 MR. KRICH: Okay --

4 CHAIRPERSON NORTON: -- for the Request for
5 Declaratory --

6 MR. KRICH: That would be great. The -- so
7 item -- Item 4D was the Standard and Poor's. That's a
8 denial without prejudice. Alix is still negotiating with
9 Standard and Poor's to get a better resolution.

10 The last item is Judicial Branch and
11 TimeKeeping Systems. The request for an exemption for the
12 board resolution is no longer necessary because they have
13 provided that. What I -- my recommendation would be
14 though to grant the request in part; and that would be to
15 excuse from the Affirmative Action requirements. The
16 reason being that only applies to a construction contract,
17 and this is basically some software. It's going to be a
18 program that would be put off the shelves. They will have
19 a person or two people in Connecticut for less than a week
20 to install the equipment on the Judicial Department's
21 computers and provide some training. So it doesn't really
22 -- it's not a contract that would otherwise be subject to
23 that provision, where the other two -- a60a, 2, 3, and 4,
24 which all have to do with construction contracts.

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1 CHAIRPERSON NORTON: Okay. So now there's
2 members from the University of Connecticut that would like
3 to speak I take it on either items -- Item C or D I take
4 it, or both, I don't know.

5 MS. KATHLEEN PAQUETTE: Kathleen Paquette.
6 I'm a purchasing agent at the University of Connecticut.

7 I just wanted to clarify how this came into
8 play. In this particular instance the instrument from
9 Digilab was named in a federal grant. The researcher had
10 already designated this along with another other -- a
11 number of other pieces of equipment to conduct the
12 research under a particular federal grant. This
13 instrument was named specifically, so there's no
14 opportunity for us --

15 A VOICE: Go out for bid --

16 MS. PAQUETTE: -- to go for a competitive
17 process. This is an issue that I run into frequently
18 because I'm dealing with the scientific community there
19 and we run into situations where a particular instrument
20 is the only one that performs. But we make our best
21 efforts to verify that through our research and to back up
22 whatever has been presented to us. I think that answers
23 your question.

24 A VOICE: Actually very well. Thank you.

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1 MS. PAQUETTE: Okay. I'd also like to add
2 that Digilab in response to the letter from Mr. Brothers'
3 office has already submitted an outline of how they are
4 going to address and notify the employees involved in the
5 contract. And I forwarded that to Attorney Simonetti and
6 his office.

7 CHAIRPERSON NORTON: Are there questions --
8 is there anyone else in the audience who needs to speak on
9 this subject? Any questions from any commissioners? It
10 doesn't seem like I hear any. So we are being -- it is
11 recommended to us that we conditionally approve Item A,
12 with a board resolution to come; that we deny without
13 prejudice Item B, because there's still some legal
14 niceties to be looked into and resolved; to conditionally
15 approve Item C, with a board resolution to come; and to
16 deny without prejudice U-CONN and Standard and Poor's, I
17 guess work still needs to be done there; and to grant in
18 part the Judicial Branch's request to contract with
19 TimeKeeping Systems. I take it I got that right because
20 no one is yelling at me. All those in favor of that
21 motion, please say aye.

22 VOICES: Aye.

23 CHAIRPERSON NORTON: Anyone opposed?
24 Anyone abstaining?

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1 MR. JOHNSON: I oppose actually.

2 CHAIRPERSON NORTON: Oh, you oppose?

3 MR. JOHNSON: Yes.

4 CHAIRPERSON NORTON: Okay. I'm sorry, did
5 I cut you off? Did you want to speak to --

6 MR. JOHNSON: I'd actually like to break
7 them up --

8 CHAIRPERSON NORTON: Okay, sure --

9 MR. JOHNSON: -- because I wanted to
10 address one of those items --

11 CHAIRPERSON NORTON: Okay. Who made the
12 original motion?

13 A VOICE: Commissioner Clarke.

14 CHAIRPERSON NORTON: And Commissioner
15 Mambruno seconded. Would you -- which --

16 MR. JOHNSON: The Standard and Poor's.

17 CHAIRPERSON NORTON: Okay. Would --
18 Commissioner Clarke and Commissioner Mambruno, would you
19 allow your motion to be amended to include accepting staff
20 recommendations for A, B, C, and E?

21 MS. CLARKE: I certainly would.

22 MR. MAMBRUNO: Yes.

23 CHAIRPERSON NORTON: So the motion is A, B,
24 C, and E, again conditional approval for DOT and Transcom,

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1 deny without prejudice DOT with Metro-North, conditionally
2 approve U-CONN and Digilab, and grant in part Judicial
3 Branch and TimeKeeping. All those in favor please say
4 aye.

5 VOICES: Aye.

6 CHAIRPERSON NORTON: Anyone opposed?
7 Anyone abstaining? Those four staff recommendations are
8 approved by the full Commission.

9 And then we have Item D. Is there a motion
10 from any commissioner to grant -- sorry -- to accept staff
11 recommendation for a denial without prejudice the contract
12 between U-CONN and Standard and Poor's, is there such a
13 motion?

14 MS. CRUZ: Motion.

15 MR. MAMBRUNO: Second.

16 CHAIRPERSON NORTON: Commissioner Cruz
17 moves and Commissioner Mambruno seconds to accept staff
18 recommendation to deny without prejudice contract
19 compliance between -- exemption requested by U-CONN to
20 contract with Standard and Poor's. Commissioner Johnson,
21 did you want to comment on that?

22 MR. JOHNSON: Yes. Is there anyone from --
23 are you -- so there's no one here to address this?

24 CHAIRPERSON NORTON: You're from U-CONN,

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1 but you don't know about this one?

2 MS. LESLIE LANGWORTHY: Yeah, we're not --
3 Standard and Poor's has --

4 COURT REPORTER: She needs to be on a
5 microphone.

6 MS. LANGWORTHY: I'm sorry.

7 COURT REPORTER: And identify yourself
8 please.

9 MS. LANGWORTHY: Hi. I'm Leslie Langworthy
10 from U-CONN. Standard and Poor's has -- they have applied
11 for this exemption directly. It is not being presented to
12 your commission from us. The attorney from Standard and
13 Poor's has been working directly with Alix I believe -- is
14 that correct? I have actually spoken to the department
15 just yesterday actually and I have offered to certainly
16 work with the attorney at Standard and Poor's if he'd like
17 to contact me to --

18 CHAIRPERSON NORTON: Who's the -- do you
19 guys not -- I don't know how to put this -- but do you not
20 care if this contract moves forward or it's just -- do you
21 care --

22 MS. LANGWORTHY: No, actually -- and again,
23 I'm not firsthand involved, but it -- I'm not really sure
24 how it all transacted, but I do know that the department

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1 just decided that they were going to make their attempt to
2 try to get the exemption. It really didn't come through
3 the purchasing department --

4 CHAIRPERSON NORTON: I'm sorry, which --
5 the department of what made an attempt? I mean -- you
6 mean the company --

7 A VOICE: Standard and Poor's --

8 CHAIRPERSON NORTON: Yeah, okay.

9 MS. LANGWORTHY: Yeah. And the department
10 at the University who is -- do you know who -- what
11 department it is that's using -- I think it's the business
12 school --

13 A VOICE: The business school.

14 MS. LANGWORTHY: Yeah. The business school
15 decided that they were going to work directly with
16 Standard and Poor's --

17 CHAIRPERSON NORTON: Mmm-hmm --

18 MS. LANGWORTHY: -- you know, again I
19 wasn't firsthand involved and I'm not sure why it went
20 that route as opposed to going through our department.

21 MR. JOHNSON: So my question is aside from
22 the fact -- you know, obviously -- is there anyone else
23 that can provide the service that Standard and Poor's
24 provides I guess that U-CONN would be subscribing to? That

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1 would be question No. 1.

2 MS. LANGWORTHY: Yeah, I -- I really can't
3 answer that question without having the materials. I mean
4 I would suspect that it's probably a sole source, but
5 that's pure speculation. You know, without having, you
6 know, being firsthand involved, I just don't have the
7 information.

8 MR. JOHNSON: I -- forgive me for
9 bombarding you with questions that you probably don't have
10 the answers to, but in the event of a denial, how would
11 that affect U-CONN's ability to conduct its business
12 school when it comes down to that particular item?

13 MS. LANGWORTHY: You know, again I wish I
14 had more information for you, but I can tell you in my
15 conversation -- when I saw that this was on the agenda, I
16 contacted the business school to find out -- you know, I
17 see there's something on the agenda for tomorrow. And
18 they did tell me that to not have Standard Poor's, it
19 cripples the business school. So clearly it is important
20 to them. They indicated again that the attorney from
21 Standard and Poor's had been working directly with Alix
22 Simonetti. She did notify me of some of the requests from
23 the commission -- excuse me, from Alix. And so I, again,
24 offered, you know, that I would be more than happy to work

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1 with them, because I've worked extensively with Charlie
2 and I'm -- I'm fairly well versed I think with what it is
3 that the Commission is looking for, and I certainly am
4 more than willing to work with Standard and Poor's and
5 assist in trying to satisfy ultimately the intent of the
6 statute.

7 MR. JOHNSON: Thank you. I just have a
8 comment --

9 CHAIRPERSON NORTON: Sure, go on --

10 MR. JOHNSON: -- for the rest of the
11 commission. You know, if you -- if --

12 (Pause - tape change)

13 MR. JOHNSON: -- (indiscernible) -- staff
14 recommendation for an approval for service that's
15 primarily done off-site, it appears to me that this
16 particular service that U-CONN has attempted to contract
17 with Standard and Poor's for is subscription based and
18 something that Standard and Poor's has no need to enter
19 into the State of Connecticut to do. Therefore, I see no
20 reason why if we're going to grant one company
21 conditionally the opportunity to do business with the
22 State of Connecticut for basically the same thing, a
23 subscription based business, then why Standard and Poor's
24 would have to -- would have to do anything different. I -

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1 - I believe that would be discriminatory.

2 CHAIRPERSON NORTON: Counselor, would you
3 mind -- well, I don't know what -- getting your hands
4 around the difference that you would see, that --

5 MR. KRICH: Well, it's pretty clear from
6 the letter that's being sent to the Standard and Poor's
7 attorney that -- if you look at the second paragraph that
8 says basically S&P's position is still unresolved with the
9 question of the board resolution. The difference with
10 TimeKeeping is -- I -- I have in my office a certified
11 copy of the board resolution from TimeKeeping, okay. So
12 we don't even know whether Standard and Poor's is willing
13 to give a resolution, whether they're not willing to adopt
14 a resolution. So maybe when it says deny without
15 prejudice, the better way to phrase it would be pass; if
16 it were to say this gets passed or continued to the next
17 meeting, so it will allow Standard and Poor's to come back
18 with this and tell us its corporate position. Because at
19 this point staff doesn't know what to really recommend
20 because Standard and Poor's isn't saying it won't adopt a
21 resolution, but it's not saying it will. And TimeKeeping
22 said -- not only said that it would, it actually did, and
23 I have -- I have proof of that.

24 CHAIRPERSON NORTON: Okay, so --

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1 MR. JOHNSON: And that's what deny without
2 prejudice means?

3 MR. KRICH: Yeah, it just means pass. So
4 maybe -- it's a little -- a lawyer term. And I apologize
5 that we don't express it more -- it just means to continue
6 it to your next meeting. And so it's not saying you're --
7 that they won't get the service. It's just saying let
8 Alix talk with Standard and Poor's and let's hear what
9 Standard and Poor's wants to do.

10 MR. JOHNSON: Commissioner --

11 CHAIRPERSON NORTON: Sure, commissioner --

12 MR. JOHNSON: At the last meeting there was
13 a particular service that -- with the developmentally
14 handicapped. And we --

15 A VOICE: Yeah --

16 MR. JOHNSON: -- we tabled that decision
17 for two months --

18 A VOICE: Two months --

19 A VOICE: That's right.

20 MR. JOHNSON: Wouldn't that be the same
21 thing, tabling a decision? I mean to me the term deny
22 without prejudice seems rather harsh.

23 CHAIRPERSON NORTON: Actually -- if you're
24 denying without prejudice -- is taking no action

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1 equivalent? Just out of curiosity.

2 MR. KRICH: We've been -- and you can
3 instruct us how you really want these handled --

4 CHAIRPERSON NORTON: Yeah --

5 MR. KRICH: -- but we've -- when they've
6 been denied without prejudice, what I do is -- or Alix
7 does -- we just simply keep -- in theory either then
8 submit a new one, but what we do is we keep the
9 application and say do you still want us to consider it --

10 CHAIRPERSON NORTON: Mmm-hmm --

11 MR. KRICH: -- we work through the process,
12 continuing to contact the other side. And then we will
13 bring the matter back once we have a decision. Like for
14 instance -- let's see -- there's another one on here that
15 you just passed for deny without prejudice, and that means
16 basically the discussions are ongoing, and when we have
17 information, we will bring it back. If you'd prefer the
18 recommendation will be to pass or to continue the matter
19 to your next meeting, how ever you really want us to say
20 that. But you're not -- you're not ruling on merits, on
21 whether the contract should be permitted or not. You're
22 just -- you're just allowing for additional time.

23 CHAIRPERSON NORTON: I mean sometimes it
24 comes up in town meetings, like a zoning board and someone

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1 is applying for a 40-house subdivision and they lack some
2 of the wetlands -- well not wetlands -- but they lack some
3 of the required work, and the zoning board will say we
4 deny without prejudice, that doesn't mean we won't say yes
5 next month --

6 MR. KRICH: Right --

7 CHAIRPERSON NORTON: -- but you -- there's
8 more homework that needs to come our way.

9 MS. CRUZ: Because you reapply the next
10 month where you're going to be ruling on it. I was going
11 to just address last month. The difference with that
12 service provider was that was a situation in which we had
13 granted them a six-month or a year exemption and then kind
14 of had surprised them and said we're not going to grant
15 you another six months and, oh, you've got to come with
16 your board resolution. And I believe she -- the woman
17 from the company said I think I can get it, I just need
18 more time. I mean I was expecting you just to agree on
19 another six months and now all of a sudden you're telling
20 me you're denying it. So, I just see that as a little bit
21 different situation.

22 I'd feel more comfortable if the University
23 was handling this particular case and could say yes they
24 are the sole provider or we think, you know, time is of

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1 the essence. It's a little bit different than what we've
2 typically had where the company applies directly and we
3 have to guess as to, you know, the type of services and
4 the sole provider. So that --

5 CHAIRPERSON NORTON: Well, so -- maybe we
6 should take a look at how we present -- get this presented
7 to us. I would rather wait for the return at the very
8 next meeting anyways for Mr. Brothers to see whether he
9 has some insight as to -- or advice as to how the
10 presentation gets done. Do you mind proceeding with this
11 method of calling it denial without prejudice? And would
12 you mind throwing out to Bob when he comes back that --
13 you know, are there other ways of looking at -- I'm not
14 sure I'm uncomfortable with it -- I don't know -- it seems
15 like it works. And I can understand what you're saying,
16 is it seems like kind of a negative stamp.

17 MR. KRICH: The letter -- if it's any
18 comfort, the letter that goes out says that you could
19 resubmit this, continue working with staff, the next
20 commission meeting will be and give the date. And we give
21 a deadline generally a week ahead of time so that we can
22 include whatever we receive in the packet of materials
23 that goes to you. And so it's not like you lose and go
24 away. It's more like we need to keep working through the

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1 process.

2 MS. CRUZ: Well -- and also -- this might
3 interest you, commissioner, the conditional approval
4 doesn't have conditions with it. I mean that was
5 something I didn't understand at first too --

6 CHAIRPERSON NORTON: Yeah --

7 MS. CRUZ: -- so maybe we should revisit
8 some of our terms -- because when we grant conditional
9 approvals, my question was always what are the conditions.
10 Well, there's no conditions. It's just a -- you know --

11 A VOICE: It's -- (indiscernible) --

12 CHAIRPERSON NORTON: Well, that's right --

13 MS. CRUZ: It's not a disapproval --

14 (Multiple voices overlapping -
15 indiscernible)

16 CHAIRPERSON NORTON: I'm sorry. Like in
17 the first case we're doing -- A and C we're doing
18 conditional approvals --

19 MR. KRICH: You're -- what you're doing is
20 you're permitting the State -- you granted it to enter
21 into these contracts that are technically deficient
22 because there is no board resolution --

23 CHAIRPERSON NORTON: Okay --

24 MR. KRICH: -- so they're conditional in

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1 the sense that we're expecting the resolution --

2 CHAIRPERSON NORTON: But the contract is
3 good --

4 MR. KRICH: Yeah, the contract is good --

5 CHAIRPERSON NORTON: -- the contract goes
6 forward --

7 MR. KRICH: -- I mean -- I suppose in the
8 future we could say well you fooled us on that one, but
9 don't try that again --

10 CHAIRPERSON NORTON: Yeah --

11 MR. KRICH: -- but it's -- it's all kind of
12 --

13 CHAIRPERSON NORTON: Yeah, that's right. I
14 forgot that it was -- well are you -- is it okay with you
15 if we go ahead by taking the motion the way they've worded
16 it?

17 MR. JOHNSON: Well if that's what it means,
18 then --

19 CHAIRPERSON NORTON: I don't know --

20 MR. JOHNSON: -- you know, I'm taking him
21 on word that --

22 CHAIRPERSON NORTON: Okay --

23 MR. JOHNSON: -- that's what it means and
24 we should see this before us for review again at some

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1 point in the future I hope.

2 CHAIRPERSON NORTON: So at this point the
3 motion is -- thank you, Commissioner Johnson. At this
4 point the motion is to accept staff recommendation for
5 denial without prejudice for the contract compliance
6 exemption between U-CONN and Standard and Poor's. Hearing
7 no other discussion, all those in favor, say aye.

8 VOICES: Aye.

9 CHAIRPERSON NORTON: Anyone opposed?
10 Anyone abstaining? So the motion passes.

11 And so the last item under New Business is
12 Petition for Declaratory Ruling in the matter of John
13 Ellis versus Ace International, also known as ACE American
14 Insurance Company.

15 MR. KRICH: Thank you, Mr. Chairman.
16 Basically, there are -- there are two drafts, one is dated
17 February 2nd. And as you'll see, there's a new one dated
18 February 9th. And the reason for this is we received
19 additional information after the packet when out to you.
20 And I -- I apologize for that, but we did want to get the
21 draft to you as soon as we could. And what we did is --
22 if you'll notice on the first page, the very bottom
23 paragraph, if you read that, that has been added,
24 basically stating that the Complainant's attorney has

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1 requested that he be permitted to intervene in the matter.

2 And on page 2 --

3 CHAIRPERSON NORTON: I'm sorry. Actually,
4 I may have gotten lost. What -- what document are you
5 looking at right now?

6 MR. KRICH: The one dated February 9th, and
7 it's -- it would be right at the top right-hand corner
8 should be the page --

9 A VOICE: February 2nd --

10 A VOICE: Actually, the new packet --

11 CHAIRPERSON NORTON: Okay --

12 A VOICE: -- the new materials we got.

13 CHAIRPERSON NORTON: Oh. That's right.

14 It's under -- it's under these --

15 (Multiple voices overlapping -
16 indiscernible)

17 A VOICE: Oh, okay.

18 MR. KRICH: The packet that was mailed to
19 you was dated February 2nd. The new one should be dated
20 February 9th --

21 A VOICE: Yes --

22 MR. KRICH: -- and you'll notice at the
23 bottom of the first page, there's -- that paragraph is
24 new, okay. And what occurred after the mailing took place

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1 was that we received correspondence from the attorney
2 who's representing Mr. Ellis requesting that he be
3 permitted to be heard in this matter. And --

4 CHAIRPERSON NORTON: I'm sorry. Permitted
5 to be heard today?

6 MR. KRICH: He submitted something in
7 writing.

8 CHAIRPERSON NORTON: Okay.

9 MR. KRICH: And under -- on page 2, under
10 part 2, Parties, that last sentence was added, which says
11 that because he is a party in the underlying proceeding,
12 that he be treated as a party to this Declaratory Ruling.
13 And so -- again, that's the first -- on the first page,
14 the third full paragraph, and then that sentence on page 2
15 under part 2. Everything else remains the same. Is that
16 -- does everybody understand that?

17 CHAIRPERSON NORTON: I have -- I'm just
18 going to fess up and say I have not read this before --

19 MR. KRICH: No, that's -- that's not a
20 problem --

21 CHAIRPERSON NORTON: -- so there you have
22 it. So, I'm scanning it quickly. But what -- I'm sorry,
23 what is your -- what is the upshot?

24 MR. KRICH: Well the upshot is this is a

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1 case that's currently under investigation by the
2 Commission. It -- it's a complaint that has a difficult
3 jurisdictional issue. Some -- most of them are fairly
4 simple; the company is in Connecticut, the people work in
5 Connecticut, they're fired in Connecticut or they're not
6 hired in Connecticut, and Connecticut has jurisdiction.
7 That's -- it's just really plain on the face of it. There
8 are some that are a little more tricky in that maybe it's
9 a New York company, but they hire someone to -- it's a
10 sales position and they're selling some sort of product in
11 Connecticut, and it becomes a question of what connection
12 does Connecticut really have to that person. There's --
13 then there's another situation, which is really this one,
14 where the person has some connection, even works out of
15 the country, and there's a question of what connection
16 would Connecticut have to somebody who perhaps at one
17 point lived in Connecticut, maybe employees at some point
18 in Connecticut, but there's a lot of questions of fact
19 that have to be sorted out, because if Connecticut doesn't
20 have a connection to the employment decision or to this
21 employee, then it doesn't have jurisdiction. And --

22 MS. CRUZ: What's the standard? Is it
23 their current status or ever, because you had said they
24 had maybe lived in Connecticut or was employed at one time

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1 in Connecticut. Are we supposed to be focused on their
2 present situation or --

3 MR. KRICH: Well usually jurisdiction is
4 viewed as -- I guess one or two things; either the
5 employee works in Connecticut or the employee -- the
6 adverse employment decision was made by someone in
7 Connecticut -- so in other words if --

8 MS. CRUZ: And at the time the person had a
9 connection --

10 MR. KRICH: Had had some kind of connection
11 to Connecticut. So what -- in this instance it's
12 something called a -- it's a request for a declaratory
13 ruling, which is a process under which anyone really can
14 come to an agency, present a certain set of facts, and
15 then ask for a legal opinion as to what consequences arise
16 from that set of facts. The statutes -- it's recognized
17 by the General Statutes. And the statutes allow the
18 agency to proceed in different ways. The way this
19 Commission has typically done is when a case is under
20 investigation, the commissioners will set it down for a
21 specific proceeding, which is to continue the
22 investigation. And that's what the staff recommendation
23 is here. Basically, the company, Ace International, has
24 raised the question of jurisdiction. It's saying Mr.

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1 Ellis has no connection to Connecticut. And Mr. Ellis is
2 saying oh, yes, I do. And the Commission has passed it
3 through its first stage, which is called merit assessment,
4 where it just looks at some of the papers filed by the
5 parties. And then it goes to investigation, which is
6 really where the details come out. That's where the
7 Commission could interview people, it can ask questions in
8 writing, we have subpoena power. And when all that is
9 done, then a decision would be made as to whether the
10 Commission has jurisdiction over the complaint. That's --
11 and we've done that -- if you look on page -- I think it's
12 right before the end where we've listed several times
13 where the Commission has done exactly that.

14 Now the request here, the -- the employer,
15 Ace International, is asking that that process not be
16 followed, that -- basically that you as the commissioners
17 make a decision over whether Mr. Ellis worked in
18 Connecticut or whether this employment decision was made
19 in Connecticut. The staff recommendation is that you not
20 do that, that you simply allow the investigative process
21 to work itself out. I would note that the information
22 that's presented in the petition is no more than the
23 commission investigator has in front of him. And that was
24 found not to be sufficient without going through fact

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1 finding and subpoena power.

2 CHAIRPERSON NORTON: So the -- so the -- so
3 it boils down is you're recommending not to grant their
4 Petition for Declaratory Ruling?

5 MR. KRICH: Well, we're -- it -- it's --
6 this is another one of those weird legal things. We're
7 recommending that -- that it be set down for
8 investigation. If you deny the -- if you deny the
9 petition, then there could be an appeal taken of your
10 denial. And then a court could in theory make the
11 decision for the agency. So, I think -- that's why --
12 typically in the past what's been done is that you allow
13 the investigation to continue. If -- if that happens,
14 then the parties could proceed through the reconsideration
15 process or even take that into court. So there is a
16 process in place for deciding that.

17 MS. CRUZ: Well, you guys -- I read it. It
18 sounds like there's a little -- some form shopping going
19 on I understand. I just don't see any connection with
20 Connecticut, but -- so the process would be an
21 investigation, then a conclusion --

22 MR. KRICH: Yes --

23 MS. CRUZ: -- based on --

24 MR. KRICH: -- correct, based on what --

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1 what's said. The information that came in from Mr. Ellis'
2 attorney is that there is a connection to Connecticut. He
3 has listed five or ten reasons why he thinks it is.

4 MS. CRUZ: And --

5 MR. KRICH: It's up to the investigator --

6 MS. CRUZ: And -- and the one thing he
7 added was the -- he was originally a party? That was --

8 MR. KRICH: Yes, that's right. Because
9 he's -- because he's the Complainant in this case. This
10 really has to do with his case, so it was felt that he
11 should be made a party to this proceeding.

12 CHAIRPERSON NORTON: Well -- so, I'm sorry,
13 what would be the phrasing of a proper motion, or would
14 there be no motion because you're saying just continue
15 with the investigation?

16 MR. KRICH: Well, I guess you would maybe
17 move to adopt the -- you would -- this is a -- this is a
18 recommended ruling. So, I guess you would make a motion
19 to accept the ruling. You see on the final page there's a
20 signature block that will just say it was adopted -- that
21 the ruling was adopted as your ruling.

22 CHAIRPERSON NORTON: That this -- I'm sorry
23 -- the Commission orders this matter set -- orders this
24 matter set for specified proceedings and investigation --

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1 MR. KRICH: And investigation. Then --

2 CHAIRPERSON NORTON: That would be the
3 motion?

4 MR. KRICH: Yes. As you see on page 6 --

5 CHAIRPERSON NORTON: Yeah -- no, I'm saying
6 --

7 MR. KRICH: -- it says adopted --

8 CHAIRPERSON NORTON: I see on page 6 where
9 I sign something.

10 MR. KRICH: Yes. It just says that you
11 basically adopt the proposed ruling as your ruling --

12 CHAIRPERSON NORTON: Yeah, but page 5 is
13 what it would be?

14 MR. KRICH: Yes, correct. Yes --

15 CHAIRPERSON NORTON: Okay --

16 MR. KRICH: -- yes.

17 CHAIRPERSON NORTON: Orders this matter set
18 for specified -- now, it looks like someone here wants to
19 talk also?

20 MR. KRICH: That could be -- when we --
21 when we receive a petition, we send notice out that
22 basically acknowledges receipt of the petition. We tell
23 the parties that --

24 CHAIRPERSON NORTON: I'm not objecting that

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1 there's someone else here. I'm just --

2 MR. KRICH: That would be --

3 CHAIRPERSON NORTON: Okay, I wasn't sure if
4 you saw that --

5 MR. KRICH: Yes --

6 CHAIRPERSON NORTON: -- because you're
7 facing us and we're facing that way -- okay.

8 MR. KRICH: Okay.

9 CHAIRPERSON NORTON: So you didn't have
10 anything to say at this moment -- anything more to say at
11 this moment?

12 MR. KRICH: Not at this moment.

13 CHAIRPERSON NORTON: Okay. Then would you
14 introduce yourself and address whatever it is you wanted
15 to address? I take it you represent --

16 MS. PATRICIA REILLY: Yes, thank you,
17 Chairperson Norton. Good afternoon, commissioners. My
18 name is Patricia Reilly and I represent the Respondent in
19 this matter, Ace International. And we have filed this
20 declaratory -- Petition for Declaratory Ruling in which we
21 are asking the Commission to rule on our declaratory
22 ruling. I did introduce myself to Attorney Krich earlier,
23 so he is aware that I'm here to speak on behalf of the
24 Respondent with regard to this declaratory ruling.

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1 First, I'd like to say a couple of things.
2 All the facts that the Commission needs to make a
3 determination regarding jurisdiction are in these papers.
4 There's no need for additional proceedings. The
5 Complainant does not dispute that he worked entirely in
6 Egypt and had some visits to Vietnam during his employment
7 with Ace International. All of the discriminatory acts of
8 which he complains took place in Egypt or Vietnam. The
9 person about whom he makes these complaints is the CEO of
10 Ace Egypt. It is true that the Complainant has a home
11 address in Farmington, Connecticut. It is our position
12 that that is insufficient for the Commission to take
13 jurisdiction over claims of discrimination for a person
14 who works entirely outside of the state, and there was no
15 act in this state which gave rise to any discriminatory
16 conduct or allegations of discriminatory conduct. The HR
17 person at Ace who deals with ex-patriot employees, which
18 Mr. Ellis was, is based in Philadelphia and Pennsylvania.
19 Mr. Ellis' immediate supervisor, the CEO of Ace Egypt,
20 was in Egypt. The only person even close to our border
21 was the second-line supervisor who was based in New York.
22 Mr. Ellis makes some allegations that the second-line
23 supervisor might have worked from times at his home in
24 Stamford, Connecticut or somewhere in Connecticut, however

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1 the person's office was in New York. And there is an
2 affidavit to support that fact. The termination telephone
3 call and the decision regarding termination took place
4 among people in Egypt and New York and Philadelphia.

5 So this is -- I found with -- I followed
6 with some interest Attorney Krich's description of the
7 contracts that he was describing to you earlier regarding
8 what the circumstances would be in which the State would
9 require compliance with Connecticut laws. And he pointed
10 out that multinational companies have operations all over
11 the world and the State of Connecticut would not require,
12 for example, a company having a factory in Malaysia to
13 comply with Connecticut laws if the Malaysian factory was
14 not supplying product to Connecticut. I would say that
15 there's an analogy to be made here in that Ace
16 International had operations all over the world. The life
17 insurance division for which Mr. Ellis worked, did not
18 even have any location in Connecticut until about six
19 months prior to Mr. Ellis leaving the company. However,
20 Mr. Ellis' entire employment took place in Egypt.

21 And not only is this a question -- a
22 preliminary question of whether the Commission can
23 investigate this matter because of the jurisdictional
24 question, but there's also the due process fairness issue,

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1 and that if the primary person about whom Mr. Ellis is
2 complaining is in Egypt, it puts the Respondent at a very
3 significant disadvantage in terms of having to defend this
4 case. My concern is that whenever jurisdictional issues
5 are raised at the State or Federal level, those issues
6 have to be resolved first. And I don't understand how the
7 State would pull apart the jurisdictional issue from the
8 fact issues, the underlying issues on the merit, which is
9 what I think I understand Attorney Krich to be saying,
10 that if it's sent back for proceedings, then there would
11 be the full fact investigation, which leaves the
12 Respondent in the position of having to defend the case in
13 the first instance.

14 And so as a matter of procedure, fairness,
15 and due process, the Respondent urges the Commission to
16 decide the jurisdictional issue in the first instance on
17 the record that has been presented.

18 CHAIRPERSON NORTON: Well, I -- I take it --
19 -- it seems to me as if the -- what we're being advised to
20 hold is that the retention was in essence a jurisdictional
21 ruling in and of itself? That -- that the reviewer -- I'm
22 sorry, not reviewer -- the investigator -- there's an
23 ongoing investigation -- the dispute between the
24 Complainant and the Respondent over whether a

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1 discriminatory act took place most likely led to the
2 Commission's retention. In other words, it was not
3 apparent at the time of the merit assessment review that
4 the Respondent's position was so compelling as to require
5 dismissal, instead the reviewer felt that an investigation
6 was necessary to flush out the facts. You're saying that
7 we have all the facts, but -- I mean why is it impossible
8 to imagine that an investigation will churn up some nexus
9 that maybe you're not admitting to, maybe even the
10 Complainant hasn't grasped in their coming to us, but
11 maybe there's some fact out there that will --

12 MS. CRUZ: Yeah, but there's a difference
13 between are you investigating whether or not there's an
14 nexus in jurisdiction or are you just doing a full
15 investigation? I mean I think that's the point --

16 MS. REILLY: That's exactly what I'm saying
17 --

18 MS. CRUZ: -- a full investigation where --

19 MS. REILLY: -- I'm saying there's two
20 separate issues here --

21 CHAIRPERSON NORTON: Okay --

22 MS. CRUZ: -- and what's the point --

23 CHAIRPERSON NORTON: Well --

24 MS. REILLY: And may I just say I don't

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1 agree with the statement that there's an investigation
2 ongoing. There's been no fact finding conference
3 scheduled. The Respondent hasn't been asked to present
4 any witnesses or anything. So, I'm not -- I think it's a
5 little -- I'm not sure what is meant by the phrase that
6 there's an ongoing investigation. I will say it's been
7 retained in the MAR process; however, it's our opinion
8 that no one really has ruled on the Motion to Dismiss on
9 the jurisdiction issue. And I am saying that that is
10 something that does need to be resolved before the case
11 can be heard on --

12 CHAIRPERSON NORTON: So was the question --
13 was the question put to the investigator?

14 MS. REILLY: The Motion to Dismiss has been
15 pending since June of '06. Yes, sir.

16 CHAIRPERSON NORTON: To dismiss in our
17 agency?

18 MS. REILLY: Yes. This Motion to Dismiss
19 was filed in June of '06. And it has been pending -- we
20 haven't received any written ruling. We've received the
21 merit assessment --

22 CHAIRPERSON NORTON: And so what have we
23 been doing since June of '06 then?

24 MS. REILLY: Well, it's only recently that

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1 the company -- the attorneys for the company were
2 contacted to schedule a fact finding. And that's what
3 generated this request for declaratory ruling. It was
4 really just sitting there.

5 CHAIRPERSON NORTON: What --

6 MS. CRUZ: When was the complaint filed?

7 MS. REILLY: I believe also in May of '06 -

8 -

9 MS. CRUZ: Because I -- I guess my question
10 for our agency -- and I don't know why I don't know this -
11 - do we have a procedural mechanism for challenging
12 jurisdiction? Is there a time requirement like the state
13 courts or is it just -- because it doesn't seem typical
14 that we would get a petition for declaratory ruling,
15 however they claimed they filed a motion to dismiss, so --
16 I guess I'm trying to understand procedurally what would
17 have been the proper thing if a company says there's no
18 jurisdiction.

19 CHAIRPERSON NORTON: You filed a Motion to
20 Dismiss in 2006?

21 MS. REILLY: Yes.

22 CHAIRPERSON NORTON: So why are we getting
23 it now? Because this is in the form of a --

24 MS. CRUZ: Because they didn't the ruling

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1 on the Motion to Dismiss. They got a notice of a fact
2 finding. So, I'm guessing they didn't know what to do
3 next, so they tried the Petition for Declaratory Ruling.

4 CHAIRPERSON NORTON: Don, did you want to
5 say something?

6 MR. DONALD NEWTON: Yes. During the
7 investigative process, there is no provision for making
8 rulings. That does come in until the contested case
9 procedure or the public hearing process --

10 CHAIRPERSON NORTON: Okay --

11 MR. NEWTON: -- so there is no authority to
12 rule on motions during investigation.

13 MR. KRICH: It would be considered as part
14 of the investigation. So it's -- it's a little bit
15 deceptive to say that things aren't ongoing when we have
16 an investigator who was assigned in November and was
17 prevented from doing anything because there was a petition
18 for declaratory ruling filed within a month of the
19 assignment --

20 CHAIRPERSON NORTON: But --

21 MR. KRICH: This case was pending in front
22 of two other investigators who have left the agency. So
23 it's not as if these haven't been noted, it's that
24 personnel haven't been assigned until very recently. And

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1 that's -- that's a continuing difficulty here with
2 personnel leaving the agency. The reason --

3 MS. CRUZ: So it's reasonable to say we
4 don't have a time issue --

5 MR. KRICH: We're --

6 MS. CRUZ: -- I mean we're not going to
7 penalize them --

8 MR. KRICH: No, no, no --

9 MS. CRUZ: -- it's four years later and
10 we're --

11 MR. KRICH: -- it's -- you know -- I mean
12 even -- I mean the -- the -- the decision on whether there
13 is jurisdiction will be part of what's determined as part
14 of the investigation, but -- well the decision of merit
15 assessment was basically that we need more facts. Unlike
16 what the attorney is saying, the investigator or the
17 Commission felt that additional information was required.

18 And I can say that I've seen things from the Complainant
19 that certainly are not exactly what's being presented to
20 you here --

21 CHAIRPERSON NORTON: On the issue of
22 jurisdiction or --

23 MR. KRICH: Yeah, the issue of where people
24 were, what they did, what connections there were to

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1 Connecticut. It's a lively -- it's an issue -- it's a
2 lively issue in dispute. And that's what investigators
3 are doing; basically is they will call people in and they
4 will talk to the complainant, they will talk to the
5 respondent, they will make the decision as to whether
6 there is jurisdiction. What we're seeing here is really
7 an attempt to seek a review of the decision to retain the
8 complaint for merit assessment. And the statutes don't
9 provide for that.

10 CHAIRPERSON NORTON: So you think it would
11 be illegal for us to honor her request?

12 MR. KRICH: Illegal? We talked about due
13 process, but yet we don't have the Complainant or his
14 lawyer here. So you really have only heard half the side
15 of the story.

16 MS. CRUZ: Right, because the Complainant
17 is in Egypt.

18 MR. KRICH: His lawyer is here in
19 Connecticut, okay, so --

20 CHAIRPERSON NORTON: Would he have been
21 informed? Would he have -- or -- he or she, sorry --
22 would the Complainant's attorney been informed of today's
23 proceeding?

24 MR. KRICH: Yeah, but not that he was

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1 entitled to speak, that you were meeting --

2 MS. CRUZ: But he didn't even file an
3 objection --

4 MR. KRICH: Yeah, he -- he has --

5 MS. CRUZ: Okay, we don't have a copy --

6 MR. KRICH: -- that's what -- that's what
7 this petition -- I'm sorry -- that's where it says he has
8 to be to intervene -- he's listed about ten reasons why he
9 thinks there is jurisdiction.

10 CHAIRPERSON NORTON: And where is that,
11 I've lost track?

12 MR. KRICH: That just came in -- it's not
13 in your packet.

14 CHAIRPERSON NORTON: Oh.

15 A VOICE: Is that in the new packet?

16 MR. KRICH: The new -- no, the new packet
17 is just an updated ruling. It's not all the --

18 CHAIRPERSON NORTON: Well do you mind
19 sharing with us his ten -- or do you have that before you?

20 MR. KRICH: I don't have it with me --

21 CHAIRPERSON NORTON: Okay --

22 MS. COPELAND: And I'm sorry, I'm not
23 clear. I don't understand why it takes so long to
24 determine jurisdiction. That's what we're talking about

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1 here, correct, jurisdiction?

2 MR. KRICH: Right. It doesn't take that
3 long. What we determined is we need to have more
4 information to determine jurisdiction --

5 MS. COPELAND: But this began in 2006.

6 MR. KRICH: It was filed in 2006. It went
7 to two investigators, both of whom have since left the
8 agency, okay. It was assigned to the current investigator
9 toward the end of November.

10 MS. COPELAND: Of --

11 MR. KRICH: 2008.

12 CHAIRPERSON NORTON: This case sort of got
13 lost -- I mean not lost, but it got --

14 MS. COPELAND: This is a problem --

15 MR. KRICH: There's a -- there's been a
16 delay in the case --

17 A VOICE: A two-year hiatus --

18 MR. KRICH: -- and within a month of the
19 assignment, there was a petition for -- in fact before
20 that, the investigator had called me to ask me for advice
21 on the jurisdictional question. So there's -- I don't see
22 any difficulty in what the investigator has done. He had
23 maybe two weeks to call me, which he did. And then the
24 Petition for Declaratory Ruling comes in. We're not going

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1 to push the case when it's --

2 MS. COPELAND: No, this was filed
3 originally in 2006 --

4 MR. KRICH: Yes, yes --

5 MS. CLARKE: But not with the current
6 investigator --

7 MR. KRICH: So --

8 MS. COPELAND: No, that's not -- that's not
9 the other person's problem. It's ours as an agency
10 problem that this was filed in 2006.

11 MR. KRICH: Well, it would have gone
12 through merit assessment --

13 MS. CLARKE: I don't know that I would want
14 to penalize either of the parties, either the Complainant
15 or the Respondent for our internal problems.

16 MS. COPELAND: Well -- so then my question
17 will be how long will it take us to determine jurisdiction
18 at this point in time, to thoroughly look at it and make a
19 decision?

20 MR. KRICH: Well, it goes to fact finding
21 assuming you make a decision. And then that will free the
22 investigator up to do what we believe is necessary to --

23 MS. COPELAND: I'm sorry, I don't
24 understand --

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1 MS. CRUZ: Fact finding is every --

2 MR. KRICH: It's -- in other words, fact
3 finding would be -- say I'm the investigator and you're
4 the complainant and somebody else here is the respondent,
5 I send a notice out that says come on this date, at this
6 time, and tell me about your case. So --

7 MS. COPELAND: No, that's not what I mean -
8 - I'm sorry --

9 MR. KRICH: I'm sorry.

10 MS. COPELAND: What I mean is isn't there a
11 preliminary review? You don't have to look at the entire
12 case --

13 MR. KRICH: We've already done that. We
14 determined that based on the information that was
15 submitted -- in other words, information that you've just
16 heard from both sides and not just the one side that's all
17 that's before you, that it's not so clear that we could
18 dismiss this for lack of jurisdiction.

19 CHAIRPERSON NORTON: Do we -- but we do --

20 MR. KRICH: Yes --

21 CHAIRPERSON NORTON: -- investigators do
22 throw them out --

23 MR. KRICH: Yes -- oh, yes --

24 CHAIRPERSON NORTON: -- and says he's in

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1 Springfield --

2 MR. KRICH: -- oh, yes --

3 CHAIRPERSON NORTON: -- and she's in --

4 MR. KRICH: Oh, yes. If it's -- if it's
5 very clear -- that's one of the things that's looked at.
6 So that's already been looked at. What we're seeing here
7 is a disagreement with that decision.

8 MS. COPELAND: So my question, you know,
9 very simply is how long will it take us to determine
10 jurisdiction? Why is it we have to do a full review of
11 the case and all the details of the case in order to
12 determine jurisdiction? Why is -- why does that require a
13 full case investigation --

14 CHAIRPERSON NORTON: Yeah, couldn't the
15 investigator work merely on that point --

16 MS. COPELAND: Yeah, can they work on one
17 point --

18 MR. KRICH: Well, that's --

19 MS. COPELAND: -- jurisdiction?

20 MR. KRICH: I would assume that's what gets
21 done here because if we don't have jurisdiction, it
22 doesn't -- it really can't go forward.

23 CHAIRPERSON NORTON: Would that be true,
24 Don, that the investigator would focus on the point -- on

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1 this point before --

2 MS. CRUZ: No, he's saying --

3 MR. NEWTON: Well, the investigator would
4 have to determine what issues are in dispute. And they
5 would have to determine how do you get the necessary
6 information to go forward to, you know, reach that -- is
7 it jurisdictional or not. If it is determined to be
8 jurisdictional, then they would have to get whatever facts
9 to address the issues that were in dispute concerning the
10 kind of complaint. So it is kind of like a two prong --

11 MS. CRUZ: Yeah, but I'm hearing that --
12 you're saying essentially if we deny this petition, we're
13 effectively saying there's jurisdiction, and we're past
14 that hurdle?

15 MR. KRICH: I'm sorry? If you -- yes, if
16 you deny it, then you'd be saying presumably that there is
17 no jurisdiction --

18 MS. CRUZ: Yeah, it --

19 MR. KRICH: If you deny the petition --

20 MS. COPELAND: If we deny the petition --

21 MS. CRUZ: If we deny it, it means we're
22 essentially saying there is --

23 MR. KRICH: Yes, yes.

24 MS. CRUZ: And I don't --

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1 MR. KRICH: Because that's what the
2 petition states. It basically says that the Commission
3 has no jurisdiction.

4 MS. CRUZ: So -- I'm not -- I'm not
5 comfortable with a bunch of things, but I'm not exactly
6 sure how we can rule on the petition without the
7 opposition. I mean I know you said if we were to deny
8 this declaratory judgment, we could get appealed in the
9 state court, but then we'd actually be sitting there
10 saying we didn't consider the opposition because we
11 weren't given the opposition to consider. I mean I don't
12 have ten factors in front of me. All I -- and I know you
13 said this isn't fair because we're only considering one
14 side of it, but we weren't given both sides. So, I don't
15 --

16 MS. COPELAND: We can't make a decision.

17 MS. CRUZ: I don't know how we can make a
18 fair decision --

19 CHAIRPERSON NORTON: Well let me ask you
20 this then; if we decide against the petitioner and against
21 the declaratory ruling that there's no jurisdiction, at
22 least the case proceeds and Mr. -- sorry --

23 MR. KRICH: Ellis --

24 CHAIRPERSON NORTON: -- Ellis gets -- his

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1 day in court goes on --

2 MS. CRUZ: Right, but I have not been given
3 anything that shows me there's any basis for jurisdiction
4 except a representation that there's opposition and, you
5 know, take my word for it there's ten factors and there's
6 a tie. So, you know, I don't -- yes, okay, John Ellis in
7 Egypt I want to be fair to him too, but I also want to be
8 fair to the company who has to expend resources, pay
9 someone to come here, you know, to a hearing, and do all
10 this stuff to defend a case that as far as the materials
11 in front of me, I don't really see any connection --

12 MS. COPELAND: And we --

13 MS. CRUZ: -- so I want to be fair to both
14 sides.

15 MS. COPELAND: Then can we table this? We
16 can't make a decision here today.

17 MR. KRICH: If you table it, I think it's
18 maybe deemed automatically granted -- you only have a very
19 limited amount of time --

20 MS. CLARKE: To rule on it --

21 MR. KRICH: -- to rule on it. And I think
22 it may only be 60 days --

23 CHAIRPERSON NORTON: So --

24 MR. KRICH: -- I mean this came in at the

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1 end of December, so --

2 CHAIRPERSON NORTON: -- if the -- sorry, I
3 just lost track of my question -- if anyone else wants to
4 speak -- Commissioner Clarke.

5 MS. CLARKE: Yes. I -- even though I
6 didn't have all of the information, I looked at it just
7 like the Affirmative Action plan when I'm only given --
8 I'm taking the advice of our staff to make a decision --
9 whether or not I'm going to adhere to the advice of the
10 staff or who took a look at this -- and that's really all
11 I can do, unless we do decide to -- I can't imagine what
12 we would do, but the staff is recommending that we do
13 allow this case to go forward. So apparently they've seen
14 enough information -- I'm hopeful that they've seen enough
15 information that they can make a decision to allow this to
16 go forward. So even in absence -- even my not seeing the
17 full text of this complaint and all the associated
18 documents, I am willing to take the advice of our staff
19 person to let the case go forward and let the
20 investigation continue just like I take the advice of the
21 staff for even looking at the Affirmative Action plans
22 because I'm only getting a synopsis. So, I guess that's
23 all I can do at this stage if this is time sensitive. I
24 don't really know what else to say because I don't want to

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1 rule one way or the other, but someone has seen all this
2 information, and I can't do anything except accept it on
3 face value that they've seen it --

4 MS. COPELAND: So then they're saying we
5 have jurisdiction then? Is that what they're saying?

6 MS. CRUZ: Yes. And --

7 MS. CLARKE: Yeah. And I guess --

8 CHAIRPERSON NORTON: The --

9 MS. CLARKE: -- that's what I'm accepting -
10 -

11 MS. CRUZ: But the --

12 CHAIRPERSON NORTON: Sorry --

13 MS. CRUZ: One of the reasons that you
14 stated was so that we would avoid getting appealed in
15 state court. And I don't feel comfortable making the
16 decision just to avoid, you know, going to state court and
17 being overturned. I don't think that's fair. So that's -
18 -

19 MS. CLARKE: Well, I hope that's not the
20 only reason --

21 MS. CRUZ: Well, I haven't seen any other
22 reason except a list of ten factors, which I don't have --

23 MS. COPELAND: Which we don't have --

24 MR. KRICH: The reason -- the Commission's

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1 practice for 20 years has been that we have investigators
2 -- that we trust our investigators to make decisions based
3 on all the facts, okay, which you -- it would be --
4 basically if you say we're going to reject this
5 recommended ruling, you will be basically saying we don't
6 agree with our staff which said that we need to
7 investigate, okay. And what the staff said is they looked
8 at more information than you have in front of you and said
9 well the company says one thing and this guy says another
10 thing. The way you resolve that is not to look at who has
11 the better lawyer --

12 CHAIRPERSON NORTON: So this is --

13 MR. KRICH: -- or what's on the sheet of
14 paper --

15 CHAIRPERSON NORTON: So this --

16 MR. KRICH: -- it's basically come to an
17 investigator who has been trained to do exactly this,
18 which is to gather information, interview people, ask the
19 right questions, and then write a decision. What you will
20 be doing here would be basically saying we don't need an
21 investigator, we can make this decision and second-
22 guessing it, and then -- we've got like two or three
23 thousand of these complaints. So, I mean is this what --
24 you know --

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1 MS. CRUZ: Two or three thousand Egyptian
2 complainants --

3 MR. KRICH: No, no --

4 MS. CRUZ: -- because is the investigator
5 going to fly to Egypt and interview these people in fact
6 finding? I mean how are the facts --

7 MR. KRICH: Well, that -- that's up to the
8 investigator and the attorney to figure out how they want
9 to proceed. He's filed a complain here. The general rule
10 is he has a right to an investigation at this point. And
11 you'll be saying no he doesn't. The statute gives him
12 that right, but we're going to say the statute is not
13 going to be complied with here. And that's why I'd urge
14 you to just allow the process to go forward. The fact
15 that he may have a weak complaint or what seems ridiculous
16 to some, doesn't mean he doesn't have a right to at least
17 air that -- those opinions. That doesn't mean the
18 investigator has to buy it. No one has said this guy is
19 getting a million bucks out of this. It just that what
20 we've said is that he has a right to show that there is a
21 connection to Connecticut. And then to do that, at
22 minimum he should be able to have his side heard, okay.
23 And that's -- once it passed through merit assessment, he
24 was guaranteed a statutory right to an investigation.

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1 CHAIRPERSON NORTON: So this got MAR'd in
2 and you believe that the -- among the -- the
3 jurisdictional issues are among the issues that would have
4 been attended to and focused on by the investigator?

5 MR. KRICH: It -- yes --

6 CHAIRPERSON NORTON: It wouldn't just be
7 saying there's lively issues regarding whether there's a
8 racist issue or whatever --

9 MR. KRICH: No --

10 CHAIRPERSON NORTON: -- jurisdictional
11 issues are part of what he considers to be --

12 MR. KRICH: It's one of the --

13 CHAIRPERSON NORTON: -- remaining in
14 dispute --

15 MR. KRICH: For merit assessment --

16 CHAIRPERSON NORTON: Okay --

17 MR. KRICH: -- it has to -- the complaint
18 can't be frivolous, it has to be jurisdictional, it has to
19 be, you know, a number of things. And so all that -- that
20 guarantees him the right to an investigation. It doesn't
21 mean he wins the case. It just gets him a way to
22 participate a little further in the process.

23 MS. REILLY: May I address some of the
24 points raised by Attorney Krich?

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1 CHAIRPERSON NORTON: Sure. Excuse me for a
2 second, I'm just doing some --

3 MS. REILLY: Thanks --

4 CHAIRPERSON NORTON: -- bookkeeping --

5 MS. REILLY: I think there are a couple of
6 things going on. I'm hearing that the Commission attorney
7 is recommending that this be sent back for a full
8 investigation both to determine jurisdictional facts and
9 for an underlying investigation on the merits, but I'm
10 also hearing that in the merit assessment review process
11 there was already an issue -- there was already a decision
12 on jurisdiction made. I don't understand how those two
13 things can be compatible, and I'm having some difficulty
14 with that --

15 CHAIRPERSON NORTON: Sure --

16 MS. REILLY: -- analysis.

17 CHAIRPERSON NORTON: Mr. Newton, do you
18 want to respond?

19 MR. NEWTON: Okay. In the merit assessment
20 review process there's four standards under which the case
21 can be dismissed. And it wasn't apparent to the reviewer
22 that this case met the standards that could have
23 eliminated further process of the complaint. They had to
24 go forward, not because the reviewer necessarily felt the

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1 complainant would prevail, but they felt that at that
2 juncture of the processing a decision couldn't be made to
3 eliminate it from further investigation.

4 CHAIRPERSON NORTON: I would say I'm a big
5 uncomfortable deciding on behalf of the petitioner in
6 front of us -- excuse me for pointing -- of the petitioner
7 in front of us because it does mean -- you know, shooting
8 the case in the head of the -- of the Complainant. Wrong
9 or right -- if we pass this declaratory ruling, we've
10 kicked him out of our offices, right? And if -- if there
11 is any grayness here, and someone who we pay to do this
12 for a living thinks there is something gray about this,
13 maybe they're misguided in that apprehension and maybe
14 it's clearly outside of our jurisdiction, but someone
15 thinks it's not clearly outside of our jurisdiction,
16 someone we pay to make those assessments, and so for me to
17 jump in -- I'm not saying I would never do this in the
18 future, but I feel like I shouldn't shut down this
19 Complainant's case -- I guess I'd err on the side of
20 caution, if nothing else, on behalf of the Complainant
21 because the merit assessment thing is to get rid of
22 baseless cases, but to let live the cases that have
23 perhaps some merits. And the investigator thinks that
24 there's more to be looked at here --

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1 MS. CRUZ: Well why don't we save some
2 resources and have -- instruct the -- try to tailor the
3 investigation to jurisdictional issues within a certain
4 time frame, and then they can move to the merits?

5 CHAIRPERSON NORTON: Well -- but there's
6 other -- there's other conclusions an investigator might
7 reach that would quickly throw out a case. Right? I mean
8 aren't there other issues besides jurisdiction where an
9 investigator might say well you're not a member of a
10 protected class, this is a dumb claim, right? I mean
11 isn't that -- I don't know -- I don't know the universe of
12 MAR'd out -- right? I'm saying that right? MAR'd out --

13 A VOICE: Yes --

14 CHAIRPERSON NORTON: -- cases? But I'm not
15 sure if jurisdiction would always just be the first and
16 the easiest reason to throw it out.

17 MS. CRUZ: No, but it's -- it's the typical
18 legal procedure --

19 CHAIRPERSON NORTON: Okay --

20 MS. CRUZ: -- jurisdiction is always
21 addressed first -- I mean just -- I'm trying to mimic the
22 judicial process --

23 CHAIRPERSON NORTON: Well --

24 MS. COPELAND: I'd like to take this into

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1 Executive Session this topic. I'm not comfortable even
2 having this open discussion like this. I think there's
3 some other things that we have to talk about in this
4 issue.

5 CHAIRPERSON NORTON: Is this --

6 MS. COPELAND: How far do you go with this
7 --

8 CHAIRPERSON NORTON: Yes. I'm not --

9 MS. COPELAND: -- in the public setting.

10 CHAIRPERSON NORTON: Well -- by the way, I
11 don't -- I have to say that I don't think this would even
12 border anything that should feel embarrassing or -- I
13 shouldn't say embarrassing -- that's not the right
14 standard -- that needs to be thought of as confidential. I
15 mean we're asking questions and they're giving us answers.
16 I --

17 MS. COPELAND: I have questions about the
18 organization, quite frankly, and I don't want to do that
19 in the open setting --

20 CHAIRPERSON NORTON: Yes, but --

21 MS. COPELAND: -- so --

22 CHAIRPERSON NORTON: -- but -- no, no, no,
23 no, no -- don't get confused here. If you want to use
24 this as a jumping off point as to why the heck this took

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1 two and a half years, that's a different discussion --

2 MS. COPELAND: Right --

3 CHAIRPERSON NORTON: -- it is -- but -- but
4 I wouldn't -- but -- but let me say this, as much as you
5 may want to analyze why this took two and a half years, I
6 don't think it should affect your decision as to whether
7 we should throw this man's case out. I -- I don't -- the
8 fact that it took two and a half years, I don't think
9 speaks to whether or not this man's case should be thrown
10 out the door or not. I think --

11 MS. COPELAND: That's not my only issue.

12 CHAIRPERSON NORTON: Okay.

13 MS. REILLY: I mean I would just add from -
14 - again from a due process point of view for the
15 Respondent there's no recent decision on why jurisdiction
16 is appropriate in this case. You know, I'm hearing --
17 okay, it survived the merit assessment process, but no one
18 -- there's been no response again to the preliminary
19 question of can the State of Connecticut exercise
20 jurisdiction over these claims. And state -- the state
21 and federal courts do have a process for that, and they
22 always must answer the jurisdictional question first. And
23 from a policy and procedure point of view, it's important
24 for the Commission to answer that question because you

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1 will be expended resources otherwise on a case that
2 shouldn't be explored or investigated by the State of
3 Connecticut frankly, and so -- and also puts the
4 Respondent at great disadvantage with witnesses, the --
5 one of the primary witnesses in Egypt. And I just think
6 that the linking of the jurisdictional question with the
7 full fact finding is very prejudicial to the Respondent's
8 ability to defend the case on just the separate
9 jurisdictional issue --

10 CHAIRPERSON NORTON: Well can we in this
11 case -- although I'm not sure it would always be
12 appropriate -- can we instruct the investigator that --
13 that -- that his -- that the second round of process we're
14 in, the post-merit assessment review process, should focus
15 first and foremost on jurisdiction to avoid at least some
16 of the negative consequences this council --

17 COURT REPORTER: One moment please.

18 (Pause).

19 CHAIRPERSON NORTON: Mr. Krich, you -- can
20 you -- and -- I'd like to ask that question. And the
21 second question I'd like to ask is -- is -- do we
22 potentially -- are we running afoul of established
23 procedures for American -- for -- not American citizens --
24 for people in American courts by not adjudicating a

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1 jurisdictional issue before everything else?

2 MR. KRICH: Jurisdiction -- jurisdiction
3 can be raised at any time. No one is preventing the
4 Respondent from -- the employer here from raising
5 jurisdiction. It's just not honest to say that. What --
6 what -- what had occurred -- Mr. Salerno was appointed on
7 November 29th. He called me to inquire about this matter.
8 He and I had some very good discussions. Unfortunately,
9 they don't really amount to much now because we've got a
10 Petition for a Declaratory Ruling. So anything I told him
11 is just, you know, waiting in the wings so to speak. So
12 the fact that we hear all these tales of horror that are
13 going to happen, you don't even know what I told the
14 investigator. So, I -- I don't appreciate why she's
15 raising all these things when she doesn't know what I told
16 the investigator. She doesn't know how the agency really
17 functions or how investigators operate.

18 Clearly we look at jurisdiction. It's
19 obviously a very important matter. You know, that's why I
20 really think the process needs to work the way it's
21 designed. And if there's an error, you can work on the
22 error. And I think Commissioner Copeland has a very valid
23 point, but it isn't really the one that's here. It's what
24 happens to Mr. Ellis' complaint.

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1 I just urge you let the investigation go
2 forward. I -- I -- the guy hasn't even been on the case
3 two months and he's already contacted me, okay, and I have
4 spoken to him about what needs to be done. But I think we
5 -- you know -- and I appreciate your comments,
6 Commissioner Clarke, to trust the staff. The staff does
7 know how to handle these matters. And I've been a lawyer
8 here for almost 30 years and I'm very aware of
9 jurisdiction. I've litigated a number of those issues in
10 the Supreme Court of Connecticut. I -- I know a case when
11 I see it where there's jurisdictional questions. The
12 investigator clearly knows it because he came to me
13 inquiring about it, okay. So why we're second-guessing
14 what staff could do or might do, it's -- it's demoralizing
15 to be really honest --

16 CHAIRPERSON NORTON: Well recognize that
17 there shouldn't be a process wherein decisions are turned
18 over to the Commission if the process expects us to always
19 reach a certain decision. So -- just that this issue
20 comes up with Affirmative Action plan review and what have
21 you, but I don't believe the Commission would be created
22 if it -- if it could be thought that by the legislative
23 and executive powers that the staff could be the final arm
24 of the decision. I think once in a while we're going to

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1 buck the other way. It isn't disrespectful, it's just
2 finding ourselves in disagreement.

3 MS. CRUZ: And I want to say something
4 because I really don't want to be misheard. I appreciate
5 all the work the investigators do and you do. And you do
6 a tremendous amount of work and you have huge case loads
7 and are overworked I mean, and I respect that. So I don't
8 want you to perceive this as being disrespectful of the
9 decision.

10 You know, from our perspective, which this
11 doesn't happen that often, is it's just very difficult for
12 me to make a decision without the opposition because I
13 actually would have loved to hear the ten factors. When I
14 say that jurisdiction is addressed, I'm trying to --
15 obviously going to court where you can just by appearing
16 you waive jurisdiction and it is addressed right away.
17 That's all I meant. CHRO is different. And if we're not
18 holding them, you know, responsible for bringing up
19 jurisdiction three years later, I don't -- I think it's a
20 moot issue. However, because it appears that there would
21 be a lot of resources that would have to be sunk into a
22 case with people in New York and Egypt, it does sound like
23 it makes sense, and I'm not saying the investigator
24 wouldn't have done this, to address some -- an issue like

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1 jurisdiction before you get to the really hard long-
2 distance calls or however the process works.

3 CHAIRPERSON NORTON: You -- were you a
4 party to -- I'm sorry, I missed -- I don't -- maybe I
5 should know who you are and I don't --

6 MS. CORDULA: I feel an overbearing need to
7 speak --

8 CHAIRPERSON NORTON: But I'm sorry, I don't
9 know who you are.

10 MS. CORDULA: My name is Cordula and I used
11 to be an investigator at the Commission --

12 COURT REPORTER: I need --

13 CHAIRPERSON NORTON: But I guess I -- I
14 guess I -- I went so far as to invite you to tell me who
15 you are, but I think I won't go on any more because I
16 guess you're not a party in this incident --

17 MS. CORDULA: Correct --

18 CHAIRPERSON NORTON: So, I -- I thank you
19 for coming and showing interest, but in the interest of
20 time, I'm going to politely -- well, I'll stop talking
21 right now --

22 MS. COPELAND: And I just want to state my
23 position on this.

24 CHAIRPERSON NORTON: Sure.

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1 MS. COPELAND: The reason I'm asking
2 questions is because I don't feel I have all the
3 information. And so I don't like being a rubberstamp,
4 operating in the blind. You can tell me to trust the
5 staff, but you know what, asking questions is the only
6 thing that I have. And so to me, quite frankly, as a non-
7 lawyer, as just an average human being, I'm hearing a lot
8 of double-speak here today. I'm not hearing clarity. And
9 so I feel blindsided because some things I wish I had been
10 better prepared before I got there. I don't like
11 discussions like this without better preparation. I
12 didn't get good preparation in my packet to be able to
13 make a good decision. I got one sheet of paper saying
14 we're talking about jurisdiction, and then I get a double-
15 speak answer. So while I'm not a lawyer, I can only go by
16 the paperwork that's here, this huge stack, and I actually
17 read it. And it did not prepare me for this decision. So
18 that's why I'm saying what I'm saying. And that's why my
19 preference as a leader and for us as a group of leaders,
20 some things I think you have to have dialogue or some
21 consensus where you're not out here in the blind with your
22 butt handing in the breeze. I don't like it.

23 CHAIRPERSON NORTON: Okay. And I guess I
24 would assert -- (laughter) -- I would assert that

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1 leadership quality sometimes show a willingness to do
2 something out in the open. But that's just a different
3 view. I -- but I -- but I --

4 MS. COPELAND: I'm hearing double-speak
5 though. I'm not a lawyer --

6 CHAIRPERSON NORTON: Okay --

7 MS. COPELAND: -- so I'm just -- I'm --

8 CHAIRPERSON NORTON: By the way, I am a
9 lawyer, and I don't understand all this stuff --

10 MS. COPELAND: Okay. Well then you're
11 faking it better than me -- (laughter) --

12 CHAIRPERSON NORTON: Well, I just -- but I
13 haven't actually heard yet -- and I don't mean to drag
14 this out forever -- but what I haven't heard yet -- or if
15 I have, I've missed it, is what is any ground that you
16 might represent that this investigator felt that
17 jurisdiction is in question? Is it -- is it the fact that
18 the guy lived here? Well what -- what even throws
19 jurisdiction into question, because it seems like the
20 employment and the employer --

21 MR. KRICH: There's -- there's questions as
22 to whether some of the individuals involved in making the
23 decision were in Connecticut and made decisions at that
24 time --

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1 CHAIRPERSON NORTON: Okay --

2 MR. KRICH: -- and that may be a relatively
3 simple thing. You know, we don't really know.

4 CHAIRPERSON NORTON: Okay.

5 MR. KRICH: Obviously I'm listening to what
6 you're saying. And as I say, I've already had discussions
7 with the investigator. He knows my opinion on this. I
8 can convey yours, which isn't necessarily all that
9 different from mine, but I would like in this case that
10 the process simply continue as it is. There's a
11 difference I think between doing things that may be
12 correct too quickly, okay. And you know, you talk about
13 due process, but Mr. Ellis has that as well. And a
14 hearing is his ability to come in or have his lawyer come
15 in to have his case made by his counsel is his due process
16 right. Whether it convinces anyone is up to the
17 investigator, alright. And if it doesn't convince anyone,
18 then the company wins. But --

19 CHAIRPERSON NORTON: It's sort of ironic
20 that the person saying there is jurisdiction didn't make
21 it to the capitol city --

22 MR. KRICH: I didn't -- I didn't invite him
23 just I didn't invite the other side --

24 CHAIRPERSON NORTON: Oh, okay, alright --

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1 MR. KRICH: -- it's not as if they
2 understood that they would -- we would be hearing this at
3 a particular time --

4 MS. COPELAND: So then in my little
5 kindergarten method --

6 MR. KRICH: You're -- you're a very shrewd
7 woman and I love your feistiness.

8 MS. COPELAND: Thank you. I'm back again,
9 so let me ask this question --

10 MR. KRICH: Yeah --

11 MS. COPELAND: -- so you're not saying --
12 but if we're having this conversation, does that mean we
13 have jurisdiction?

14 MR. KRICH: It means as a lawyer, I've
15 looked at all the paper that's been presented -- how do
16 you -- one says one thing and one says another. The way
17 in law that you would resolve that is you would bring the
18 sides together and you would do something called -- make a
19 determination of credibility. In other words, who do you
20 believe, okay. If I say yes and you say no -- you know,
21 I'm just looking at sheets of paper that say yes and no,
22 you just throw your hands up. If I say yes and you say
23 no, and I say well I don't know, maybe, just like I'm
24 avoiding it, that's not really very persuasive. And if

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1 you could back up what you're saying on the credibility,
2 you win. Okay, so that's really what this is being called
3 in for. In other words, it's one -- the Complainant says
4 one thing -- Mr. Ellis says one thing and then the company
5 says another. So the way that we historically resolve
6 this is just to set it down for an investigation.

7 CHAIRPERSON NORTON: Alright --

8 MS. COPELAND: So then let me just follow
9 up with my question since I'm following a yellow brick
10 road here. Usually when a person contacts CHRO -- and
11 let's say for example they say I'm a clown for a living
12 and my boss won't allow me to wear red shoes. Somebody
13 would look at that complaint and say that's not a CHRO
14 case, you're off -- correct?

15 MR. KRICH: Well what if the person said
16 the boss won't let me wear red shoes, but he lets a woman
17 or a man or a Black, or White, or Hispanic person wear the
18 red shoes? Then you have a discriminatory -- you have a
19 discrimination case. And you see that's why sometimes
20 when you get into these fact finding things, things that
21 aren't in the complaint that you might not have thought
22 about, all of a sudden they're mentioned and they become
23 really important. And you don't really know until you
24 have the investigation. You know, that's -- that's why we

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1 -- that's why you have the investigation. Things aren't
2 always that clear on paper, because some of these papers
3 are prepared by lawyers or trained people, and people
4 don't always act the way lawyers want them to act.

5 CHAIRPERSON NORTON: I'm going to cut --
6 well -- I'm sorry, you stopped, so I'm not cutting you
7 off. It is the case that a good argument has been made to
8 us by counsel -- not ours -- that there is no jurisdiction
9 and CHRO shouldn't be wasting its time, it shouldn't be
10 punishing, as it were, inappropriately -- not that that's
11 the intention -- the Respondent by dragging them through
12 this whole very inconvenient process since they really
13 don't think they have any connection to this state. But
14 on the other hand, if it is the case that our reviewer or
15 investigator has -- and I believe in consultation Mr.
16 Krich expressed a belief that that issue is not so easily
17 settled, that there are outstanding facts to be
18 investigated or resolved, and that seems to be the crux of
19 it, and I -- I'll just say that if we vote for the
20 declaratory ruling, we are saying to that Complainant, who
21 isn't here -- and maybe they should have been, I don't
22 know -- but who isn't here, your case is over. We have
23 decided -- we have found -- some of you were complaining
24 about not having enough information in front of them, but

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1 we are perhaps going to say we have found, without all the
2 information we might like, as against someone who did have
3 more time to review this case, that there's no
4 jurisdiction, and I don't feel as if I can say that. I
5 just don't feel -- Commissioner Clarke.

6 MS. CLARKE: Yes. I have a question.
7 Because of the delay, if we determine that -- if the case
8 is dismissed for whatever reason, would the Complainant
9 have the ability to file in let's say Philadelphia courts
10 if that was the correct jurisdiction, or have we by our
11 delay, even if it was unintentional, made the whole issue
12 a non-issue because too much time has elapsed by whatever
13 procedural issues we encountered by having those two
14 investigators leave? It's been almost three years. Can -
15 - if there is a better jurisdiction, can that issue even
16 be raised?

17 MR. KRICH: It's -- the statutes for filing
18 an age discrimination complaint are very short. At the
19 federal level it's only 300 days. And all the states --

20 MS. CLARKE: That's what I thought --

21 MR. KRICH: -- except for New York are less
22 than a year --

23 MS. CLARKE: Yeah --

24 MR. KRICH: -- Connecticut is only six

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1 months. So if it's -- if it's dismissed here, there's no
2 real place to go --

3 MS. CLARKE: And that's --

4 MR. KRICH: -- and so this man would be
5 kind of out of luck.

6 MS. CLARKE: That's why --

7 CHAIRPERSON NORTON: Is there more
8 discussion on the part of --

9 MS. CLARKE: Thank you --

10 CHAIRPERSON NORTON: No, thank you, that
11 was a good question -- a very good question.

12 MS. CRUZ: Well, I think I should speak up
13 and clarify --

14 CHAIRPERSON NORTON: Sure --

15 MS. CRUZ: -- because if you read the
16 ruling closely, this is a procedural ruling. This is
17 saying it's already been determined at the merit
18 assessment. And we do not -- the proper form is not to
19 petition for declaratory ruling. And we can't do it. It
20 really isn't if we think there's jurisdiction or not --

21 CHAIRPERSON NORTON: Okay --

22 MS. CRUZ: -- and we didn't get the
23 objection. So, I --

24 CHAIRPERSON NORTON: Okay --

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1 MS. CRUZ: -- that may change people's
2 feelings, I don't know. But this really is a merit
3 assessment. It's not the proper procedure to file a
4 petition for declaratory ruling. That's what this says --

5 MR. KRICH: It's basically --

6 MS. CRUZ: -- if that's helpful.

7 CHAIRPERSON NORTON: So how is it that you
8 plan to -- I mean do you want to speak --

9 MS. CRUZ: There's not enough facts in here
10 --

11 MR. KRICH: It's basically saying the
12 investigation should continue and Mr. Ellis should prove
13 that we do have jurisdiction. The burden shifts to him to
14 prove jurisdiction. It's just giving him an opportunity
15 to do that.

16 CHAIRPERSON NORTON: Okay. We need to --
17 I'm afraid we actually just plain need to vote on this
18 sadly --

19 MS. CLARKE: Yeah, okay --

20 CHAIRPERSON NORTON: -- the issues of time
21 are before us --

22 MS. CLARKE: Alright.

23 CHAIRPERSON NORTON: But is there anyone
24 who now would like to say why they're intending to vote no

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1 or yes or make any such speech? Then the motion before us
2 is to accept staff recommendation that -- sorry -- that
3 this matter be set for specified proceedings and
4 investigation. All those in favor of that motion to
5 accept the staff recommendation, say aye.

6 VOICES: Aye.

7 CHAIRPERSON NORTON: Anyone opposed?

8 MS. CRUZ: Opposed.

9 CHAIRPERSON NORTON: Anyone abstaining? I
10 believe that the motion carries. So that being said, we
11 move on to the next thing -- and I -- we don't have the
12 Affirmative -- I'm sorry, what did I miss?

13 A VOICE: Who made the original motion and
14 who seconded it?

15 CHAIRPERSON NORTON: Oh, that's a good
16 point. I forget. Let's start --

17 A VOICE: Because I don't think there was a
18 motion --

19 A VOICE: Did I make it --

20 CHAIRPERSON NORTON: Yeah, you know, what
21 start -- there was -- I think there was a motion way back
22 when, but maybe I'm wrong --

23 MS. CYNTHIA ROSE: I have here that
24 Commissioner Norton initiated the meeting to adopt the

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1 motion --

2 COURT REPORTER: I'm sorry, could you move
3 that microphone closer to you please.

4 CHAIRPERSON NORTON: What did you say?
5 That I made the motion?

6 MS. ROSE: Well, I have it on my notes here
7 that Commissioner Norton initiated the meeting -- the
8 motion to accept or adopt --

9 CHAIRPERSON NORTON: Okay, then -- then
10 let's start over. Is there a motion from a commissioner
11 to accept the staff recommendation that this matter should
12 be set for specified proceedings and investigation? Is
13 there such a motion?

14 MS. CLARKE: So moved.

15 CHAIRPERSON NORTON: Commissioner Clarke
16 moves. Is there a second?

17 MR. MAMBRUNO: Second.

18 CHAIRPERSON NORTON: Commissioner Mambruno
19 seconds. All those in favor of the motion, say aye.

20 VOICES: Aye.

21 CHAIRPERSON NORTON: Anyone opposed?

22 MS. CRUZ: Opposed.

23 CHAIRPERSON NORTON: Anyone abstaining?

24 The motion carries.

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1 We have the Affirmative Action Manager
2 Report, we have the Fiscal Report, we have the Field
3 Operations Report, we have the Legislative Report. I'm
4 actually wondering whether any of those reports are very
5 pressing -- well is there an Affirmative Action Manager's
6 Report? I noticed --

7 MR. NEWTON: There's one in the packet, but
8 the Affirmative Action Manager is not present.

9 CHAIRPERSON NORTON: Okay. Is there a
10 Fiscal Report from -- Fiscal Report -- I'm sorry, you had
11 questions about that?

12 MS. CRUZ: Our Affirmative Action Plan was
13 due. Is it submitted?

14 MR. NEWTON: I can -- I can --

15 CHAIRPERSON NORTON: Oh, that's right --

16 MR. NEWTON: It -- it has been submitted to
17 the Affirmative Action Unit. It will be reviewed and it
18 should be on the May agenda for your vote.

19 MS. CRUZ: Okay --

20 CHAIRPERSON NORTON: I apologize --

21 MS. CRUZ: -- so we hit the February
22 deadline -- there was --

23 CHAIRPERSON NORTON: No, no, no, you're
24 right, that was very important. I wasn't meaning to

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1 ignore that. I was meaning to move along. It was very
2 good of you to stop me from going too fast. That's a very
3 important issue. I think it would have been due February
4 15th --

5 MS. CRUZ: Yes --

6 CHAIRPERSON NORTON: -- and I take it, it's
7 already been turned in?

8 MR. NEWTON: It's reviewed and submitted.

9 CHAIRPERSON NORTON: By --

10 MR. NEWTON: The head --

11 CHAIRPERSON NORTON: -- by the head of this
12 agency --

13 MR. NEWTON: Correct --

14 CHAIRPERSON NORTON: -- yeah -- yep.

15 Truly, thank you for stopping me. That's a really
16 important question. Commissioner Clarke.

17 MS. CLARKE: Yes. I'd like to raise issue
18 again about our Affirmative Action Plan. I would like to
19 see the narrative or some portion of the narrative before
20 it goes for review. Getting the numbers without any
21 discussion, we don't accept that from -- we wouldn't
22 accept that --

23 CHAIRPERSON NORTON: No, no, no --

24 MS. CLARKE: -- from any of the agencies --

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1 CHAIRPERSON NORTON: Yeah --

2 MS. CLARKE: -- you know, we talked about
3 not getting the complete plan, but during the year I would
4 have liked some narrative, some fleshing out of what we
5 did --

6 MS. COPELAND: Mmm-hmm --

7 MS. CLARKE: -- and I've -- I've asked for
8 this. So --

9 CHAIRPERSON NORTON: Okay --

10 MS. CLARKE: -- I thought we were going to
11 get it. Not the completed plan --

12 CHAIRPERSON NORTON: Okay --

13 MS. CLARKE: -- because I know that people
14 felt that that was a conflict of interest. But as the
15 year progresses, I have no idea where we stand --

16 MS. COPELAND: What activities are going
17 on, what --

18 MS. CLARKE: Yes. I have no idea where we
19 stand. And I think we should at least be able to be
20 apprised of what the agency is doing; you know, whether or
21 not it's meeting its obligations.

22 CHAIRPERSON NORTON: You're right, the --

23 MS. CRUZ: Bob has been giving us reports
24 every month. What -- he's having Gloria sitting in on all

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1 the interviews. And immediately after she writes the --
2 whether or not they met a goal and the justification --

3 MS. CLARKE: Mmm-hmm --

4 MS. CRUZ: One of the problems we had was
5 she doesn't have the numbers to make the goals until
6 January. So then if, you know, it doesn't meet a goal --
7 but I guess they have some predictive way of doing that.
8 And that was the big step he took this year, and that was
9 a big deficiency in our plan. I know -- and we've asked
10 this continually for more narratives, but I guess there
11 wasn't a lot of hires this year. That was one of the
12 issues with the budget crisis. But he said he submitted
13 this already before he left for vacation. So, I don't
14 know if it's too late or --

15 MS. CLARKE: Well --

16 MS. CRUZ: -- but this has been an ongoing
17 issue.

18 MS. CLARKE: Yes. I --

19 CHAIRPERSON NORTON: Well --

20 MS. CLARKE: -- then I -- let me just go on
21 record for our next Affirmative Action Plan --

22 CHAIRPERSON NORTON: Okay --

23 MS. CLARKE: -- that I would like some
24 demonstrations of good faith -- the same challenges I've

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1 put out to the agency, I want to see that we do it, what
2 we're doing to develop feeder pools --

3 MS. COPELAND: Mmm-hmm --

4 MS. CLARKE: -- what we're doing for
5 recruitment. I want to see the same thing because the
6 same questions are there.

7 CHAIRPERSON NORTON: I -- I agree with you
8 that there is a difference between us looking at the whole
9 submission and writing it up and hearing a regular update
10 on everything the agency is doing in pursuit of
11 Affirmative Action beyond just the hiring numbers --

12 MS. CLARKE: Right --

13 MS. COPELAND: Yes --

14 CHAIRPERSON NORTON: -- but you know, I
15 don't know, are we advertising in certain magazines, are
16 we going to job fairs, are we writing to --

17 MS. COPELAND: Where's our program --

18 MS. CLARKE: Yes. And are we doing the
19 same thing over and over again and expecting a different
20 result.

21 CHAIRPERSON NORTON: And this report as I
22 look at it --

23 MS. COPELAND: There's nothing in it of --

24 CHAIRPERSON NORTON: -- it doesn't --

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1 MS. CLARKE: No --

2 CHAIRPERSON NORTON: -- it just does the
3 numbers --

4 MS. CLARKE: Yeah, and that doesn't help --

5 CHAIRPERSON NORTON: -- so would you -- I'm
6 sorry, Mr. Newton, it sounded like you wanted to say
7 something.

8 MR. NEWTON: I was going to say -- you
9 would like some listing of activities that took place that
10 kind of generated the numbers that you're seeing --

11 CHAIRPERSON NORTON: No, not what's
12 generated the numbers --

13 MR. NEWTON: Oh --

14 CHAIRPERSON NORTON: -- it's more than that
15 -- more than that --

16 MS. CLARKE: More than the numbers. I want
17 to know where our demonstrations of good faith are -- and
18 --

19 MS. COPELAND: Right --

20 MR. NEWTON: Right -- like recruit --
21 recruiting --

22 MS. CLARKE: And then outreach --

23 CHAIRPERSON NORTON: Outreach --

24 MS. CRUZ: We have three projects that --

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1 CHAIRPERSON NORTON: Yeah -- would you make
2 a note to --

3 MS. CRUZ: -- to recruitment this year --
4 (Voices overlapping -- indiscernible)

5 MS. CLARKE: Are we developing feeder
6 pools? Are we -- are we training staff? And what kind of
7 training is the staff getting? Are we --

8 MS. COPELAND: Right --

9 MS. CLARKE: -- coming up with any creative
10 ways -- I mean there's -- I could come up with a million -
11 -

12 MS. COPELAND: What are we doing for
13 retention to create an atmosphere --

14 MS. CLARKE: Exactly --

15 MS. COPELAND: -- where people of diversity
16 want to stay here.

17 MS. CLARKE: Yes. What are you doing about
18 staff moral? You know --

19 MS. COPELAND: What media coverage have we
20 had on those topics --

21 MS. CLARKE: -- what are we doing as an
22 agency? Yeah, because the numbers give me nothing.

23 MS. COPELAND: Right. And we should be
24 better at this than anybody else.

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1 MS. CLARKE: And a listing of the names,
2 that gives me nothing.

3 MS. COPELAND: Right. Our agency should be
4 better than every other state agency when it comes to this
5 topic.

6 MS. CLARKE: We should be the poster child.

7 MS. COPELAND: Right.

8 MS. CLARKE: I'm sorry, I didn't raise my
9 hand --

10 CHAIRPERSON NORTON: That's alright --

11 MS. CLARKE: -- but we should be the poster
12 child.

13 MS. COPELAND: And why is my microphone the
14 only one not on --

15 A VOICE: I hear you fine.

16 (Laughter)

17 MS. COPELAND: I know you do because I'm a
18 preacher --

19 A VOICE: I was about to say the same thing
20 --

21 (Laughter)

22 A VOICE: You don't need one.

23 A VOICE: There are no accidents, Reverend
24 Copeland -- there are no accidents --

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1 MS. COPELAND: I know how to project in a
2 small setting. You see --
3 CHAIRPERSON NORTON: You're right --
4 MS. COPELAND: -- no tap for me --
5 CHAIRPERSON NORTON: -- she's right --
6 she's right --
7 MS. COPELAND: What does that mean -- why
8 is it that my microphone is the only one not on --
9 A VOICE: I hear you fine --
10 CHAIRPERSON NORTON: I don't make --
11 A VOICE: And this tape recorder is picking
12 you up --
13 MS. COPELAND: I'm sure --
14 A VOICE: Maybe it's the mics that surround
15 you that's --
16 MS. COPELAND: Mmm-hmm --
17 A VOICE: But I'll check --
18 CHAIRPERSON NORTON: We could certainly
19 share this --
20 MS. COPELAND: No --
21 CHAIRPERSON NORTON: -- actually it looks
22 like it's all working --
23 MS. COPELAND: Alright --
24 CHAIRPERSON NORTON: -- it looks like your

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1 voice is making it all the way over to here -- (laughter).

2 You make a very good point, that it isn't just the
3 numbers --

4 MS. COPELAND: No, right --

5 CHAIRPERSON NORTON: -- and it isn't just
6 the numbers that could cause us to fail or succeed --

7 MS. CLARKE: No --

8 CHAIRPERSON NORTON: -- and we should --
9 Mr. Newton, you'll tell Mr. Brothers that henceforth what
10 we'd like from --

11 MR. NEWTON: I will. I'll relay that.

12 CHAIRPERSON NORTON: We want a fleshed out,
13 you know, discussion of the various initiatives and
14 projects that are being undertaken by the Affirmative
15 Action --

16 MR. NEWTON: I'm giving it three stars.

17 CHAIRPERSON NORTON: Okay --

18 MS. CLARKE: Thank you --

19 MR. NEWTON: -- some only got two.

20 CHAIRPERSON NORTON: So the fiscal report
21 next -- I'm sorry, were there other questions about that
22 subject? Then the fiscal report. Miss Provost, do you
23 have anything to say -- by the way, Miss Provost, as you
24 may have seen, sent us -- I'm sorry, this -- was this in

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1 the folder we got today?

2 MS. MICHELLE PROVOST: The supplemental
3 package today --

4 CHAIRPERSON NORTON: Yes --

5 MS. PROVOST: -- yes.

6 CHAIRPERSON NORTON: A four-point for
7 discussion of how DAS might play a role in assisting us
8 with the recruitment and hire of an executive director.
9 And what -- what -- what is it that you -- what would be
10 our next step in that? I know you may have asked for the
11 fiscal report, but I'm jumping ahead --

12 MS. PROVOST: Yeah. Michelle Provost,
13 Fiscal Supervisor for CHRO.

14 This has been reviewed by DAS. They have
15 modified it. This is the language that was originally
16 sent to Recruitment Enhancement Services, the company
17 we're going to contract with --

18 CHAIRPERSON NORTON: This -- this -- this -
19 - this one?

20 MS. PROVOST: This -- yes --

21 CHAIRPERSON NORTON: Yep --

22 MS. PROVOST: -- an excerpt from that
23 contract where the language has been changed to reflect
24 DAS is the person providing the services, and some minor

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1 language changes that they made just with regards to
2 developing some experience factors, which is something
3 unique that DAS will discuss with you further, and not
4 reviewing every applicant that met the minimum
5 requirements, but only the applicants that are most
6 qualified, so they meet the minimum qualifies, but they
7 stand out above --

8 CHAIRPERSON NORTON: Okay --

9 MS. PROVOST: -- all others in the
10 applicant pool. So at this point, I'm looking to provide
11 feedback to DAS. They're ready to start gathering
12 information from you and start developing the
13 advertisement for this position. So, I'm not sure if
14 everybody is going to be involved or if just certain
15 people --

16 CHAIRPERSON NORTON: Well let me ask you
17 this; do you have -- are there any commissioners here who
18 have an interest in contributing to -- what? The job
19 description and/or the advertisement, or both, or one of
20 the --

21 MS. PROVOST: The job description has
22 already been established by DAS --

23 CHAIRPERSON NORTON: Okay --

24 MS. PROVOST: -- it's basically the job

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1 advertisement, the minimum qualifications --

2 CHAIRPERSON NORTON: Is that that really
3 short thing that we had the last time? Is that --

4 MS. PROVOST: That was the job ad -- that
5 was the job posting that was utilized for the last -- I
6 don't know -- I can't remember if it was the Assistant
7 Director --

8 CHAIRPERSON NORTON: Director --

9 MS. PROVOST: -- or Executive Director --

10 CHAIRPERSON NORTON: Well that's the thing,
11 there was an Executive Director job description we looked
12 at once, which was very short and not very --

13 MS. PROVOST: Yes --

14 CHAIRPERSON NORTON: -- well it didn't say
15 a lot --

16 MS. PROVOST: -- this will be very lengthy
17 --

18 CHAIRPERSON NORTON: -- that's the
19 Assistant Director one --

20 MS. PROVOST: That's the one DAS prepared -
21 -

22 CHAIRPERSON NORTON: Okay --

23 MS. PROVOST: -- for us previously.

24 CHAIRPERSON NORTON: So can you send an e-

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1 mail to the commissioners re-circulating that?

2 MS. PROVOST: The old advertisement?

3 CHAIRPERSON NORTON: Well whatever -- I'm
4 sorry -- no, I guess I missed it -- what -- what -- now
5 what is it that DAS plans to use?

6 MS. PROVOST: They need to speak with you
7 to develop what they plan to use.

8 CHAIRPERSON NORTON: So what is it that you
9 are -- what is it that you and I were just talking about?

10 MS. PROVOST: Who's going to be involved in
11 working with DAS --

12 CHAIRPERSON NORTON: No, no. What document
13 were you and I just talking about? You're saying an old
14 job description or --

15 MS. PROVOST: The posting, the
16 advertisement that was placed previously for the Assistant
17 Director position --

18 CHAIRPERSON NORTON: Okay --

19 MS. PROVOST: -- that DAS handled the
20 recruitment for --

21 MS. CRUZ: Here --

22 MS. PROVOST: -- they're going to establish
23 something similar to that --

24 MS. CRUZ: We've got 1 and 2.

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1 CHAIRPERSON NORTON: Okay. Thank you -- if
2 we have them, thank you.

3 MS. CRUZ: Which one did you think we're
4 using?

5 CHAIRPERSON NORTON: The -- I'm --

6 MS. PROVOST: We're not using either one of
7 those --

8 MS. CRUZ: Okay --

9 MS. PROVOST: -- we need to develop a new
10 one --

11 CHAIRPERSON NORTON: Okay --

12 MS. PROVOST: -- with new material --

13 MS. CRUZ: So that's --

14 MS. PROVOST: -- it's a new position --

15 CHAIRPERSON NORTON: No, but this sort of
16 helps --

17 MR. MAMBRUNO: She wants them back --

18 MS. PROVOST: Yeah -- yeah. I mean it will
19 give you a feel for what DAS' approach will be. It will
20 be some -- somewhat similar, but not exactly --

21 CHAIRPERSON NORTON: So does anyone want to
22 -- I guess what I would say is that if anyone wants to
23 contribute -- how is it this communication might best
24 occur? That we e-mail you stuff or the DAS meets with us

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1 or talks on the phone with commissioners, or --

2 MS. PROVOST: That's up for you to
3 establish --

4 CHAIRPERSON NORTON: Yeah, it's up to us --

5 MS. CRUZ: We decided if there was
6 something drafted that you wanted comment, we'd say here
7 it is --

8 CHAIRPERSON NORTON: Yeah --

9 MS. CRUZ: -- everyone get their comments
10 in within --

11 CHAIRPERSON NORTON: Yeah --

12 MS. CRUZ: -- you know, four days --

13 CHAIRPERSON NORTON: Okay --

14 MS. CRUZ: -- or by this date. And if you
15 comment, you comment. If not, you don't.

16 MS. COPELAND: How has the job description
17 been developed? How has the current job description been
18 developed -- when was it developed?

19 MS. PROVOST: The current job description
20 was established by DAS. It's very generic. It's very
21 vague --

22 CHAIRPERSON NORTON: Have you seen -- do
23 you want to take a look --

24 MS. COPELAND: No --

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1 CHAIRPERSON NORTON: Okay.

2 MS. PROVOST: I don't believe you have the
3 job description --

4 MS. COPELAND: So wouldn't it make sense
5 that we -- as commissioners have a discussion on the
6 direction of the agency at this time --

7 CHAIRPERSON NORTON: Absolutely --

8 MS. COPELAND: -- and this generation --

9 CHAIRPERSON NORTON: And what --

10 MS. COPELAND: -- what our focus and vision
11 is. And then out of that, we develop the job description
12 of what we're looking for with the Executive Director.

13 CHAIRPERSON NORTON: Would anyone be
14 interested at the next meeting at 1:00 o'clock,
15 beforehand, just us to talk about this subject?

16 MS. CRUZ: Well can we just get the DAS
17 shell and beef it up? I mean --

18 CHAIRPERSON NORTON: Okay --

19 MS. CRUZ: -- are we allowed to do that?
20 Because that might be the easier process --

21 CHAIRPERSON NORTON: Sure --

22 MS. CRUZ: -- if they put together their
23 little generic form and then we can add --

24 CHAIRPERSON NORTON: Okay --

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1 MS. CRUZ: -- a little bit more --

2 MS. COPELAND: That's -- that's not quite
3 what I'm saying. I think as leaders we have to have a
4 discussion about CHRO and where we want to see it going,
5 so we have some consensus. I don't think we've had that
6 kind of shared conversation.

7 CHAIRPERSON NORTON: I would agree --

8 MS. COPELAND: It's not just a job
9 description. It's about where do we see the organization
10 going. And based on that discussion, then we can beef up
11 a job description. So that way we're looking for the same
12 thing. I'd like to hear people's thoughts.

13 MS. CRUZ: But also it will help with
14 giving them a list of qualifications --

15 MS. COPELAND: Right --

16 MS. CRUZ: -- you know, these are the
17 qualifications --

18 MS. COPELAND: Right --

19 MS. CRUZ: -- we're looking for when you
20 were saying minimal --

21 MS. COPELAND: Because if you don't know
22 where you're going, anything will fit.

23 CHAIRPERSON NORTON: Well actually -- I
24 guess at the -- at the next meeting, you know, that's in

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1 just another month, and that's -- that's -- you know --

2 MS. COPELAND: I think we should try to
3 squeeze it in before a month --

4 CHAIRPERSON NORTON: Yeah, that's --

5 MS. COPELAND: -- because we've got delayed
6 how many months? That one has been around for, what,
7 three months --

8 CHAIRPERSON NORTON: Yeah --

9 MS. COPELAND: -- or three meetings -- and
10 we got delayed because we're waiting for one sheet of
11 paper to be signed from the other search firm. But I
12 think vision can happen in a meeting --

13 CHAIRPERSON NORTON: Are there --

14 MS. COPELAND: -- maybe two weeks or so.
15 That way by the time we have a meeting --

16 CHAIRPERSON NORTON: Yeah --

17 MS. COPELAND: -- a month from now, we have
18 a job description and we're ready to hit it.

19 CHAIRPERSON NORTON: Do we want to even now
20 address the issue of whether there's a time that works for
21 people who are interested to come to this office?

22 MS. CRUZ: Well, you would hope the entire
23 -- all the commissioners would be interested --

24 MS. COPELAND: We should all discuss it --

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1 MS. CRUZ: -- in who's going to lead the
2 organization --

3 MS. COPELAND: Yeah --

4 CHAIRPERSON NORTON: Yeah, but I think -- I
5 think everyone on this committee works and it's just not
6 always that easy -- but it's easier for me, I work just up
7 the road -- but I'm just recognizing that for other people
8 --

9 MR. MAMBRUNO: Well the last time we had a
10 subcommittee --

11 CHAIRPERSON NORTON: Some people -- some
12 people are from --

13 MS. PROVOST: We could arrange a conference
14 call --

15 MS. COPELAND: Yeah, that's true --

16 MS. PROVOST: -- with all of you present
17 at, you know, a certain time, and have DAS participate as
18 well --

19 CHAIRPERSON NORTON: Do you --

20 MS. PROVOST: -- and be ready for that --

21 MS. COPELAND: I think we have to have a
22 meeting before the job description thing with DAS. I
23 think we have to have a conversation of where do we see
24 the agency going. That's apart from the DAS person

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1 looking for stuff for a job description.

2 CHAIRPERSON NORTON: What about next
3 Thursday, the 19th?

4 MR. MAMBRUNO: I have a meeting.

5 CHAIRPERSON NORTON: Well it's a long
6 meeting --

7 MR. MAMBRUNO: No, the 19th I'm -- I know -
8 -

9 CHAIRPERSON NORTON: Well, wait a minute --
10 wait a minute -- I just lied, I'm -- I'm away that day. I
11 don't know why I even said that date. I'm -- (laughter) -
12 - I -- I didn't write it in my own thing because it's --
13 it's -- I'm going to write it in now, Florida --

14 MR. MAMBRUNO: 18 and 19 --

15 MS. COPELAND: Wow --

16 CHAIRPERSON NORTON: I didn't think I
17 needed to write that down in my calendar, but I should
18 have.

19 A VOICE: The 18th --

20 MR. MAMBRUNO: 18th and 19th I'm --

21 MS. COPELAND: Do you want to call in on a
22 conference call?

23 CHAIRPERSON NORTON: I could, but I've got
24 to tell you --

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1 MS. COPELAND: Could you be sober --
2 (laughter) --

3 CHAIRPERSON NORTON: If it's 8:00 in the
4 morning, I might have sobered up --

5 MS. CRUZ: Isn't that on the record?

6 A VOICE: I think it is.

7 CHAIRPERSON NORTON: Well let me just see
8 here -- we've got -- I don't --

9 A VOICE: What about Tuesday?

10 CHAIRPERSON NORTON: Sorry, I'm looking at
11 -- Tuesday, the 17th?

12 A VOICE: Yeah.

13 MS. CLARKE: The day after the holiday --

14 CHAIRPERSON NORTON: Yeah. What about --

15 MS. CLARKE: -- I'm in training all day in
16 Sturbridge.

17 CHAIRPERSON NORTON: And -- on the 17th,
18 you're in training all day? The 18th, the afternoon?

19 MR. MAMBRUNO: I have meetings with DSS.

20 CHAIRPERSON NORTON: The 19th -- sorry --
21 I'm gone Thursday, Friday, and Monday.

22 MS. COPELAND: Let me ask a radical
23 question. For a conference call is it possible to do an
24 early morning or an evening conference call after hours --

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1 CHAIRPERSON NORTON: We've done a couple of
2 evening conference calls, we have --

3 MS. COPELAND: You could be in your pajamas
4 --

5 CHAIRPERSON NORTON: Yeah, we've done --

6 MS. CRUZ: For a long time Larry could not
7 do it, because being a principal obviously --

8 CHAIRPERSON NORTON: Yeah --

9 MS. CRUZ: But if other -- I don't have a
10 problem as long as my schedule is free to --

11 MS. COPELAND: Evening --

12 CHAIRPERSON NORTON: So what -- I'm sorry,
13 what about the evening of the 17th or 18th --

14 MS. COPELAND: The 18th --

15 CHAIRPERSON NORTON: I'm sorry, not the
16 18th because my flight is 6:00 o'clock and I would not be
17 able to --

18 MS. COPELAND: How about the 16th since
19 it's a holiday?

20 A VOICE: Tuesday --

21 A VOICE: We could do the 16th --

22 CHAIRPERSON NORTON: What about the 17th,
23 the evening?

24 MS. CRUZ: What about the 16th?

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1 MS. COPELAND: The 16th is a --
2 CHAIRPERSON NORTON: You want -- okay --
3 MS. COPELAND: -- so we should have some
4 open --
5 CHAIRPERSON NORTON: Okay, what about --
6 MR. MAMBRUNO: The 16th at 3:00 -- 3:00
7 o'clock.
8 MS. COPELAND: Yeah, that's --
9 MS. CRUZ: The 16th at 3:00 o'clock?
10 MS. COPELAND: The 16th at 3:00 o'clock a
11 conference call --
12 MS. CRUZ: Do you want me to --
13 MS. COPELAND: -- can you do that?
14 A VOICE: Sure --
15 MS. CRUZ: I can give you my --
16 A VOICE: Yuck --
17 A VOICE: But it's a holiday. Who's going
18 to arrange it though?
19 MS. COPELAND: We can --
20 CHAIRPERSON NORTON: This isn't -- this
21 isn't a public meeting.
22 MR. MAMBRUNO: It's not a holiday --
23 MS. CRUZ: It's Monday, it's a holiday --
24 MR. MAMBRUNO: Oh, it is?

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1 MS. COPELAND: For us it is.
2 MR. MAMBRUNO: Forget it, I'm going away.
3 CHAIRPERSON NORTON: Okay.
4 MS. COPELAND: You ain't going nowhere --
5 (laughter) --
6 MR. MAMBRUNO: Do you want to call my wife
7 --
8 MS. COPELAND: Okay --
9 MR. MAMBRUNO: -- I'll give you my phone --
10 (laughter) -- she'll -- she'll kill me --
11 A VOICE: Aren't there other people working
12 on the holiday like me --
13 A VOICE: No --
14 MR. MAMBRUNO: I thought that was a
15 Tuesday.
16 MS. COPELAND: No.
17 A VOICE: Oh, man --
18 MS. COPELAND: How about the morning? You
19 can't do the morning --
20 CHAIRPERSON NORTON: Wait a minute, what --
21 MS. COPELAND: -- before the day starts?
22 A VOICE: We don't need to hold everyone up
23 --
24 CHAIRPERSON NORTON: What about even this

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1 Friday -- what about even this Friday?

2 A VOICE: Yeah, I've got --

3 CHAIRPERSON NORTON: What's wrong with this
4 Friday at say -- I'm busy the middle of the afternoon, but
5 what about -- what about this Friday morning? I don't
6 know, let me just --

7 MR. MAMBRUNO: Friday is my furlough day,
8 I'm not supposed to work. It's against union -- it's
9 against union rules.

10 A VOICE: If we take Ed out --

11 CHAIRPERSON NORTON: You're not in a union
12 if you --

13 A VOICE: -- we could probably schedule it
14 --

15 MR. MAMBRUNO: Alright, I'll -- I'll --
16 I'll --

17 CHAIRPERSON NORTON: What about -- what
18 about Friday morning --

19 MR. MAMBRUNO: -- I'll do Friday --

20 A VOICE: I have a --

21 (Multiple voices overlapping -
22 indiscernible)

23 CHAIRPERSON NORTON: What about late --

24 MS. COPELAND: The afternoon I can do --

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1 CHAIRPERSON NORTON: What about 4:00
2 o'clock Friday afternoon?
3 A VOICE: Yes --
4 MR. MAMBRUNO: If we can do earlier --
5 A VOICE: I can do 4:00 o'clock --
6 CHAIRPERSON NORTON: Cheryl are you leaving
7 or --
8 MS. CLARKE: No --
9 A VOICE: We need bathroom breaks --
10 MS. CLARKE: -- I have to take --
11 CHAIRPERSON NORTON: Got'cha, I understand.
12 I'd like to take a break too --
13 MS. CLARKE: Just put me down for yes.
14 CHAIRPERSON NORTON: Okay --
15 MS. COPELAND: Okay, Friday afternoon.
16 CHAIRPERSON NORTON: Friday at --
17 MS. COPELAND: 3:00?
18 CHAIRPERSON NORTON: Okay, I've got a 1:30
19 meeting. I'm trying to remember what it was to see how
20 long -- I'm trying to remember how long that meeting will
21 go. I can't remember what -- what it is. What about 3:30
22 Friday afternoon, does that work?
23 MS. COPELAND: Yep.
24 MR. MAMBRUNO: Oh, I --

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1 CHAIRPERSON NORTON: What's your freedom by
2 the way, Milton? Are you kind of free for --
3 MS. COPELAND: You see them talking on the
4 phone all the time --
5 MR. MAMBRUNO: Andrew --
6 A VOICE: Yes --
7 MR. MAMBRUNO: I'm sorry, I have my foot
8 doctor appointment Friday --
9 CHAIRPERSON NORTON: Okay --
10 MS. COPELAND: What time?
11 MR. MAMBRUNO: Huh?
12 MS. COPELAND: What time?
13 MR. MAMBRUNO: 2:00.
14 MS. COPELAND: 4:00 -- will you be done by
15 4:00 you think?
16 MR. MAMBRUNO: I don't know. Really, it --
17 CHAIRPERSON NORTON: You said Friday
18 morning --
19 MR. MAMBRUNO: I don't know how many people
20 he's going to have in his office.
21 CHAIRPERSON NORTON: Okay, so what -- what
22 was wrong with Tuesday evening?
23 MS. COPELAND: I have a class I'm in.
24 CHAIRPERSON NORTON: And what's wrong with

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1 --

2 MS. CRUZ: What about Tuesday morning?

3 CHAIRPERSON NORTON: Yeah, what about
4 Tuesday morning?

5 MS. CRUZ: Oh, I think Cheryl said that --

6 MR. MAMBRUNO: She's in training all day --

7 CHAIRPERSON NORTON: Okay --

8 MR. MAMBRUNO: -- in Sturbridge.

9 A VOICE: Could I suggest Saturday or
10 Sunday as a possibility --

11 A VOICE: Quiet.

12 MS. COPELAND: Not Sunday, honey --
13 (laughter) --

14 CHAIRPERSON NORTON: I expect to be busy
15 all Valentine's day.

16 MS. COPELAND: What's do you going to do?

17 MS. CRUZ: I know, what have you got going?

18 CHAIRPERSON NORTON: My friend's a florist.

19 He's going to -- well, I offered to help --

20 MS. CRUZ: Oh, you're going to help --

21 MS. COPELAND: Help deliver flowers --

22 CHAIRPERSON NORTON: I'm going to help
23 deliver flowers and arrange roses or whatever --

24 MS. COPELAND: Oh, that's nice --

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1 CHAIRPERSON NORTON: -- so don't -- that's
2 a thorny subject, so don't -- so -- no, no, but I did, I
3 said -- he'll be busy and he doesn't have a delivery guy,
4 so I said I'll help out that day.

5 MS. CRUZ: Alright, do you want to decide
6 this in Executive Session, so we don't hold people --

7 CHAIRPERSON NORTON: Okay.

8 MS. PROVOST: One thing that I would like
9 to ask is if you could just review the CHRO expectations.
10 And if you have any concerns or any areas that you would
11 like revised, if you could just convey that information to
12 me --

13 CHAIRPERSON NORTON: Okay --

14 MS. PROVOST: -- and I'll communicate that
15 to DAS and see if we can get that resolved.

16 CHAIRPERSON NORTON: By the way, you know,
17 one thing that may be easier that occurs to me about us
18 scheduling, but everyone can chime in, is maybe if we said
19 three people will do this --

20 MS. CRUZ: This is kind of important
21 though. I mean --

22 CHAIRPERSON NORTON: Yeah --

23 MS. COPELAND: I think we need conversation
24 --

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1 CHAIRPERSON NORTON: I totally agree, it's
2 just scheduling the meeting is --

3 MR. MAMBRUNO: Well, we've had
4 subcommittees before. And then the subcommittee organizes
5 the --

6 CHAIRPERSON NORTON: And the people could
7 report back --

8 MR. MAMBRUNO: -- and they -- and then it
9 comes back to the whole commission. And then the whole
10 commission can add or subtract to it. So you --

11 MS. CRUZ: Alright, so let's --

12 MR. MAMBRUNO: -- so you can --

13 MS. CRUZ: -- look to Friday then and we'll
14 present to Ed --

15 MR. MAMBRUNO: -- you can have a
16 subcommittee to get things started, and then the whole
17 committee could vote --

18 CHAIRPERSON NORTON: What was wrong with
19 Friday at 3:30 besides --

20 MR. MAMBRUNO: I have a foot --

21 CHAIRPERSON NORTON: I know, but --

22 MS. CRUZ: Alright, let's do --

23 CHAIRPERSON NORTON: -- do you mind if
24 you're not there?

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1 MR. MAMBRUNO: No, no.

2 CHAIRPERSON NORTON: Okay.

3 MS. COPELAND: Okay, fine, we'll do --

4 CHAIRPERSON NORTON: So a telephonic
5 meeting Friday afternoon at 3:30. Alexia needs to hit the
6 round-robin e-mail and give people the phone number and
7 the code thing again --

8 MS. CRUZ: Yep --

9 CHAIRPERSON NORTON: -- you'll be willing
10 to do that?

11 MS. CRUZ: Yep -- I -- yep.

12 CHAIRPERSON NORTON: So at 3:30 we'll all
13 be talking on the phone and we'll talk about where we want
14 to go. Actually are you -- no one is in on this Friday --
15 are you in this Friday?

16 A VOICE: Furlough day.

17 CHAIRPERSON NORTON: Oh, is that why you're
18 doing -- yeah -- is anyone going to be in Friday? I'm
19 going to be at work, but -- alright, so that's what we're
20 going to do, 3:30. Unfortunately, we'll be losing out on
21 Ed, but that is just an unfortunate thing.

22 MS. PROVOST: Okay. And then hopefully the
23 results of that conference call will produce --

24 CHAIRPERSON NORTON: You're not leaving are

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1 you, Ed?

2 MR. MAMBRUNO: No.

3 CHAIRPERSON NORTON: Alright.

4 MS. PROVOST: And the results of that
5 conference call will be for you to produce some
6 qualifications, criteria that DAS can work with --

7 CHAIRPERSON NORTON: For an advertisement -
8 -

9 MS. PROVOST: -- to develop the
10 advertisement --

11 CHAIRPERSON NORTON: Yep.

12 MS. PROVOST: Okay.

13 CHAIRPERSON NORTON: And -- and I guess I'd
14 love to get -- is there a photocopier here before I leave
15 -- I want to -- I've got it somewhere, but it would be
16 easier to photocopy your two pages than it would be to dig
17 them out, the -- what was -- the stuff you just had on the
18 Assistant Director, the Executive Director --

19 MS. CRUZ: Do you want me to scan them and
20 e-mail them to everyone?

21 CHAIRPERSON NORTON: Sure. If you want to
22 do that, that would be lovely.

23 A VOICE: We have a photocopier --

24 CHAIRPERSON NORTON: Okay.

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1 MS. CRUZ: I can scan them and e-mail them
2 with the number -- the call-in number --

3 CHAIRPERSON NORTON: Okay -- alright. So
4 why don't you -- if you'll do that, then everyone will
5 have it --

6 MS. CRUZ: Yeah --

7 CHAIRPERSON NORTON: -- and that will be
8 helpful.

9 MS. PROVOST: And then just one more thing
10 that Executive Director Brothers wanted me to just mention
11 in case some of you aren't aware, the Governor has
12 recommended that we eliminate six of our vacant position,
13 as well as our Norwich and Waterbury regional offices,
14 which would result in a total of elimination of 28
15 positions.

16 CHAIRPERSON NORTON: So what are the vacant
17 positions? One's assistant director, I know that.

18 MS. PROVOST: All of -- the positions that
19 were on -- that were vacant at the time that this was
20 submitted to the Governor for review included the
21 Executive Director, Assistant Director, a Human Rights
22 Referee, three reps, and a secretary. They -- the
23 secretary that was recently vacated in the legal division
24 is not one of the positions that are recommended for

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1 elimination. And the Executive Director position is not
2 one of the positions recommended for --

3 CHAIRPERSON NORTON: Were they aware of
4 that second secretarial thing or -- because they did their
5 thing before that became vacant --

6 MS. PROVOST: Correct, they did it before -
7 -

8 CHAIRPERSON NORTON: So we got sort of
9 lucky there maybe?

10 MS. PROVOST: Yeah. They may or may not --

11 CHAIRPERSON NORTON: Do the people --

12 MS. PROVOST: -- come back for --

13 CHAIRPERSON NORTON: Do the people who work
14 in the Waterbury and Norwich -- if they're more senior,
15 would they be able to bounce out someone who works in
16 Hartford or Bridgeport?

17 MS. PROVOST: Yes, they would be able to
18 exercise bumping rights.

19 CHAIRPERSON NORTON: Wait -- even if --
20 would a manager be able to?

21 MS. PROVOST: No. Managers don't have
22 bumping rights.

23 CHAIRPERSON NORTON: So if everyone in the
24 district would be union except, what Pete Kowalis

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1 (phonetic) -- and --

2 MS. PROVOST: Correct --

3 CHAIRPERSON NORTON: -- I forgot his name -

4 -

5 MS. PROVOST: Jim Plank (phonetic) -- yep -

6 - two managers --

7 CHAIRPERSON NORTON: So if the budget -- if
8 the Governor's budget was adopted, they would just be
9 plain out of work?

10 MS. PROVOST: Correct. Some people may or
11 may not be eligible for retirement benefits --

12 CHAIRPERSON NORTON: Okay --

13 MS. PROVOST: -- but for the most part yes

14 --

15 CHAIRPERSON NORTON: Okay --

16 MS. PROVOST: -- they would be laid off --

17 CHAIRPERSON NORTON: Interesting. Okay.

18 MS. COPELAND: Do we have Affirmative

19 Action rules for this hire?

20 MS. PROVOST: Yes.

21 CHAIRPERSON NORTON: For the Executive
22 Director, yes. What -- what's -- would you remind us of
23 that?

24 A VOICE: We were getting it in January --

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1 MS. PROVOST: I think it was one White male

2 --

3 A VOICE: -- Gloria said they weren't
4 available --

5 CHAIRPERSON NORTON: I don't know why --

6 A VOICE: I think it's a White male --

7 MS. PROVOST: I will confirm with Gloria,
8 but yes, I believe there's two short-term goals for
9 officials and administrators. One is a White male, one is
10 a White female.

11 CHAIRPERSON NORTON: So if we hire someone
12 who is not White, we must write a justification --

13 A VOICE: That's all we need to do --

14 CHAIRPERSON NORTON: -- and if we hire
15 someone who is not White, we must write a justification
16 for every White applicant to explain why we didn't pick
17 them. And we have to justify -- we need to be able to
18 write about why that White person was less than the person
19 we hired. Okay. That's just something to keep in mind.

20 So the Fiscal Legislative Report -- thank
21 you very much, Michelle --

22 MS. PROVOST: You're welcome --

23 A VOICE: Thank you, Michelle --

24 CHAIRPERSON NORTON: -- thank you for this

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1 document, which --

2 MR. JAMES O'NEIL: Jim O'Neil, legislative
3 liaison. I -- because of the holiday, I mailed the weekly
4 legislative report out early. The only thing that I did
5 want to report of importance right now is that the Senate
6 unanimously confirmed the nominations of Commissioners
7 Clarke and Copeland and Johnson.

8 MS. COPELAND: Thank you.

9 CHAIRPERSON NORTON: Managing
10 Director/Acting Director -- whatever -- Don's report -- oh
11 -- I skipped field operations I guess, but I --

12 MR. NEWTON: You do have my written report
13 --

14 CHAIRPERSON NORTON: Yeah --

15 MR. NEWTON: -- I'll answer any questions.

16 CHAIRPERSON NORTON: I don't have any
17 questions.

18 MS. CRUZ: I guess -- maybe my being naïve
19 -- so does everyone think they are going to end up closing
20 Waterbury and Norwich, and then we need a plan -- I mean
21 what's going to happen?

22 CHAIRPERSON NORTON: Do you have any early
23 feel for the legislature's reaction to the Governor's
24 proposal regarding CHRO, Mr. O'Neil?

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1 MR. O'NEIL: I would believe that -- I
2 could say that Senator Harp and others on the
3 Appropriations Committee expect us to present them with a
4 hell no we won't go plan.

5 CHAIRPERSON NORTON: Well no, it wouldn't
6 be us. They're the ones who have got to present a --

7 MR. O'NEIL: No, it's in the budget
8 subcommittee meeting. We're going to present what we need
9 for a budget.

10 CHAIRPERSON NORTON: Oh. To stay -- to
11 keep those offices open you think?

12 MR. O'NEIL: That would be our
13 determination as to how we want to proceed. Given that
14 these are not the Governor's cuts really, they're OPM's
15 cuts --

16 MR. MAMBRUNO: Which is roughly two million
17 and twenty-three positions --

18 MR. O'NEIL: Twenty-eight positions.

19 MR. MAMBRUNO: Twenty-eight positions.

20 MR. O'NEIL: Yeah.

21 CHAIRPERSON NORTON: What do you mean
22 they're not the Governor's cuts?

23 MR. O'NEIL: The OPM formulated the budget
24 --

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1 CHAIRPERSON NORTON: Okay -- yeah.

2 MR. O'NEIL: The -- most of the -- there's
3 a whole explanation I have about the -- our initial
4 presentation with Appropriations, but aside from that --
5 it's in my report, but aside from that, most of the
6 eliminated agencies have been making great arguments in
7 favor of their continuation. I think the expectation is -
8 - from Senator Harp and others is that we will make an
9 argument that we cannot absorb these kind of cuts and it
10 would be a disservice.

11 MS. CRUZ: So it's premature at this point
12 to start to plan --

13 MR. O'NEIL: We'd be -- we'd run into the
14 conflict that we are -- (1) we are an independent
15 commission. But it is the Governor's plan and OPM's plan,
16 so we run -- well the conflict should be fairly clear.

17 CHAIRPERSON NORTON: Do -- what -- this, in
18 essence, would mean we would have half the staff --

19 A VOICE: Right --

20 CHAIRPERSON NORTON: -- that we have now to
21 do investigations of complaints. Is it safe to say that
22 means it would take twice as long to get a complaint
23 through CHRO?

24 A VOICE: Oh, please --

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1 MR. NEWTON: Actually, it would be about
2 two-thirds of the investigators would --

3 MS. CRUZ: It's over 700 complaints that
4 are filed in these two --

5 MR. NEWTON: However, the --

6 CHAIRPERSON NORTON: Why, what's the -- oh
7 -- what's the current staff in the four regions each?

8 MR. NEWTON: Each region has -- 12 --
9 (indiscernible, not near mic) -- counting clerical --

10 CHAIRPERSON NORTON: So --

11 MR. NEWTON: -- and investigators --

12 CHAIRPERSON NORTON: So you're saying it's
13 two-thirds that would go because -- why?

14 MR. NEWTON: Because some people might bump
15 into a position outside field operations. In other words,
16 the CHRO representative is a generic title the Affirmative
17 Action Plan reviewers hold, the investigators in the field
18 hold. Some of the people in the Affirmative Action unit
19 are newer, so some of the investigators who would be
20 slated for elimination would -- could bump into the
21 Affirmative Action unit --

22 MR. MAMBRUNO: I think this discussion is
23 premature because we have possible layoffs and the
24 Democrats haven't even come out with their budget. So, I

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1 don't even know why we're discussing this right now.

2 MS. CRUZ: It was my curiosity --

3 MR. MAMBRUNO: Oh, I'm sorry --

4 MS. CRUZ: -- because I'm not tied into the
5 politics as much as you guys are. But I -- it sounds like
6 --

7 CHAIRPERSON NORTON: Well, no, why wouldn't
8 you --

9 (Multiple voices overlapping -
10 indiscernible)

11 MR. MAMBRUNO: There's an early retirement
12 on the table --

13 CHAIRPERSON NORTON: Yeah, but you don't
14 know what's --

15 MR. MAMBRUNO: -- no incentive plan --

16 MS. CRUZ: Right --

17 MR. MAMBRUNO: -- then there's 9,000 people
18 -- she's hoping 3,000 will take it --

19 CHAIRPERSON NORTON: But if you were to ask
20 --

21 MR. MAMBRUNO: -- and in this economy do
22 you think 3,000 will take it. If they don't, possibly
23 then you're going to have to have layoffs --

24 CHAIRPERSON NORTON: She's going to need to

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1 -- outside of these cuts --

2 MR. MAMBRUNO: Well, yeah --

3 CHAIRPERSON NORTON: So why -- I guess I'm
4 confused -- why wouldn't you want to be able to answer --

5 MR. MAMBRUNO: You know, we don't know what
6 the Democrats are going to offer --

7 CHAIRPERSON NORTON: No, I know, but if
8 someone said to you well what effect will these cuts have
9 at CHRO, you could either say prospectively this is what I
10 think will happen, or once they do it, you could say well
11 once they did it, now let me tell you what I think will
12 happen -- I mean I'm a little bit curious as to know even
13 before it happens --

14 MR. MAMBRUNO: Well maybe you have more --
15 I don't have enough information for that --

16 CHAIRPERSON NORTON: I know, that's what
17 I'm asking him for --

18 MR. MAMBRUNO: Oh -- well --

19 CHAIRPERSON NORTON: That's what --

20 MR. NEWTON: I can -- I can just make a
21 couple of comments. (1) The -- our business manager has
22 talked to our OPM analyst and found out that if we came up
23 with -- if -- in the worse case scenario if we had to
24 eliminate 28 positions, that the Executive Director could

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1 -- could select the positions to be eliminated and not
2 just decimate the field operations.

3 CHAIRPERSON NORTON: Okay.

4 MR. NEWTON: So once they came up with the
5 dollar amount of cuts that was necessary --

6 CHAIRPERSON NORTON: Got-cha.

7 MR. NEWTON: And secondly, we're already
8 doing like some scenarios of what if, about how people
9 might possibly exercise bumping rights play out. We know
10 who's eligible for retirement now, who might take it, who
11 might not. So we're -- we're trying to, you know, have
12 just a basic contingency plan in place without -- you know
13 -- and still hope that we can salvage the majority of our
14 positions.

15 CHAIRPERSON NORTON: Okay.

16 COURT REPORTER: One moment please. (Pause
17 - tape change.)

18 CHAIRPERSON NORTON: We have --

19 MR. O'NEIL: Can I just add the only reason
20 that this becomes something more of a pressing issue is
21 because the budget subcommittees are going to meet
22 relatively sooner rather than relatively later.

23 MS. CRUZ: So is Bob going to be back to do
24 this presentation or who's --

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1 MR. O'NEIL: Oh, clearly yeah.

2 MS. CRUZ: Okay.

3 MR. O'NEIL: But I don't know when this may
4 be compared to your next meeting.

5 A VOICE: Bob -- Bob will be here --

6 CHAIRPERSON NORTON: This -- I mean just to
7 be clear -- this agency is going to have to figure out the
8 stance it takes in front of the Appropriations Committee,
9 whether it says the Governor's -- and there's a lot of
10 grades in between -- the Governor's budget is devastating,
11 discrimination will no longer have a foe because half our
12 people will be gone, what takes incredibly long now, three
13 years will take six years, or the agency could say we're
14 going to try to make do with what we can, we're
15 appreciative that the Governor is giving us anything, or
16 to say you ought to cut us more. I mean I don't know, but
17 at a certain point we're going to -- people from this
18 agency are going to be sitting with the Appropriations
19 Committee and having to style in some way their responses
20 to questions. And I'm just kind of investigating whether
21 people here have a particular point of view or not. I'm
22 not even sure what mine is because I am torn about the
23 fact that we are an executive branch agency, but this
24 agency does not answer directly to the Governor. The

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1 legislature has specifically created an agency with some
2 distance between the Governor and the legislature by
3 having appointments. Bob doesn't, you know, go to the
4 Governor's -- he doesn't go -- does he go to agency head
5 meetings that the Governor has called?

6 MR. O'NEIL: Yes --

7 MR. NEWTON: Yes --

8 CHAIRPERSON NORTON: He does?

9 MR. O'NEIL: Yes.

10 A VOICE: Commissioner, can I throw
11 something in? Is this now also the oldest human rights
12 agency in the country?

13 CHAIRPERSON NORTON: Yes, it is.

14 A VOICE: There you go.

15 CHAIRPERSON NORTON: Have you checked --

16 MR. O'NEIL: I'm sorry?

17 CHAIRPERSON NORTON: I'm just -- I was just
18 thinking about -- okay, that's interesting --

19 MR. O'NEIL: Well, he goes to agency head
20 meetings because there's a courtesy --

21 CHAIRPERSON NORTON: Yeah --

22 MR. O'NEIL: -- just like legislative --

23 CHAIRPERSON NORTON: But the Governor is
24 not his boss. And so it's a dicey situation kind of,

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1 because you could sit there and say, oh, the Governor's
2 budget is going to really hurt us, and the Governor's
3 office people may say wait a minute, you're going against
4 -- you're going against the whole plan here. And they
5 may, you know, set themselves up to be a little bit angry
6 or something, I don't know.

7 MS. COPELAND: I think the reality is in
8 this particular political climate and economic climate for
9 a state agency, I think CHRO is always going to have to
10 take a real close look at itself and we're going to have
11 to be better stewards. Cuts are happening all over the
12 place --

13 MR. O'NEIL: Yeah --

14 MS. COPELAND: -- and if we've been inept
15 with what we've had -- and yes, I'm about to come into
16 this two-year waiting cases thing -- if we've been inept
17 with that --

18 MS. CLARKE: It's going to be tough --

19 MS. CRUZ: It's just been a big challenge
20 because we don't have an Affirmative Executive Director,
21 you know, to sit down and really make some big -- you
22 know, to have that discussion --

23 MR. MAMBRUNO: He's wearing three hats.
24 It's not his fault.

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1 MS. CRUZ: Right. But we -- he's temporary

2 --

3 CHAIRPERSON NORTON: Yeah, but some issues

4 --

5 MS. COPELAND: I'm sorry, I've been around
6 Connecticut my whole life and I've heard that we've been
7 slow for a long time --

8 A VOICE: Oh, yeah --

9 CHAIRPERSON NORTON: This whole -- well
10 part of the --

11 MS. CRUZ: This is the slowest I've ever --

12 A VOICE: But I'm just saying --

13 CHAIRPERSON NORTON: Part of the problem --
14 (Multiple voices overlapping -
15 indiscernible)

16 CHAIRPERSON NORTON: -- even on a -- even
17 on an administrative level, American laws and juris
18 prudence are just designed to be slow as molasses. You've
19 got a -- it's -- our legal system --

20 MS. COPELAND: But you know one of the hold
21 hard realities is we can think that we have the privilege
22 of being as slow as we want to be, but we'll watch
23 ourselves being hacked away to nothing. So we're going to
24 have to work smarter or we're not going to survive. Just

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1 because we're the oldest, doesn't mean we will stick
2 around in this climate. They are cutting the fat. And if
3 we seem inept with the amount we have, they will cut us
4 down to nothing, because what difference does it make
5 whether you have a lot of people that are inept or very
6 few.

7 CHAIRPERSON NORTON: Well, I'm afraid -- I
8 don't agree with exactly how you put it, but I think that
9 a lot of what you say is right. I think that it could be
10 that the agency is -- through various actions and
11 inactions, the agency's head got stuck out sort of near
12 the executioner's axe --

13 MS. COPELAND: And we're lucky to still be
14 standing and not recommended for closure compared to some
15 of the other commissions.

16 MS. CLARKE: Well can I ask a question
17 around that closure? Let's say the Permanent Commission
18 on the Status of Women is actually --

19 CHAIRPERSON NORTON: Evolved --

20 MS. CLARKE: -- closed --

21 MS. COPELAND: Right --

22 MS. CLARKE: -- or dissolved -- I'm sorry,
23 that's a better word -- would we -- naturally will we
24 inherit whatever work they were doing? I mean we do cover

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1 women. So if they --

2 A VOICE: I think that's --

3 MS. CLARKE: -- if they were offloading
4 let's say I don't know how many complaints, would we also
5 inherit those complaints --

6 CHAIRPERSON NORTON: No, they don't do
7 complaints --

8 A VOICE: They don't --

9 MS. CLARKE: They don't get any complaints
10 --

11 CHAIRPERSON NORTON: -- they're an advocacy
12 group --

13 MS. COPELAND: Just an advocacy group --

14 CHAIRPERSON NORTON: -- except they do do
15 sexual harassment training. And it wouldn't be natural
16 for this agency to be in that business, except to cut back
17 in staff it wouldn't be natural for us to take on
18 additional work. The purpose --

19 MS. CLARKE: I'm just asking as far as
20 making -- making a case for us to retain any staffing
21 levels --

22 MS. COPELAND: Right --

23 CHAIRPERSON NORTON: Yeah --

24 MS. CLARKE: -- if there are some

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1 additional duties that we would have to perform with the
2 collapsing of these other agencies -- and I'm sure they're
3 going to be making a valid case too --

4 CHAIRPERSON NORTON: Yeah --

5 MS. CLARKE: -- but if that does indeed
6 happen, would we be inheriting any of those duties?

7 CHAIRPERSON NORTON: Well there is so much
8 about advocacy outreach education, that -- which this
9 agency, even though it's charged with doing, isn't really
10 designed to --

11 MS. COPELAND: Isn't doing --

12 MS. CLARKE: Isn't doing --

13 MS. COPELAND: No. I mean that's --

14 CHAIRPERSON NORTON: I mean there aren't
15 that many people on staff --

16 MS. COPELAND: -- part of the Affirmative
17 Action --

18 CHAIRPERSON NORTON: -- we don't have
19 people on staff here to go out and give speeches, to go
20 out and run seminars in schools --

21 MS. CLARKE: Well --

22 CHAIRPERSON NORTON: I'm I missing -- is
23 there someone employed here who --

24 MS. CRUZ: We've lost our Executive

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1 Assistant Director. The plan --

2 CHAIRPERSON NORTON: Yeah --

3 MR. MAMBRUNO: The curriculum manager, that
4 was his job --

5 CHAIRPERSON NORTON: Well, the curriculum
6 manager was really though I think about internal, serving
7 internal -- David.

8 MR. DAVID TEED: We actually had years ago
9 -- 10 years ago, 15 years -- Don would remember -- an
10 education outreach department --

11 CHAIRPERSON NORTON: Yeah --

12 MS. COPELAND: Mmm-hmm --

13 MS. CLARKE: Really --

14 A VOICE: That's right --

15 A VOICE: That's a wonderful luxury --

16 (Multiple voices overlapping -
17 indiscernible)

18 MR. TEED: If you remember in 2003 this
19 agency went from 128 employees down to 86 --

20 MS. COPELAND: Mmm-hmm --

21 MR. TEED: -- and now we've slow -- we've
22 worked back up to about a hundred --

23 CHAIRPERSON NORTON: I was here, and I
24 forgot how traumatic it was --

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1 MR. TEED: -- (indiscernible, not near mic)
2 -- in '96 -- but it's still way less than --

3 CHAIRPERSON NORTON: That got rid of the
4 contract complaints unit --

5 MS. COPELAND: But the reality is we're
6 going to have to find significance -- I'm telling you
7 that's the climate we're in --

8 CHAIRPERSON NORTON: You know --

9 MS. COPELAND: -- and we can't just sit
10 here and think just because we produce a lot of paper,
11 we're going to be around. I'm telling you, it's -- these
12 are tight times --

13 CHAIRPERSON NORTON: That was -- was it --

14 MS. COPELAND: -- for people that serve
15 like face-to-face people.

16 CHAIRPERSON NORTON: Was that the time
17 actually when we got rid of the contract compliance unit -
18 -

19 MR. TEED: Yes --

20 CHAIRPERSON NORTON: -- because it -- you
21 know, however you look at it --

22 MR. TEED: They did get rid of it, mmm-hmm.

23 MR. NEWTON: Can I just make a comment?

24 CHAIRPERSON NORTON: Sure, of course.

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1 MS. COPELAND: Sure you can.

2 MR. NEWTON: One thing that -- you know,
3 we're criticized for being slow, but we probably do a more
4 in depth investigation than the majority of other state
5 Civil Rights agencies. I mean we -- we get contacts from
6 people all over the country. We do a much superior job
7 than a lot of neighboring New England states. And -- and
8 part of this is because of a Supreme Court decision called
9 Adrianni vs. United Illuminating, which basically said
10 that you have to do a complete and thorough investigation,
11 leave no stone unturned. And we do a lot, a lot of
12 writing. If there was a way that we could preserve the
13 quality and the rights of people, but, you know, kind of
14 shorten some of the work we do, we could move cases a lot
15 faster. There's all kinds of appeals levels, so we end up
16 reinvestigating some complaints if there's a little piece
17 out there that we might not have done a thorough
18 investigation. So that slows down the process to some
19 extent.

20 MS. CLARKE: And -- I don't doubt that for
21 a second -- excuse me --

22 CHAIRPERSON NORTON: Sure --

23 MS. CLARKE: -- but I think we would have a
24 very tough time making a case for like the last thing we

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1 were faced with, with a two-year delay, that actually made
2 the -- we actually compromised the ability of the
3 complainant to actually file in another place. I mean the
4 fact that we had a process in place that said, you know,
5 if somebody died in -- on position -- then the case
6 stopped. If the investigator died or left or did
7 anything, took an extended vacation, the work stopped. So
8 we almost have to come up with some way of doing what we
9 need to do, being mindful of what the process is and how
10 involved it is, but still not jeopardize anybody's rights
11 in the process, because I would think they'd at least have
12 the right to -- that criminals -- don't they have a right
13 to a speedy trial or something -- I mean --

14 MS. CRUZ: Criminals --

15 CHAIRPERSON NORTON: It is supposed to be a
16 less --

17 MS. CLARKE: You'd have to be a criminal --

18 CHAIRPERSON NORTON: -- a more affordable,
19 quicker alternative to going to Superior Court. And it is
20 a long administrative process where investigators with a
21 lot on their plate -- I'm sure they're making -- I mean
22 I'd have to -- in my time when we do some -- we've got
23 some grievance we've been scheduling and rescheduling for
24 months now because all of a sudden on the day it happens,

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1 someone gets sick. And so, okay, when can we reschedule.
2 Well let's get out the calendars. And all of a sudden
3 it's another month. And on and on it goes.

4 MR. MAMBRUNO: I mean we could -- we could
5 philosophize forever. Why don't we --

6 CHAIRPERSON NORTON: Move on. Do you have
7 any more report to make as Managing Director?

8 MR. O'NEIL: No.

9 MS. CLARKE: But thank you.

10 CHAIRPERSON NORTON: I would -- I'm hoping
11 that we don't need to be long in Executive Session -- oh,
12 we do have a reopening request --

13 MR. TEED: Yes. And we have -- I just
14 spoke with him and he said it would be very short.

15 CHAIRPERSON NORTON: Okay.

16 MS. COPELAND: Okay.

17 MR. TEED: Thank you for reminding us. And
18 I might go get --

19 CHAIRPERSON NORTON: I would entertain a
20 motion from any commissioner --

21 MR. MAMBRUNO: So moved --

22 CHAIRPERSON NORTON: -- to go into
23 Executive Session --

24 MS. CLARKE: Second --

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1 CHAIRPERSON NORTON: -- retaining Mr.
2 Newton and Mr. Teed of course of the Executive Session.

3 MR. MAMBRUNO: So moved.

4 CHAIRPERSON NORTON: All those in favor --
5 Commissioner Mambruno moves. Commissioner Clarke seconds.
6 All those in favor, say aye.

7 VOICES: Aye.

8 CHAIRPERSON NORTON: Anyone opposed?
9 Anyone abstaining? The motion passes. We are in
10 Executive Session. Would you excuse -- would you folks
11 excuse us.

12

13 (Whereupon, the meeting went into Executive
14 Session.)

15 (Off the record)

16 (Whereupon, the meeting went back into
17 public session.)

18

19 CHAIRPERSON NORTON: I'm going to entertain
20 a motion from any commissioner --

21 A VOICE: Hold on a sec --

22 (Pause)

23 CHAIRPERSON NORTON: It is now 6:20. I
24 would entertain a commissioner for -- a motion from any

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1 commissioner to return to public session. Is there such a
2 motion?

3 MR. JOHNSON: So moved.

4 CHAIRPERSON NORTON: Commissioner Johnson
5 moves. Is there a second?

6 MS. CLARKE: Second.

7 CHAIRPERSON NORTON: Commissioner Clarke
8 seconds. All those in favor, please say aye.

9 VOICES: Aye.

10 CHAIRPERSON NORTON: Anyone opposed?
11 Anyone abstaining? Let the record show that no votes were
12 taken while we were in Executive Session.

13 The agenda calls for action on the various
14 law suits the agency is involved in. There is no action
15 required to be taken.

16 The next item is a reopening request.
17 Staff recommendation is to grant to Jacqueline Brommell a
18 reopening request in her suit against Yale University. Is
19 there a motion in that regard by any commissioner? Would
20 any commissioner like to make a motion to --

21 MS. CRUZ: Motion.

22 CHAIRPERSON NORTON: Commissioner Cruz
23 makes a motion to accept staff recommendation to grant the
24 reopening of Jacqueline Brommell versus Yale University.

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1 Is there a second to that motion?

2 MS. CLARKE: Second.

3 CHAIRPERSON NORTON: Commissioner Clarke
4 seconds. I will say, although I may not be a voter unless
5 it's a tie vote, that it's my feeling that while Yale can
6 make perhaps a case if they weren't an employer of this
7 particular person, it is also very arguable that they were
8 arguable, that they were involved in behavior that could
9 be actionable under Connecticut's antidiscrimination laws
10 and involved in concert in some fashion or other, in any
11 case, arguable worthy of a full investigation, that they
12 may have been acting in concert in a discriminatory
13 fashion. I don't claim that. I just say it's possible.
14 And I don't think it's clearly found that they served a no
15 employment or possibly discriminatory fashion.

16 All those in favor of the motion, please
17 say aye.

18 VOICES: Aye.

19 CHAIRPERSON NORTON: Anyone opposed?
20 Anyone abstaining? The motion passes. The case is
21 reopened.

22 We have no personnel matters to discuss.
23 Our next meeting is March 11th at 2:00 o'clock, but we
24 will be having a telephonic meeting, which is not open to

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1 the public, it's an Executive Director search telephonic
2 meeting at 3:30 on Friday. Is there a motion to adjourn?

3 MR. JOHNSON: So moved.

4 CHAIRPERSON NORTON: Is there anyone
5 opposed to the motion -- the motion was by Commissioner
6 Johnson to adjourn. Is there a second?

7 MS. COPELAND: Second.

8 CHAIRPERSON NORTON: Commissioner Copeland
9 seconds. Discussion is not allowed. All those in favor
10 of adjourning, say aye.

11 VOICES: Aye.

12 CHAIRPERSON NORTON: Anyone opposed to
13 adjourning?

14 MS. COPELAND: Aye -- no -- (laughter) --

15 A VOICE: Don't you dare.

16 CHAIRPERSON NORTON: The motion carries.

17

18 (Whereupon, the meeting adjourned at 6:20

19 p.m.)

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