MINUTES OF THE REGULAR COMMISSION MEETING OF THE COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
WEDNESDAY, APRIL 8, 2009, 2:00 P.M.
21 GRAND STREET, HARTFORD, CONNECTICUT 06106
LARGE CONFERENCE ROOM

COMMISSIONERS PRESENT
Andrew Norton, Chairperson
Edward Mambruno, Secretary
Cheryl Lynn Clarke (participated telephonically)
Shelley Copeland
John Lobon
Patricia Wrice

COMMISSIONERS ABSENT
Alexia E. Cruz
Milton Johnson

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

I. CHAIRPERSON

A. Convene Meeting

Chairperson Andrew Norton convened the April 8, 2009 Regular monthly meeting of the Commission on Human Rights and Opportunities at 2:05 p.m.

II. SECRETARY

A. Review and Approval of Minutes of March 11, 2009 Regular Commission Meeting

Secretary Mambruno requested a motion approving the minutes of the March 11, 2009 Regular Commission meeting. A motion was made by Commissioner Clarke and seconded by Commissioner Wrice to approve the minutes of the March 11, 2009 Regular Commission meeting. Commissioner Lobon requested one correction to the minutes under Item VIII. on page 9. The word Chairperson should be changed to the word Commissioners in the following sentence: "Commissioner Lobon indicated that he sent an e-mail to the *Commissioners*

regarding a rumor indicating he was responsible for former Commissioner Griffin's removal from the Commission." Ms. Civitillo agreed to make the requested change. The motion approving the minutes with the noted language change carried unanimously with the exception of the Chairperson who did not vote.

III. AFFIRMATIVE ACTION RECOMMENDATIONS

A. Agencies Proposed Affirmative Action Plans

Staff Recommendations: **Approvals**

1. Department of Revenue Services
2. Office of the State Treasurer
3. Department of Information Technology
4. Division of Special Revenue

Chairperson Norton requested a motion to accept the staff recommendations for approval and retention of annual filing status for the Department of Revenue Services, Office of the State Treasurer, Department of Information Technology and Division of Special Revenue. A motion was made by Commissioner Clarke and seconded by Commissioner Mambruno to accept the staff recommendations for approval and retention of annual filing status for the four noted affirmative action plans. The Chairperson invited Alvin Bingham, Affirmative Action and Contract Compliance Supervisor, to introduce the agency representatives in attendance and provide an overview for each affirmative action plan recommendation.

Mr. Bingham introduced Commissioner Pam Law and Penny Potter, EEO Manager, in attendance from the Department of Revenue Services. The plan is being recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has met all or substantially all of its hiring goals, the agency has demonstrated every good faith effort to achieve its promotion goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 24 out of 33 or 73%, total goal achievement was 24 out of 33 or 73% and promotion goal achievement was 33 out of 56 or 59%. Mr. Bingham indicated the affirmative action plan for the Department of Revenue Services has been approved for each of the past five years. Chairperson Norton raised a question regarding the (b)(1) standard, parity with the workforce. Neva Vigezzi, Affirmative Action Program Analyst, reviewed the plan and responded to the Chairperson. Ms. Vigezzi stated the workforce as a whole is not analyzed. Occupational categories and job titles containing 25 or more employees are analyzed with the relevant labor market area and goals are established based

upon these analyses. Ms. Vigezzi also responded to the Chairperson's question regarding the Revenue Examiner 3 promotions and why one of the two Black females promoted was identified as being upward mobility. Upward mobility is a separate program designed as a vehicle to promote primarily women in the office/clerical category based upon skills and experience learned on the job. Often a two-year program, such as a pre-professional trainee, is used to facilitate this promotion. Chairperson Norton commented on the fact that this agency's total workforce contains a significant number of Black employees, particularly in the professional job category.

Commissioner Copeland commended Ms. Vigezzi on the excellent summaries she prepared for the Department of Children and Families and the Department of Correction, which included analyzing the innovations of those agencies. Commissioner Copeland reiterated her previous request to receive summaries similar to those prepared for the aforementioned agencies. Acting Executive Director Robert Brothers stated he would take responsibility for the misunderstanding of not providing the Commissioners with the summaries in the format they requested.

There was also a short discussion regarding whether there are any standards for evaluating innovative programs agencies use. Ms. Vigezzi stated the primary focus is on goals and goal achievement. Innovative programs are not the main focus and are not seen as a demonstration of good faith. Good faith effort is what an agency has done to achieve unmet goals. With respect to the innovative programs for the Department of Revenue Services, Commissioner Clarke stated she found the pictures of people picking cotton and dancing disturbing. Commissioner Pam Law addressed the Commissioners relative to the pictures referred to by Commissioner Clarke. Commissioner Law indicated that every year in the month of February the agency's Black History Committee, which is comprised entirely of Black employees with the exception of two, puts on a program. Commissioner Law went on to say that it is entirely their program and is a demonstration of how far they have come. The picture of the woman picking cotton was representing Harriet Tubman.

Commissioner Copeland expressed an interest in seeing more shared knowledge amongst agencies. In response to Commissioner Copeland's concern that it may take an agency three months to write a plan and an additional number of weeks for the staff to review it, Mr. Bingham emphasized that does not stop the agency from executing their plan on a 12-month basis. In closing, Ms. Vigezzi discussed the fact that the newest budget proposes moving CHRO's affirmative action function to the Department of Administrative Services and the contract compliance function to the Attorney General's Office, including drastically cutting the staff. Ms. Vigezzi stressed the importance of having the regulatory authority remain with CHRO and that transferring the affirmative action

function to DAS raises potential conflict of interest issues. She asked for the Commissioners' support to keep these two requirements within the CHRO. Ms. Vigezzi also stated that these proposed cuts may be CHRO's punishment for findings on the Office of Policy and Management's affirmative action plan and why CHRO is being recommended for more cuts than any other state agency. Chairperson Norton stated he was not able to respond to Ms. Vigezzi's concerns and observations. No further discussion followed on this Item.

The following individuals were in attendance from the Office of the State Treasurer: Linda Hershman, Chief of Staff; Gail Crockett, Chief Executive Assistant; Ted Janiszewski, Principal HR Specialist; and Leah Glende, EEO Specialist. The plan is being recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and there were no deficient elements in the prior plan. Short-term goal achievement was 5 out of 8 or 62.5%, long-term goal achievement was 1 out of 3 or 33%, total goal achievement was 6 out of 11 or 54% and promotion goal achievement was 1 out of 1 or 100%. The plan has been approved for each of the past five years. Commissioner Copeland indicated she was extremely impressed with the innovation found in the documents supplied to the Commissioners from this plan, specifically activities that increase public awareness regarding the issue of finances and financial literacy. Commissioner Copeland also stated she was impressed with the RFP presented by the Treasurer's Office concerning corporate citizenship. She asked the staff if that is a tool used by other state agencies. Paula Ross, HRO Representative, reviewed the plan and responded to Commissioner Copeland. Ms. Ross stated the Treasurer's Office has specific responsibilities that are unique to that agency and the document referred to by Commissioner Copeland was in the external communication section. She noted the focus of the affirmative action plans are not on corporate or community awareness, but rather what is done within employment in state service to reach parity. Mr. Bingham also noted that the affirmative action staff does not review RFPs for professional services unless it is based upon a construction contract. The Treasurer's Office utilizes RFPs for financial services and money managers. Commissioner Clarke commended the agency on the justification provided on page four regarding the selection of a Hispanic female who was not a goal candidate. She felt the write-up was extremely well done. Chairperson Norton requested an explanation regarding the term combination goal. Ms. Ross explained a combination goal is when the underutilization of any race/sex group is under minus .5. Those race/sex groups who have an underutilization of less than minus .5 are combined and one goal is established for either the race/sex group with the greatest availability or the most underutilization. Ms. Ross commented that one third of this agency's professional workforce is non-white and over 40% of the staff in general is non-white.

Mr. Bingham introduced the following individuals in attendance representing the Department of Information Technology: Diane Wallace, Chief Information Officer; Rick Bailey, Deputy Chief Information Officer; Joe Dominello, Chief Administrative Officer; Brenda Abele, Human Resources Manager; and Debra Mainville, Affirmative Action Designee. The plan has been recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 4 out of 10 or 40% and total goal achievement was 4 out of 10 or 40%. The plan has been approved for each of the past five years. There was no additional discussion on this Item.

Mr. Bingham introduced the following individuals in attendance from the Division of Special Revenue: Paul Young, Executive Director, and LeRoy Watson, EEO Manager. The plan is being recommended for approval based on compliance with the following: the plan contains all the elements required, the agency has demonstrated every good faith effort to achieve its goals and the agency has substantially addressed deficiencies noted by the Commission in the prior plan review. Short-term goal achievement was 5 out of 8 or 62.5%, long-term goal achievement was 1 out of 4 or 25%, total goal achievement was 6 out of 12 or 50% and promotion goal achievement was 3 out of 3 or 100%. The plan was approved in 2004 and 2005, in January of 2006 it was disapproved, in July of 2006 the plan was resubmitted and approved, and the plan was approved in 2007 and 2008. Commissioner Lobon commended this agency on its diversity in hiring which is reflected by the fact that the workforce exceeds 20% of persons of color. In response to an inquiry from Commissioner Mambruno, Executive Director Young confirmed that the low percentages for both set asides and minority business enterprises is attributed to the state's current fiscal climate. No further discussion followed on this Item.

The motion accepting staff recommendations for approval and retention of annual filing status for the Department of Revenue Services, Office of the State Treasurer, Department of Information Technology and Division of Special Revenue carried unanimously. Chairperson Norton did not vote on the motion.

IV. NEW BUSINESS

A. Request for Contract Compliance Exemption Between Judicial Branch and The Center for Court Innovation

B. Request for Contract Compliance Exemption for Five Agreements Between Department of Transportation and Metro-North Railroad

C. Request for Extension of Blanket Contract Compliance Waiver Exemption By UCONN Health Center for Grant Based, Collaborative and Consulting Agreements

Acting Executive Director Brothers provided an overview regarding the staff recommendations for the three contract compliance exemption requests on today's agenda. The staff is recommending Item IV.A., Request for Contract Compliance Exemption Between Judicial Branch and The Center for Court Innovation, be tabled until next month as there is insufficient information to be able to review it at this time. Item IV.B. is a contract compliance exemption request for five agreements between the Department of Transportation and Metro-North. Mr. Brothers indicated there have been a number of Metro-North contract compliance exemption requests in the past and the staff has recommended granting them. Metro-North has asserted that, based upon two Connecticut General Statutes, issues concerning Metro-North should be deferred to the state of New York. Mr. Brothers also indicated that there is an Office of Public Hearing decision which concurs with that position, however, the Legal Division has filed an appeal of the Referee's decision. While the appeal is pending and in the interest of allowing work to be done, the staff is recommending the request be granted. Items IV.C. is a blanket contract compliance exemption that was granted in six-month intervals for collaborative and consulting agreements. The first exemption was granted on May 8, 2008, which was extended on October 7, 2008. The current exemption expires on May 9, 2009. The staff is recommending the previously granted blanket exemption be granted for an additional six-month period, through November 9, 2009. Mr. Brothers commended the Health Center on doing an outstanding job in being able to secure nondiscrimination certificates in 68 of the 77 agreements covered by the previous blanket exemption. There was no additional discussion regarding the three pending requests.

A motion was made by Commissioner Clarke and seconded by Commissioner Wrice to accept the staff recommendation to table until next month the contract compliance exemption request in Item IV.A. and grant the exemption requests in Items IV.B. and C. The motion carried unanimously. Chairperson Norton did not vote.

D. East Haven Police Department

In light of the fact that this matter might move towards possible litigation, the Chairperson inquired if it would be appropriate to hold a discussion on this Item until the Executive Session. Mr. Brothers confirmed this matter would fall within the definition of pending litigation as defined by the General Statutes and stated the issue should not be discussed in the public session. He recommended moving a discussion regarding this matter into the Executive Session, including

inviting Attorneys Robert Zamlowski and Cheryl Sharp, who have been assigned the responsibility to conduct some fact-finding into matter, for the limited purpose of a discussion regarding this agenda Item.

E. Case Management Planning

The Chairperson asked Mr. Brothers to place this Item on the agenda so a discussion could take place regarding what the agency might do to manage case flow in the event an investigator is out ill or leaves the agency. Discussion followed concerning not only case management, but also other management practices, including contingency planning. Mr. Brothers reported while there is no hard, written rule regarding how cases are reassigned, an individual analysis is done on a case-by-case basis and the reason why an investigator may not be available determines whether cases are reassigned. Mr. Brothers indicated if someone is going to be out for an indefinite period, cases will be reassigned. In some instances, it may not be in the best interest to immediately reassign cases. Within the Legal Division, as well as in Field Operations, if someone is going to be out for an extended period of time, such as maternity leave, that person's pending cases are assigned to another attorney or investigator to bring that person up to speed. The employee going out on leave is then allowed to work their caseload down to zero.

There was also considerable discussion concerning contingency planning in light of the proposed budget cuts to the agency. Mr. Brothers stressed his priority is the budget and its impact on agency operations. The Governor's proposed budget slated the Norwich and Waterbury offices for elimination. The Appropriations proposed budget does not eliminate the field offices, but would move the affirmative action function to the Department of Administrative Services and the contract compliance function to the Attorney General's Office. In addition, it disassembles the Business Office, displacing most of the employees, and it would reduce the Office of Public Hearings, which is currently staffed by six Referees to one. Mr. Brothers also noted that the agency's vacancies that were abolished include three investigator positions. Mr. Brothers further noted that in order for the implementation of the Appropriations budget, a number of statutory and regulatory changes would have to take place. Commissioners Clarke, Copeland and Wrice expressed their concern that it might not be prudent to wait and see what will happen with the budget process before putting a plan in place. Mr. Brothers assured the Commissioners that he has given serious consideration to the matter and analyzed every possible scenario that could occur, including meeting with a number of state Representatives and Senators, communicating with the Governor's Office and Secretary Genuario and holding meetings with the Executive Staff and Regional Managers. He has a list of those employees who would be eligible to retire and who may retire and how those spots would be filled. He indicated he also has a good understanding what statutory changes

will have to be made in order to keep things moving. Reports have been prepared for the Office of Policy and Management regarding the requested five, seven and ten percent budget reductions. Mr. Brothers stated it would not be feasible to make public changes that need to be implemented in order to keep the agency running as that would involve identifying specific employees that would be displaced should either proposed budget go forward. Mr. Brothers also advised the Commissioners he currently has two attorneys working with the Regional Managers in Field Operations to be able to retool the process currently used for completing investigations. Commissioners Copeland and Wrice reiterated the need to have Mr. Brothers communicate with the Commissioners on an ongoing basis any updates concerning contingency planning and other organizational issues that impact the agency.

Debi Freund, President of the Connecticut Association of Affirmative Action Professionals, was in attendance and requested the opportunity to address the Commissioners. Ms. Freund stated removing the affirmative action function from CHRO would be egregious and it should reside with the Commission. She said everything should be done to ensure that both the affirmative action and contract compliance functions remain with the Commission. Ms. Freund also stated if the affirmative action function is moved to DAS, there will be an obvious conflict of interest. Commissioner Wrice concurred with Ms. Freund and stated for the record her concern that the watchdog organizations that are charged with making sure individuals in the state receive fair opportunities seem to be targeted.

V. DIVISION REPORTS

A. Affirmative Action Program Manager's Report

The Affirmative Action Program Manager's reports were included in the Commission mailing. Gloria Sparveri, Affirmative Action Program Manager, explained that Report 1 added a narrative section describing various affirmative action recruitment efforts. As most positions are filled via the Department of Administrative Services examination process, Ms. Sparveri noted that examination notices are sent to the agency's resource list, which is comprised of numerous organizations, agencies and colleges. The examination notice is sent out prior to a job posting and includes a preparation guide for taking written tests for the state to assist with the process. The Commission's affirmative action plan for the reporting period covering November 1, 2007 through October 31, 2008 was submitted in February and should be up for review at next month's Commission meeting. In response to an inquiry from Commissioner Copeland, Ms. Sparveri indicated she receives technical assistance, as needed, regarding the plan from Neva Vigezzi who is assigned the responsibility of reviewing CHRO'S plan. Commissioner Copeland reiterated the desire to continue receiving updates on ongoing affirmative action activities.

B. Fiscal Report

Michelle Provost, Fiscal Administrative Supervisor, indicated she prepared the Personnel Status Report showing the positions that have been abolished that were vacant, as well as the monthly financial status reports for the general and federal funding sources. With respect to the Executive Director vacancy, Ms. Provost reported that a program was implemented by the Department of Administrative Services that inactivated every agency's vacant positions, however, agencies were then provided with instructions of how to go through the process of having a position reestablished. Ms. Provost advised the Commissioners there is one more approval level at the Office of Policy and Management needed to get the Executive Director position reestablished.

C. Field Operations Report

The Report on Caseload Statistics was provided to the Commissioners in their mailing packet. Donald Newton, Chief of Field Operations, responded to a question raised by Commissioner Lobon regarding the potential consolidation of the Waterbury and Norwich offices. Mr. Newton confirmed these facilities incur no cost to the agency. Mr. Newton also confirmed that under both the Governor's and the Legislative budgets, the Bridgeport office still exists. The rent for the Bridgeport office is approximately $60,000 per year. In addition, all of the extra build-out costs for the Bridgeport office have been covered in prior budgets.

D. Legislative Report

James O'Neill, Legislative and Regulations Specialist, provided the Legislative update. Bills of interest to CHRO are e-mailed to the Commissioners for their information. The Chairperson asked if there may be adjustments to the contract compliance exemption changes made a few years ago by Senator McDonald. Mr. O'Neill responded that there was a bill that the Judiciary Committee reported out which contains various exclusions regarding the federal government, other states, municipalities and quasi-public agencies, and contracts under $50,000. Mr. O'Neill stated his belief that the substance of the certification requirement will not change.

There was a brief discussion regarding whether it would be beneficial to have all the watchdog agencies negatively impacted by the budget work together collectively. Mr. O'Neill reported that those agencies that are Legislative entities have been restored. Chairperson Norton invited the Commissioners to communicate with their Legislator and/or the Chairpersons of the Appropriations Committee regarding the proposed budget cuts to CHRO. The Chairperson suggested it would be beneficial to have a document summarizing the

Appropriations budget for the Commissioners and requested Mr. O'Neill prepare a summary with input from Mr. Brothers, if needed.

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

No report was given as extensive updates were previously provided by Mr. Brothers.

VI. EXECUTIVE SESSION

In accordance with Section 1-225(c) of the Connecticut General Statutes, as amended, it was moved by Commissioner Lobon and seconded by Commissioner Mambruno that the Commission go into Executive Session, including inviting Acting Executive Director Brothers, Assistant Attorney General David Teed and Attorney Cheryl Sharp, for a portion of the Executive Session, for the purpose of discussing pending litigation and personnel matters as they may arise. Mr. Brothers noted Attorney Zamlowski was no longer available at that time. The motion carried unanimously. Chairperson Norton did not vote on the motion. All members of the public were excused from the Executive Session.

VII. RETURN TO REGULAR SESSION

It was moved by Commissioner Lobon and seconded by Commissioner Mambruno to return to Regular Session. The motion carried unanimously. Chairperson Norton did not vote. The Chairperson noted no votes were taken in the Executive Session.

VIII. VOTE ON EXECUTIVE SESSION ITEMS

A. Report on Pending Claims or Pending Litigation
B. Personnel Matters

Chairperson Norton reported there was no action needed on pending litigation or personnel matters.

IX. ADJOURNMENT

There being no further business to come before the Commission, it was moved by Commissioner Lobon and seconded by Commissioner Mambruno to adjourn the meeting at 5:37 p.m. The motion carried unanimously. Chairperson Norton did not vote.