

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 69 C 2145
)	Magistrate Judge Sidney Schenkier
COUNTY OF COOK, et al.,)	
)	
Defendants.)	

**FOURTEENTH REPORT OF THE *SHAKMAN* COMPLIANCE ADMINISTRATOR
FOR COOK COUNTY**

Mary Robinson, *Shakman* Compliance Administrator for Cook County (the “Compliance Administrator” or the “CA”¹), by and through her attorney, Matthew Pryor, submits this Fourteenth Report pursuant to the terms of the Supplemental Relief Order entered on November 30, 2006 (the “SRO”). The SRO requires the CA to study the existing employment practices of Cook County Government (the “County”)², monitor the County’s compliance with the provisions of the SRO, assist in formulating a new hiring plan, assist in establishing training programs on non-political hiring practices, adjudicate claims based upon violations that preceded entry of the SRO, make recommendations to the Court as to

¹ “CA” shall refer to the Compliance Administrator and/or her staff.

² For the purposes of this and future reports, “Cook County” and “the County” shall refer to the defendant, Cook County and, in particular, to those departments and functions that operate under the direct control of the President. There are three units of County government which, due to developments since entry of the SRO, operate independently of the President for hiring and other purposes relevant to the dictates of the SRO, and separate practices are being implemented for each. Those units will be designated as follows: the Office of the Cook County Public Defender (the “Public Defender”), the Office of the Independent Inspector General for Cook County (“OIIG”) and the Cook County Health and Hospitals System (“CCHHS” or the “System”). Within the first year after entry of the SRO, the Juvenile Temporary Detention Center (“JTDC”) began operating under the authority of a court-appointed monitor and then was recently transferred to the authority of the Chief Judge of the Circuit Court of Cook County. The CA has engaged in no oversight of JTDC since August 2007.

how to resolve issues regarding *Shakman* Exempt positions, and file reports describing the activities of the CA and the County's progress toward achieving Substantial Compliance with the requirements of the SRO.

On October 14, 2016, the CA submitted her Thirteenth Report to the Court wherein she provided updates on the County's progress toward Substantial Compliance made by the County, the Public Defender, CCHHS and the OIIG. The Thirteenth Report provided updates on a list of outstanding compliance-related matters that the CA believed the County, Public Defender, CCHHS, and OIIG needed to address prior to achieving Substantial Compliance with the SRO. The CA submits this report as a further update on progress made by those offices on those outstanding items in the past month.

PROGRESS ON OUTSTANDING ITEMS SINCE THIRTEENTH REPORT

COUNTY

In the Thirteenth Report, the CA identified three issues that she believed the County needed to address pursuant to the SRO and Employment Plan (the "Plan"). Updates on the County's progress on those issues are below.

1. Develop job descriptions for exempt staff hired by Commissioners

As reported in the Thirteenth Report, the parties reached agreement on job descriptions for Commissioner staffers. Under the agreement, there are two position types, one with more rigorous duties and qualifications than the other. On November 18, 2016, the County filed with this Court an amended Exempt List reflecting the new job titles for Commissioner Aides. Dkt. 4794. The CA anticipates DHR will soon update the County's website to indicate which job title and job description will apply to each current Commissioner Aide.

2. Develop, implement and monitor procedures to ensure accurate and consistent reporting of discipline relevant to an employee's eligibility for other employment

The Plan requires that employees who have been disciplined within a specified timeframe are not eligible for consideration for other County positions. Plan § V.J.2. The County is currently conducting the requisite disciplinary checks during the hiring process. In her Thirteenth Report, the CA noted that she was “looking into a potential issue concerning one department.” The County’s Compliance Officer subsequently informed the CA that she was considering the same potential issue and offered to share her report on the same when complete. The Compliance Office’s inquiry is still in process. The CA will review the Compliance Officer’s report once provided and determine if any additional inquiry will be necessary.

3. Develop, implement and monitor procedures for conducting disciplinary hearings to foster predictability in process and consistency in outcomes

In her Eleventh Report, the CA noted that the County lacked written procedures for disciplinary hearings – both third step grievances and for the Employee Appeals Board (“EAB”) – and that the significant variability in how hearings monitored by the CA have been conducted opens the door for impermissible political considerations. Eleventh Report at 10. Just after the filing of the Eleventh Report, the County proposed standard operating procedures (“SOPs”) for both third step grievance and EAB hearings. The parties and CA have had several written exchanges and recently met to discuss drafts. Development and publication of appropriate procedures will continue.

PUBLIC DEFENDER

In the Thirteenth Report, the CA identified three issues that she believed the Public Defender needed to address pursuant to the SRO and the Plan. Updates on the Public Defender's progress on those three issues are below.

1. Correct missteps with implementation of intern/volunteer program and develop processes to ensure future compliance

The Plan contains a specific process through which the Public Defender may operate an intern/volunteer program. Plan § IX.B. Since the CA's Thirteenth Report, the CA has monitored the Public Defender's most recent posting concerning interns/volunteers. In her Thirteenth Report, the CA reported that she was still working with the PD to ensure that intern/volunteer assignments are included on ATAS. This issue remains unresolved.

2. Ensure CO and CA are permitted to monitor disciplinary processes

The CA (and the CO) agree that prior issues that interfered with monitoring of PD discipline hearings have been addressed, so that the CA and the CO were able to monitor a recent Third Step Hearing concerning a PD employee. The CA will continue to monitor such hearings and will report on the same in the future.

3. Ensure that all Direct Appointment applications are placed on ATAS

The Plan requires that applications for hire for Public Defender Direct Appointment positions be entered on ATAS. Plan § VII.J.7.3. There are procedures in place for accomplishing this requirement, but because the PD has not had occasion to hire any Direct Appointments since those procedures were adopted, the CA has not monitored implementation of the procedures. The CA will monitor any such hires if, and when, they occur.

CCHHS

In her Thirteenth Report, the CA identified nine issues that she believed CCHHS needed to address pursuant to the SRO and the CCHHS Employment Plan (the “CCHHS Plan”). Updates on CCHHS’ progress on those issues are below.

1. Implement internal candidate preference option

The CCHHS Plan permits department heads to request that current employees in the department who apply for a posted position be exempted from randomization where the experience of those current employees would be beneficial in carrying out the duties and responsibilities of the position, pending they meet the minimum qualifications of a posted position. Plan § V.B.3. DHR anticipates implementing this process by year’s end.

2. Implement employment verification procedures for non-credentialed positions

Based on OIG reports wherein selected candidates for non-credentialed CCHHS positions were found to have provided false or misleading information concerning their qualifications, CCHHS agreed to implement more robust employment verification procedures to ensure selected candidates are accurately representing their qualifications and experience. CCHHS’ Department of Human Resources (“DHR”) recently selected a vendor to assist with the employment verification process and anticipates approval of a contract with that vendor by the CCHHS Board in December.

3. Post updated quarterly employment action reports on CCHHS website

The CCHHS Plan requires DHR to post quarterly reports of the total numbers of hires, promotions, demotions, transfers, terminations and resignations by department. CCHHS Plan § IV.B. DHR is current with its online posting of quarterly reports.

4. Implement process to disqualify candidates because of discipline

The CCHHS Plan requires DHR to review the personnel files of internal candidates for open positions and to disqualify any such internal candidates from consideration if they have been suspended in the 12-month period prior to their applications. Plan § V.J.3.a. The CCHHS Plan also requires such review of disciplinary history for former employees applying for CCHHS positions if they were employed in the previous 12-month period. Id. at § V.J.3.b. DHR has reported that it has implemented systems to allow for electronic tracking of all discipline. Since the Thirteenth Report, the EPO trained relevant managers and supervisors on disciplinary recordkeeping and reporting, and DHR leadership trained its staff on the new electronic disciplinary tracking mechanisms. DHR also recently issued a memorandum to senior leaders throughout CCHHS reminding them that the new disciplinary policy requires departments to notify DHR of disciplinary actions. DHR has received disciplinary notices from one department and plans to reissue the memorandum to ensure all departments are complying with the policy. The EPO has begun providing departmental disciplinary notices to the CA who will monitor the implementation of the disciplinary policy.

5. Implement an Ineligible for Rehire List

The CCHHS Plan requires DHR to create and maintain a list of former employees who are ineligible for employment with CCHHS based on violating one of many specified CCHHS Personnel Rules or Sections 44-54 or 44-56 of the County Code of Ordinances. CCHHS Plan § IV.P. DHR and the EPO are finalizing their review of the personnel files of certain former employees before completing the Ineligible for Rehire List.

6. Ensure that all Direct Appointment applications are placed on ATAS

The CCHHS Plan requires that all Direct Appointment hires will complete an employment application on ATAS and provide licenses and certifications that demonstrate the hire meets the minimum qualifications for the position. Plan § VIII.G.3. Last month, CCHHS began ensuring that Direct Appointment hiring applications were entered on ATAS, a process that the CA will continue to monitor. CCHHS must also post all Direct Appointment Job Descriptions on its website (Plan § VIII.G.2); DHR anticipates doing so in January 2017.

7. Develop and implement a hiring process for part-time temporary physicians

Prior to finalizing the CCHHS Plan, DHR agreed to later develop a hiring process that would cover its use of part-time temporary physicians. CCHHS later decided to use the Advanced Clinical Position (“ACP”) hiring process for such hires. DHR has posted for six part-time temporary physician positions on ATAS and made final hiring selections for three of these postings. The CA noted only one concern with the three completed hiring sequences – the Hiring Manager in one sequence began an interview of a Candidate prior to the time confirmed with the CA which prevented the CA from being able to monitor the process effectively. The Hiring Manager did not provide a reason for beginning the interview early. The CA has not had any concerns thus far with the three hiring sequences still in process. The CA will continue to monitor part-time temporary physician hiring and will report on any material issues that arise.

8. Train relevant staff and implement recently-completed ACP hiring process

Upon request of CCHHS, the parties and CA developed the new ACP hiring process to allow for more flexible procedures (but still monitored by the EPO and CA) for hiring

doctors and other advanced clinicians. Eleventh Report at 4. As of the filing of this report, the EPO has trained all but a handful of the relevant staff across CCHHS on this process.

Since the Thirteenth Report, the CA has continued to monitor implementation of the ACP hiring process. The CA has seen some improvement with Hiring Managers entering recruiting details in the activity logs as required in the ACP process. The CA is working with DHR and the EPO to address one problematic department and hopes to report on progress on that issue in her next report.

Although it has been in use for several months, the ACP process has not yet been incorporated in the CCHHS Employment Plan. Since the Thirteenth Report, CCHHS circulated a proposed amendment to the Plan to incorporate ACP and to address other issues. The CA reviewed DHR's proposed edits and provided additional edits. The CA hopes that an agreement on those edits is imminent and that an amended CCHHS Plan will be filed with the Court shortly.

9. Finalize, train relevant staff, and implement policies and procedures for non-hiring employment actions such as discipline, transfer, overtime and compensatory time, and others

In June 2016, the parties and CA agreed to supplemental policies that would cover the following non-hiring employment actions: reclassification, transfer, training, overtime, discipline, interim assignment/interim pay, layoff/recall, third-party provider, desk audit, and demotion. The EPO has trained approximately 90% of staff tasked with implementing these policies. The CA has not monitored the implementation of any of the supplemental policies but will report on any such monitoring in her next report.

OIG

The OIG does not have any outstanding obligations under the SRO other than continued adherence to its Plan and Manual.

OTHER UPDATES SINCE THIRTEENTH REPORT

In addition to working with the County, Public Defender, CCHHS and the OIG on the above issues, the CA has continued to monitor discipline in the County and Public Defender, the Public Defender's volunteer program, hiring in CCHHS, and the performance of the Compliance Officer, EPO and OIG concerning *Shakman* compliance-related duties. Below are updates on other issues discussed in prior reports.

OIG Summary Report 14-0080

The CA previously identified concerns with the County's handling of a matter concerning a successful Post-SRO complainant, who had been denied employment for unlawful political reasons and then was ostensibly awarded the opportunity for employment, only to again be denied a job allegedly because of an omission on his employment application, as detailed in OIG Summary Report 14-0080. Eleventh Report at 20-21. The OIG recommended that the County and CCHHS provide the complainant the same consideration afforded to other similarly-situated applicants by requesting and considering an explanation from the complainant for the omission on his application for hire. At the time of the Eleventh Report, the County had informed the CA that it was then in settlement discussions with the complainant. The matter was scheduled for arbitration in October; however, the CA recently learned the arbitration was postponed until January 2017.

OIIG Summary Report 16-0173

On August 12, 2016, the OIIG issued Summary Report 16-0173 wherein the Inspector General found that CCHHS DHR worked with a department to alter a Direct Appointment job description to fit a specific candidate without being transparent about the reasons for so doing. The OIIG concluded that DHR's actions violated the Plan and recommended that: 1) DHR stress to hiring managers the importance of analyzing language of job descriptions before recruitment efforts are initiated; 2) the CCHHS Plan be amended to require DHR to provide the OIIG 10 days to review direct appointment hiring packets before any such hire is finalized; and 3) CCHHS comply with the Plan by being transparent about the bases for amending direct appointment job descriptions going forward. CCHHS has not responded in writing to the OIIG's Summary Report; however, CCHHS has agreed to the OIIG's second recommendation and met with the OIIG (and CA) on the first and third recommendations. The CCHHS Plan requires that within 30 days of receiving the OIIG Summary Report, the CEO must issue a CEO Report that responds to the OIIG's findings and recommendations. CCHHS Plan at IV.M.2. CCHHS recognizes it has missed the timeframe required in the Plan but has committed to providing the CEO Report by the end of the week.

CONCLUSION

The CA believes progress is being made by the various offices and will report on further progress in her next report. The CA thanks the parties for their sincere efforts and this Court for its continued guidance on this matter.

Respectfully Submitted,

Mary Robinson
Cook County *Shakman* Compliance
Administrator

By: /s/ Matthew D. Pryor
Matthew D. Pryor
Her Attorney

Matthew D. Pryor
(matthew.d.pryor@gmail.com)
Counsel to the Compliance
Administrator
69 West Washington, Suite 840
Chicago, IL 60602
Telephone: (312) 603-8911
Fax: (312) 603-9505