

**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.	)	

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

Mary Robinson, *Shakman* Compliance Administrator for Cook County (the “Compliance Administrator” or the “CA”<sup>1</sup>), by and through her attorney, Matthew Pryor, submits this Sixteenth 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”)<sup>2</sup>, 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

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

<sup>2</sup> 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 January 6, 2017, the CA submitted her Fifteenth Report to the Court wherein she provided updates on the County's progress in addressing the 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 two months.

### **PROGRESS ON OUTSTANDING ITEMS SINCE FIFTEENTH REPORT**

#### **COUNTY**

In the Fifteenth Report, the CA identified one outstanding issue that she believed the County needed to address pursuant to the SRO and Employment Plan (the "Plan"). Updates on the County's progress on that issue are below.

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

Previously, 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 hearings monitored by the CA opens the door for impermissible political considerations. CA's Eleventh Report at 10. Since that report, the parties, OIIG and CA worked together to develop standard operating procedures ("SOPs") for both third step grievance and EAB hearings as well as a more "public-facing" document that all employees would receive aimed at providing clear explanations of the third step

and EAB procedures. Just prior to filing her Fifteenth Report, the CA signed off on the SOPs and provided detailed redlines on the public-facing document. Since the Fifteenth Report, the County approved both the SOPs and public-facing documents and posted them on the County's website. The CA hopes the new documents will help avert employee confusion about the disciplinary process and will help the hearing officers attain a level of procedural consistency. The CA will continue to monitor the County's disciplinary processes to verify that hearing officers are following the adopted procedures, but otherwise believes that this issue has been concluded satisfactorily.

PUBLIC DEFENDER

In the Fifteenth Report, the CA discussed two outstanding 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 two 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. By agreement, the program is now being administered through ATAS so that all applications can be accurately captured and tracked. Since the CA's Fifteenth Report, the Public Defender has added assignments of interns/volunteers on ATAS so they can be tracked. The CA will continue monitoring the intern/volunteer program to verify compliance, but otherwise believes that the issues concerning the intern/volunteer program have been satisfactorily addressed.

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

The CA noted in the Fifteenth Report that any roadblocks previously interfering with the CA's efforts to monitor PD disciplinary hearings had been addressed and that the

CA had begun monitoring such hearings. No such hearings have been conducted since the Fifteenth Report; the CA will continue to attempt to monitor such hearings and will report should the monitoring reveal any concerns. Otherwise, the CA believes that the issues concerning monitoring of Public Defender discipline proceedings have been satisfactorily addressed.

CCHHS

In her Fifteenth Report, the CA identified seven 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, provided they meet the minimum qualifications of a posted position. Plan § V.B.3. Final implementation of the process was delayed by a project to redefine CCHHS departments, which was recently completed in conjunction with the updating of the CCHHS Employment Plan (discussed further below). Since the Fifteenth Report, CCHHS’ Department of Human Resources (“DHR”) circulated information to Hiring Managers identifying that the process is now available and recently received its first request to utilize the process. The CA will monitor DHR’s processing of this request and any additional utilization and report on the same in her next report.

**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 and/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. In her Fifteenth Report, the CA noted that DHR was in the process of finalizing a contract with an external vendor and expected to have verification procedures in operation by the end of February 2017. Since the Fifteenth Report, CCHHS finalized the contract with the external vendor and DHR anticipates implementation of this process by the end of March 2017.

**3. Implement process to disqualify candidates because of discipline**

The CCHHS Plan requires DHR to review the personnel files of internal candidates (and recent former employees) for open positions and to disqualify any such candidates from consideration if they have been suspended in the 12-month period prior to their applications. Plan § V.J.3.a-b. Recently, DHR began electronically tracking all discipline for current employees so that anyone with disqualifying discipline would not be permitted to be considered for any open position. For this process to work effectively, managers and supervisors must report discipline to DHR so it can be properly tracked.

While the EPO trained relevant managers and supervisors on disciplinary recordkeeping and reporting requirements, and while DHR has issued monthly memoranda to senior leaders reminding them that the new disciplinary policy requires departments to notify DHR of disciplinary actions, a recent audit conducted by the CA revealed that several departments have not been complying with reporting obligations

with any consistency, and some supervisory employees reported they were confused about the process. Given the newness of the policy, the CA accepts the lapses in reporting as neutral, and is working with DHR and the EPO to address the issues noted in the audit. The CA will conduct a second audit in the coming months after DHR has had an opportunity to work with the non-complying departments.

**4. 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 anticipates providing Plaintiffs' Counsel and CA with the final Ineligible for Rehire List very soon and will subsequently provide notice to former employees whose names are on the List. Those former employees may appeal their placement on the List. The CA will provide updates on that process, as well as DHR's compliance with the requirement that the List be consulted in determining eligibility of candidates for hire in her next report.

**5. Ensure that all Direct Appointment applications are placed on ATAS**

The CCHHS Plan requires that all Direct Appointment hires 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. CCHHS must also post all Direct Appointment Job Descriptions on its website. Plan § VIII.G.2. CCHHS has continued to include Direct Appointment hiring applications on ATAS on a rolling basis; however, CCHHS has not begun posting the Direct Appointment Job Descriptions on its website. DHR anticipates completing this task by the end of March 2017.

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

Upon request of CCHHS, the parties and CA developed the new Advanced Clinical Positions (“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. Since the Fifteenth Report, the CA has continued to monitor implementation of the ACP hiring process. The CA has seen considerable improvement in CCHHS’ adherence to the policy and has not observed any serious instances of non-compliance. The CA will begin scaling down its active monitoring of the ACP process over the coming weeks.

The CA noted in recent reports that while the ACP process had been in use for months, it had not yet formally been incorporated into the CCHHS Plan. Since the Fifteenth Report, the parties and CA reached agreement on Plan edits and an amended Plan was filed with the Court on March 1, 2017. The CA appreciates the parties’ collaborative approach to the Plan amendments and believes the Plan is stronger and more user-friendly because of those amendments. While the CA will continue to monitor compliance with the Employment Plan, the CA considers this ACP matter satisfactorily addressed with the filing of the amended Plan.

**7. 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 over 95% of staff tasked with implementing these policies. The CA has monitored one interim assignment that was compliant with the policy

but otherwise has not had the opportunity to monitor the implementation of the supplemental policies. The CA 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 FIFTEENTH 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, compliance with the Plan and Supplemental Policies 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 or otherwise still outstanding.

OIG Summary Report 14-0080

The CA previously identified concerns with the County's handling of a matter concerning a successful Post-SRO complainant that was 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 an omission on his application for hire. The parties participated in an arbitration on this matter last month; however, the arbitrator has not yet issued a final ruling.

EPO Incident Report 15-035

On October 18, 2016, the EPO issued an incident report concerning an employee's allegations that her current Grade 24 salary and job description violated the CCHHS Personnel Rules and the CCCHHS Plan by not being subjected to a salary schedule. The EPO, inter alia, found that the Personnel Rules require that salaries of all Non-Exempt employees be subject to a set salary schedule. Because this employee's position – as well as all Grade 24 Non-Exempt positions – were not subject to a salary schedule, the EPO found that CCHHS was in violation of the Personnel Rules. The EPO recommended that CCHHS DHR: “develop a robust written policy and procedure regarding the compensation and salary increases for Grade 24 Positions which are not Exempt under the CCHHS Personnel Rules. That policy and a corresponding procedure for changes and adjustments to Position salaries should be developed and implemented as soon as possible to comply with the Cook County HR Ordinance and CCHHS Personnel Rules.”

On January 18, 2017, the Chief of DHR responded to the EPO's Incident Report. The Chief of DHR wrote that “HR likewise agrees with the EPO's findings that there has been no violation of the Employment Plan or the CCHHS Personnel Rules” but ultimately agreed that CCHHS will implement a written classification and compensation policy “flexible enough to account for the wide variety of positions included in the Salary Grade 24 [and that] numerous factors, including but not limited to, skill, experience, credentials, service, etc. [will be] used to determine salary ranges.”

Plaintiffs' Counsel soon thereafter replied to the Chief of DHR's Response by raising concerns that that response did not “address the EPO's findings and recommendation that

HR develop a Classification Plan for this subset of positions” at issue in the EPO’s report. Plaintiffs’ Counsel asked DHR to provide a supplemental response explaining more specifically what it plans to do to remedy the violations noted by the EPO.

On March 1, 2017, counsel for CCHHS circulated a proposal to address the concerns. The CA will review the proposal and report on further steps in the next report.

**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  
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