

**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.	)	

**EIGHTEENTH 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 Eighteenth 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 April 21, 2017, the CA submitted her Seventeenth 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 SEVENTEENTH REPORT**

COUNTY

The CA continues to monitor the implementation of the County's disciplinary processes and has no material issues to report on the same.

PUBLIC DEFENDER

The CA has continued to monitor the Public Defender's intern policy and disciplinary processes and does not have any concerns regarding implementation of either.

CCHHS

In her Seventeenth Report, the CA identified five 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 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. Since the Seventeenth Report, the CA has begun monitoring the employment verifications conducted by the external vendor hired by CCHHS. The vendor has initiated employment verifications of 120 individuals, almost all of which remain in process. The CA has reviewed several of the verification determinations and has not discovered any issues with the same. The CA will continue to monitor the vendor's verification process but will only include this issue in future reports if she has any material concerns.

**2. 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. DHR now electronically tracks 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.

Earlier this year, the CA conducted an audit to determine whether departments were complying with the notice and recordkeeping requirements in the discipline policy. The CA found some compliance issues and provided her findings to DHR. Since the

Seventeenth Report, the CA, alongside the EPO, conducted a second audit covering 21 departments (which included those departments with the most noted compliance issues in the first audit). The CA found that while some departments clearly improved their compliance with the policy, several other departments continue to struggle with the notice and recordkeeping requirements. Additionally, the CA noted that some situations where employees resigned in lieu of termination were not communicated to DHR for consideration of whether they should be placed on the Ineligible for Rehire List. The CA shared her findings with DHR and, last week, along with the EPO discussed the findings at length with CCHHS' Chief of DHR. The Chief of DHR said that she was aware of the Ineligible for Rehire issue and had already closed that loophole by ensuring that CCHHS' labor department was receiving notice of any resignations so the proper Ineligible for Rehire review would occur. Another positive development is that this week the CCHHS CEO will discuss the audit findings with senior leadership and will remind leadership of their obligation both to ensure compliance with the supplemental policies and to respond to information requests by the CA and EPO. The CA will conduct a follow-up audit on this policy in the next two months and will discuss those findings in her next report.

### **3. 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 several specified CCHHS Personnel Rules or Sections 44-54 or 44-56 of the County Code of Ordinances. CCHHS Plan § IV.P. Right before the CA filed her Seventeenth Report, DHR notified the former employees who were included on the List that they could appeal their inclusion on the List. The CA has since received the final Ineligible for Rehire List. Four former

employees notified exercised their right to appeal DHR's decision to place them on the List and DHR is in the process of reviewing the same. The CA will continue monitoring DHR's implementation of the List to ensure the List is updated as necessary and that no individuals on the List are permitted to be considered for employment at CCHHS. The CA will only include significant issues, if any, in future reports.

**4. 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. Since the Seventeenth Report, the CA and EPO conducted an audit of various departments' implementation of the training and overtime policies. The audits found that several departments were not properly maintaining documentation explaining how they were selecting employees for voluntary training and overtime opportunities. Additionally, some departments did not respond to information requests by the CA. The CA shared her audit reports and discussed them at length with the Chief of DHR and the EPO. As with the discipline audit issues noted above, this week the CCHHS CEO will meet with senior leadership to discuss the audit findings and will stress the need to comply with the supplemental policies and respond to information requests by the EPO and CA. The CA will conduct a follow-up audit on these policies in the next two months and will discuss those findings in her next report.

**5. Resolve issues identified in EPO Incident Report 15-035 concerning Grade 24 salary schedules**

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 Employment Plan because they were not subject to a salary schedule. The EPO, inter alia, found that the CCHHS Personnel Rules required that all positions listed in Appendix B of the Personnel Rules must have a set salary schedule unless they are exempted under Rule 1.04 of the Personnel Rules. Because this employee's position and over 70 other positions on Appendix B were not exempted under Rule 1.04 and had not been subject to a salary schedule, the EPO found that CCHHS was in violation of the Personnel Rules. Sixteenth Report at 9-10. 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." Id.

In the Seventeenth Report, the CA discussed the parties' initial attempts to resolve the issues raised by the EPO report. See Seventeenth Report at 9-10 (noting that CCHHS had retained an outside vendor to review the relevant job descriptions, conduct market studies and ultimately propose a compensation structure for each position.) On June 27th, CCHHS proposed two new policies aimed at addressing some of the concerns raised by the EPO's reports. The first policy covered the initial salary classification for Grade 24 positions while the second covered a process for adjustments to salary classifications for Grade 24 positions. The CA is currently in the process of reviewing the proposed policies

and anticipates responding with comments within the coming weeks. In the interim, CCHHS' external vendor will continue its review of current Grade 24 job descriptions that should be, but are not currently, subject to a salary schedule. The timeframe within which CCHHS expects the vendor to complete this review and make any recommendations is unclear.

OIG

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

**OTHER UPDATES SINCE SEVENTEENTH 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 controversy began with a finding in May 2010 by the Post-SRO Complaint Administrator that the complainant was denied employment as a painter in the Facilities Department as the result of unlawful political discrimination, and then, after protracted proceedings finally resulted in the County agreeing to award the

complainant employment, that employment was pulled on grounds not enforced as to other candidates. In January 2016, the OIIG issued a report finding that “the County, in its treatment of [the complainant], has fallen short of the effort required under the SRO to remedy the effects of the unlawful political discrimination visited upon [the complainant]”. The matter remains unresolved. Settlement negotiations appear to have reached an impasse. In her Seventeenth Report, the CA discussed her concern with the lengths to which the former employee has been required to go to be made whole. *See* Seventeenth Report at 6-9. Nothing has happened to address those concerns. This remnant of classic old-style political discrimination requires redress.

*OIIG Post-SRO Complaint Summary Report 16-0313*

Just as this report was being prepared, the OIIG issued a report finding that impermissible political factors were considered in December 2016 decisions to lay off two non-exempt BHR employees while reassigning a Shakman-exempt employee who is related to a Cook County Commissioner to assume some of the laid-off employee’s former duties. In order to retain the exempt employee, the County was required to revise her position description and seek an amendment to the exempt list. The County properly gave notice of the proposed amendment as required under the Employment Plan, but proceeded to implement the amendment by transferring the exempt employee to the new but unapproved position and duties in January 2017 despite a pending objection by the OIIG, while the OIIG’s request to meet to discuss the objection (as required under the Plan) went unacknowledged. (The Plan provides that if discussion does not result in agreement, the amendment cannot proceed.)

The OIIG concluded that the County engaged in unlawful political discrimination as against the laid off employees, that the County violated the Employment Plan by implementing an amendment despite the OIIG objection, and that the revised exempt position description fails to meet the legal standard for exempt positions.

Because the report was just issued, the County has not had an opportunity to respond. The issues are serious and will require a satisfactory resolution.

**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

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