

Shakman Decree

Cook County Staff Training Presentation





Training Objectives

At the end of this training you will:

- Understand the Federal Court's decision – what it means
- Know who to contact
- Understand your role in compliance



Training Overview

- What is “Shakman?”
 - Federal Court Jurisdiction
 - Cook County Ordinance
- What is unlawful political discrimination?
- Who is covered?



Training Overview

- Claims/Where to find information
- Who to contact
- Hiring and Interviewing compliance
- Employee responsibilities



What is the Shakman Consent Decree?

As part of the Consent Decree, the County agreed that:

- 1. conditioning, basing or knowingly prejudicing or affecting any aspect of employment of any person as a Governmental Employee (other than Exempt positions), upon or because of any political reason or factor including, without limitation, any Employee's political affiliation, political support, activity or financial contributions, promises of such political support, activity or financial contributions or such Employee's political sponsorship or recommendation is prohibited.**



What is the Shakman Consent Decree?

2. **Conditioning, basing or knowingly prejudicing or affecting the *hiring of any person as a Governmental Employee* (other than for Exempt positions), on or because of any political reason or factor...**



Shakman Consent Decree

- The principles underlying the Shakman Decree are based on the First Amendment's Constitutional Right to Free Speech.
- The Shakman Consent Decree strictly prohibits politically based hiring, firing, promotions, and other job actions for positions where political considerations are not appropriate.



Shakman-Exempt Positions

- Cook County Board President may appoint individuals to Shakman Exempt positions at his discretion.
- The basis for allowing such exempt positions to allow the President discretion to determine key policymakers.
- Now under review, the List is being redone in accordance with the duties of the Compliance Administrator.



Human Resource Ordinance

Amended: November 29, 2006

- **Ordinance 06-O-52 amends Chapter 44, Article II of the County's Personnel Policies**
 - **Codifies the Shakman Decrees prohibiting political discrimination in all aspects of Cook County employment, including hiring, promotion, discharge, award of overtime and transfer of employees in non-exempt positions under the Office of the President.**
 - **The Ordinance applies to all non-exempt positions under the Office of the President**
 - **Prohibits all exempt and non-exempt employees from directly or indirectly influencing any aspect of employment, on the basis of political considerations whether based on political affiliation, political campaign contributions and/or political support.**
- **The Ordinance further states that it is the duty of every County employee who learns of any unlawful political discrimination in any aspect of government employment with the County, or who believes that such unlawful political discrimination has occurred or is occurring is to report this information to the Cook County Independent Inspector General.**



Put together, the Shakman Consent Decree and the Cook County Ordinance mean:

Every employee and job applicant has a Constitutional right to be free from political discrimination in public employment:

- Violations of the Shakman Consent Decree:**
 - May constitute contempt of court**
 - May result in criminal prosecution**
 - May be punishable by fine or imprisonment**
 - May subject the County and possibly the individual to liability and disciplinary action.**

- Violations of the Cook County County Ordinance:**
 - May subject an individual to discipline up to and including discharge.**

- It is the duty of all employees to report allegations of such violations to the Cook County Inspector General.**

www.co.cook.il.us > jobs > other government agencies

The screenshot shows a web browser window displaying the Cook County Illinois Human Resources website. The browser's address bar shows the URL: http://www.co.cook.il.us/postal/server.pl?open=514&objID=293&parentname=CommunityPage&parentid=1&node=2&in_h_userid=2&cached=true. The website header includes the Cook County Illinois logo and navigation links for Home, Browse Topics, Agencies, and Government. A left sidebar menu lists: Human Resources, Benefits, Current Job Listings, Application Process, Shakman Information, Facts & Questions, and Other County Hiring Agencies. The main content area is titled "Shakman Information" and contains the following text:

Shakman Information

October 28, 1989, a lawsuit entitled *Michael Shakman, et al. v. Democratic Organization of Cook County, et al.*, No. 89 C 2145 (N.D. Ill.) was filed seeking the court to prohibit Cook County and the Board of Commissioners of Cook County ("County Board"), among other defendants, from conditioning, basing or affecting any term or aspect of governmental employment upon or because of any political reason or factor.

On May 5, 1972 and January 7, 1994, the United States District Court for the Northern District of Illinois entered Consent Judgments with respect to, among others, the County and County Board, prohibiting the conditioning, basing or affecting any term or aspect of governmental employment upon or because of any political reason or factor. Those Judgments provided that the Court retained jurisdiction with respect to, among other matters, issues of political hiring and the designation of a number of positions which should be exempt from the prohibitions established under the Consent Judgments.

On November 29, 2006, the Board of Commissioners of Cook County agreed to the entry of a Supplemental Relief Order (SRO) by the District Court. On December 7, 2006, the court entered an order (Preliminary Approval Order) preliminarily approving the Supplemental Relief Order agreed to by the plaintiffs and Cook County. The District Court approved the SRO at the hearing held on February 2, 2007.

Executive Order

Executive Order 2008-1 ("Order"), signed by President Todd H. Stroger on September 2, 2008, expressly prohibits retaliation against individuals complaining to, cooperating with, or assisting the Compliance Administrator in an investigation conducted by her in the performance of her court-appointed duties. The Order further prohibits retaliation against individuals who have received a notice of finding and/or award by the Compliance Administrator as a result of her adjudication of complaints of unlawful political discrimination.



Cook County Shakman Compliance Administrator

Judge Wayne R. Andersen, an Illinois Northern District Federal Court Judge, appointed former Illinois Attorney Registration and Disciplinary Commission (ARDC) Administrator, **Mary Robinson**, as the County's Compliance Administrator to ensure the County's future compliance with the Shakman Decree.

Cook County Shakman Compliance Administrator

The Compliance Administrator
and her counsel work for the
Court, not the County.



Cook County Shakman Compliance Administrator

- The Pre-SRO process allowed compensation for claims of unlawful political discrimination for acts that took place between August 28, 2004 - February 2, 2007.
- These claims have been adjudicated.





Attempts at Political Influence: Reporting Violations

■ Retaliation

- It is illegal for the County to take action against any employee who reports suspected unlawful political influence or other unlawful activity.
- Employees who believe that they have been retaliated against for relaying such information, must contact:
 - Complaint Administrator
 - Independent Inspector General



Claims of Political Discrimination after February 2, 2007

- **Compliance Administrator**
- **Office of the Independent
Inspector General**
- **Complaint Administrator**



Claims of Political Discrimination after February 2, 2007

County employees who believe they have been affected by any unlawful act covered by the Shakman Decree and Cook County Ordinance and who wish to seek relief through the claim and arbitration process, should file a complaint:

Mark Vogel
Shakman Complaint Administrator
312-603-8907



Office of the Independent Inspector General

- Employees **must** disclose unlawful political discrimination.
- Visit the OIG web site to find out more.

www.cookcountygov.com > Agencies > Inspector General

The screenshot shows a Windows Internet Explorer browser window displaying the website www.cookcountygov.com. The page title is "Inspector General - Windows Internet Explorer provided by Comcast". The address bar shows the URL: http://www.cookcountygov.com/portal/server.pt?open=512&objID=213&parentname=CommunityPage&parentid=1&mode=2&in_hi_userid=2&cached=true. The browser's menu bar includes "File", "Edit", "View", "Favorites", "Tools", and "Help". The "Links" bar contains "Customize Links", "Add to Wish List", and "My Amazon.com".

The website header features the Cook County Illinois logo on the left and navigation links: "Home", "Sitemap", and "Contact Us". Below the logo is a map of Cook County. A secondary navigation bar includes "Home", "Browse Topics", "Agencies", and "Government".

The main content area is titled "Inspector General". On the left side, there is a sidebar with the following sections:

- Inspector General**
 - Investigation Process and OIIG Staff
 - Frequently Asked Questions
- Contact Information** (with a speaker icon)
 - Independent Inspector General**
 - Bureau Name:**
 - Main Office Address:**
69 W. Washington suite 1160
Chicago, IL 60602-3007
 - Telephone:** (312)603-0350
 - Fax:** (312)603-9948
 - TDD:**
 - Director:**
Patrick M. Blanchard, Inspector

The main content area contains the following sections:

- Mission Statement**

The mission of the Office of the Independent Inspector General (OIIG) is to detect, deter and prevent corruption, fraud, waste, mismanagement, unlawful political discrimination and misconduct in the operation of Cook County government with integrity, independence, professionalism and respect for both the rule of law and the people we serve.
- What We Do**

The mission of the OIIG is to detect, deter and prevent corruption, fraud, waste, mismanagement, unlawful political discrimination and misconduct in the operation of Cook County government with integrity, independence, professionalism and respect for both the rule of law and the people we serve. (Cook County, Ill., Ordinances 07-0-52 (2007)). The OIIG conducts investigations and issues findings and recommendations to Cook County government officials. The OIIG also investigates potential criminal violations involving the conduct of Cook County employees acting in their official capacities and refers such matters for prosecution. Because the OIIG is a fact-finding agency it cannot dictate a legal outcome.

The OIIG also serves as a liaison between the County and outside law enforcement authorities and prosecutorial agencies when cases are referred. Information is freely shared with these authorities toward the end of prosecutorial convictions.

The browser's status bar at the bottom shows "Internet".



Cook County Shakman Compliance Administrator

Contact the Compliance Administrator to:

- Ask questions about processes/procedures or other Shakman-related concerns
- Report current instances of the following unlawful activities:
 - Political patronage/discrimination covered by the Shakman Decree/County Ordinance
 - Attempts at political influence of the hiring process



Cook County Shakman Compliance Administrator

Mary Robinson
Shakman Compliance Administrator
312-603-8905



The Compliance Administrator's Tasks Look Toward the Future

The Consent Decree authorizes the Compliance Administrator to:

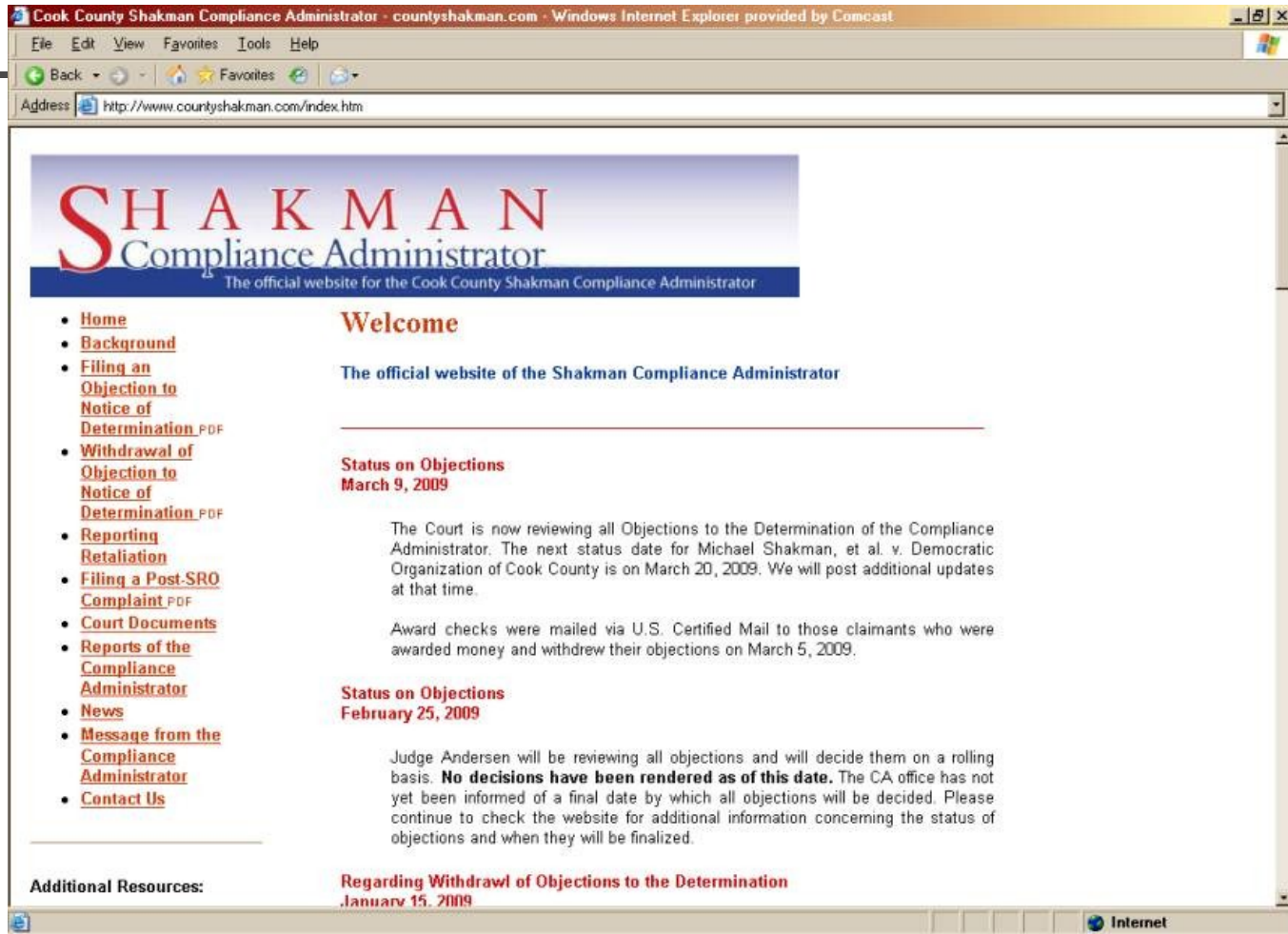
- **Study** existing employment practices
- **Review** the County's hiring practices including observing actual hiring sequences, answering questions and providing guidance to employees as requested
- **Assist** the County in establishing a Train the Trainer program for its employees that will cover political-free hiring practices



Compliance Administrator's Authority

- **Assist** in defining appropriate hiring practices
- **Assist** in undertaking a feasibility analysis for an application tracking system
- **Collaborate** with the County on a new hiring plan

www.countyshakman.com



The screenshot shows a Windows Internet Explorer browser window displaying the website for the Cook County Shakman Compliance Administrator. The browser's address bar shows the URL <http://www.countyshakman.com/index.htm>. The website's header features the name "SHAKMAN Compliance Administrator" in a large, stylized font, with the tagline "The official website for the Cook County Shakman Compliance Administrator" below it. A navigation menu on the left lists various links, including Home, Background, Filing an Objection to Notice of Determination (PDF), Withdrawal of Objection to Notice of Determination (PDF), Reporting Retaliation, Filing a Post-SRO Complaint (PDF), Court Documents, Reports of the Compliance Administrator, News, Message from the Compliance Administrator, and Contact Us. The main content area is titled "Welcome" and includes a sub-header "The official website of the Shakman Compliance Administrator". Below this, there are two sections: "Status on Objections March 9, 2009" and "Status on Objections February 25, 2009". The March 9, 2009 section states that the court is reviewing all objections and that the next status date for Michael Shakman, et al. v. Democratic Organization of Cook County is on March 20, 2009. The February 25, 2009 section states that award checks were mailed via U.S. Certified Mail to those claimants who were awarded money and withdrew their objections on March 5, 2009. At the bottom of the page, there is an "Additional Resources" section with a link to "Regarding Withdrawal of Objections to the Determination January 15, 2009". The browser's status bar at the bottom indicates "Internet".

Cook County Shakman Compliance Administrator - countyshakman.com - Windows Internet Explorer provided by Comcast

File Edit View Favorites Tools Help

Back Forward Favorites

Address <http://www.countyshakman.com/index.htm>

SHAKMAN

Compliance Administrator

The official website for the Cook County Shakman Compliance Administrator

- [Home](#)
- [Background](#)
- [Filing an Objection to Notice of Determination](#) PDF
- [Withdrawal of Objection to Notice of Determination](#) PDF
- [Reporting Retaliation](#)
- [Filing a Post-SRO Complaint](#) PDF
- [Court Documents](#)
- [Reports of the Compliance Administrator](#)
- [News](#)
- [Message from the Compliance Administrator](#)
- [Contact Us](#)

Welcome

The official website of the Shakman Compliance Administrator

Status on Objections March 9, 2009

The Court is now reviewing all Objections to the Determination of the Compliance Administrator. The next status date for Michael Shakman, et al. v. Democratic Organization of Cook County is on March 20, 2009. We will post additional updates at that time.

Award checks were mailed via U.S. Certified Mail to those claimants who were awarded money and withdrew their objections on March 5, 2009.

Status on Objections February 25, 2009

Judge Andersen will be reviewing all objections and will decide them on a rolling basis. **No decisions have been rendered as of this date.** The CA office has not yet been informed of a final date by which all objections will be decided. Please continue to check the website for additional information concerning the status of objections and when they will be finalized.

Additional Resources: [Regarding Withdrawal of Objections to the Determination January 15, 2009](#)

Internet

Hiring & Interview Compliance





Hiring and Interview Compliance: Observation of Hiring Sequence

Compliance Monitors

- 8th Floor Monitor
- Interview Monitors



Hiring and Interview Compliance: Interview Monitors

- Attend interviews
- ❖ Collect Interview Documentation
- Verify process/procedures
- Verify Shakman Certification
- Document interview observations



Hiring and Interview Compliance: Preparation of Documentation

- ❑ Application Packet (complete)
 - ❑ Signed Shakman Certification (Applicant)
- ❑ Request to Hire
- ❑ Posting
- ❑ Eligibility List
- ❑ Prepared Interview Questions
- ❑ Job Description
- ❑ Interviewers' Notes
- ❑ Completed Evaluation Form(s)
- ❑ Decision to Hire
- ❑ Signed Shakman Certification (County Staff)



Hiring and Interview Compliance

- When participating in the hiring and interview process, political factors must not be considered for Shakman-covered positions.
- An employee's or applicant's political affiliation, political support or activity, political financial contributions, promises of such political support, activity or financial contributions or such employee's or applicant's political sponsorship or recommendation **shall not** be considered during the hiring or interview process.



Shakman Certification

All those involved in the hiring process, must complete a certification, under penalty of perjury, that political considerations did not enter into personnel decisions for Shakman covered positions.

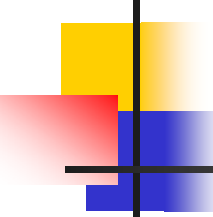


Who is involved in hiring for purposes of Certification?

Anyone who performs in any of the following functions is involved in hiring for the purposes of Shakman Certification:

- Complete the Request to Hire form
- Review the Request to Hire form
- *Receive applications and entered on the log sheet*
- *Screen applications for Minimum Qualifications*
- *Conduct, monitor, or score skills tests*
- *Create Eligibility List*
- Interview potential employees
- Complete Requisition form
- Complete Decision to Hire/Justification
- Review Decision to Hire/Justification
- Complete Grant of Authority

All applicants complete the Certification.



What does the Shakman Certification say? Prohibitions

With respect to all County jobs under the jurisdiction of the President that are Shakman-covered, the County and its employees are strictly prohibited from directly or indirectly:

1. Conditioning, basing or knowingly prejudicing or affecting any term or aspect of County employment of an existing County employee, upon or because of any political reason or factor
2. Affecting the hiring of any individual as a County employee because of any political reason or factor
3. Knowingly inducing, aiding, abetting, participating in, cooperating with or threatening any act which is proscribed by numbers 1 and 2 above

Political considerations may not enter, in any manner whatsoever, into personnel decisions for Shakman-covered positions with the County.



What does the Shakman Certification say?

I certify that I am aware of and am in full compliance with the above-stated prohibitions regarding personnel decisions by the County. I certify, under penalty of perjury, as provided for by law that, to the best of my knowledge, political reasons or factors did not enter into any County employment decisions and/or failure to submit an accurate Shakman Certification form may result in sanctions, including disciplinary action up to and including termination and may subject me to prosecution for perjury.



Penalties for signing a false certification

Anyone found to have signed a certification falsely will be referred to the U.S. Attorney's Office (or other law enforcement authorities) for criminal prosecution.



Attempts at Political Influence: Reporting Violations

- Remember, you are **required** to report unlawful acts including fraud, mismanagement, and any attempts at political interference in the hiring process.
- If you are approached **by** or **about** an applicant:
 - Say “No”
 - Contact the Independent Inspector General
 - Contact the Compliance Administrator



Remember:



- Politically based hiring or promotion in Shakman-covered positions will not be tolerated in the County.
- The Compliance Administrator will take all necessary steps to enforce the decree, including referring those individuals who violate it to the authorities for prosecution.



Review

- The Federal Court's role
- Shakman Decree/Cook County Ordinance prohibit unlawful political influence/discrimination
- Shakman-covered positions
Shakman-exempt positions
- Claims after February 27, 2007
- Where to find information/Who to contact
- Employee responsibilities
- Hiring and Interview Compliance