

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

MICHAEL L. SHAKMAN, PAUL M.)	
LURIE, KENNETH AYERS, ANN M.)	
KING, INDEPENDENT VOTERS OF)	
ILLINOIS-INDEPENDENT PRECINCT)	
ORGANIZATION, MICHAEL)	
SULLIVAN, DARRYN JONES,)	
STUART MAJERCZYK, RICHARD)	
GRAMAROSSA and CONNIE)	
GRAMAROSSA, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 69 C 2145
)	Magistrate Judge Schenkier
COUNTY OF COOK, et. al)	
Defendants.)	
)	

**MONTHLY REPORT OF THE SHAKMAN COMPLIANCE ADMINISTRATOR
FOR THE FOREST PRESERVE DISTRICT OF COOK COUNTY
September, 2011**

Jan Carlson, *Shakman* Compliance Administrator for the Forest Preserve District of Cook County, by and through his attorney, Peter Monahan, submits this Monthly Report pursuant to the order of the court entered March 5, 2009.

I. INTRODUCTION

Pursuant to the Supplementary Relief Order (“SRO”), entered on March 5, 2009, the *Shakman* Compliance Administrator (the “DCA”)¹ is charged with (1) studying existing employment practices for nonpolitical hiring, promotion, transfer, discipline and discharge, (2) observing actual hiring sequences, (3) assisting the Forest Preserve District (the “District) in establishing a train the trainers program to educate and train supervisors and employees on non-

¹ DCA includes the DCA and/or his staff.

political hiring practices, (4) making recommendations to the Court as to how to resolve issues regarding Shakman exempt positions, (5) making recommendations to the District in formulating a new employment plan (the “Plan”)² and monitoring compliance, (6) evaluating and adjudicating claims filed by individuals who believe they were victims of Unlawful Political Discrimination during the claim period and (7) filing periodic reports.

As the DCA and the District enter the final stages of the journey toward substantial compliance, the Court and all parties will be best served by more frequent reporting. Beginning with this report, the DCA will issue reports each month and has set a goal to publish these reports on or before the 15th day of the following month. The DCA has identified 10 categories of District employment actions for which it will report monthly. This report describes the districts employment activities and steps taken to implement the new employment plan and other policies and procedures during the month of September, 2011.

I. Training Activities

A. Activities

The District did not conduct any training activities specific to the hiring plan during the month of September. District employees did, however, participate in training provided by the Cook County Bureau of Human Resources (“BHR”) on September 29. Specifically, Jennifer Lin, the newly-hired Director of Compliance (“DOC”), Tenia Walker and Delano Carter Houston, employees in the Human Resources Department (“HRD”), and several other management-level District employees attended a training session on interviewing, which was conducted by Joseph Lyons, the BHR’s training director.

² The SRO requires the DCA to assist the District in formulating a new Employment Plan for submission to the Court for approval. The parties have agreed that the plan will address and/or reference all employment actions and will be titled an Employment Plan.

B. Problems Noted

No problems or issues were noted with respect to the training.

C. Recommendations

The DCA recommends that all management-level employees receive this and similar training related to employment practices, ethics and other Shakman-related topics on a regular basis in the future. The District has indicated that it intends to require this training, as well as Shakman training annually for all District management employees.

D. Follow-up Needed

The DCA will continue to monitor the District's participation in employment-related training. The DCA is particularly interested in making sure the District provides appropriate training regarding the Employment Plan, Political Contacts, and Unlawful Political Discrimination in the future, as required by the Plan.

II. Job Postings

A. Activities

The DCA's Office monitored the following posting activities during the month of September:

- (1) The posting of a GIS Manager position
- (2) The posting of a Civil Engineer III position

With the exceptions described in section B. below, the District provided documentation relating to postings for the above postings in a timely manner via email. The DCA was asked to review the job descriptions and ATAS disqualification questions prior to posting, and the suggestions made by the DCA were accepted and incorporated into the postings by the District.

It should be noted that the District also submitted the job descriptions and disqualification questions for the Resource Specialist II and Naturalist I positions for the DCA's review. These positions were not posted in September, however, and therefore will be described in future reports after they are posted.

B. Problems Noted

The DCA noted the following problems with respect to the above hiring activities:

1. Submission of Requests to Hire

The Employment Plan requires the District to provide the DCA with copies of all Requests to Hire within five business days of receipt. The District did not provide the DCA with the Requests to Hire for the GIS Manager or Civil Engineer III position.

2. Posting Materials

The DCA reviewed the job descriptions and disqualification questions for the positions prior to posting, and only minor changes to the GIS documents were suggested. There were several additions suggested for the Civil Engineer III position to address some lack of clarity regarding the minimum requirements of the position. The DCA does not consider these to be major problems because none of the issues noted was significant, and the District adopted the DCA's suggestions without hesitation.

C. Recommendations

The DCA has reminded the District that Requests to Hire should be forwarded as required by the Employment Plan, which the District has agreed to do. The DCA also expects the Director of the DHR and her staff to continue to draft job descriptions and

disqualification questions for future postings, but to have the DOC review and revise them as necessary. The DCA will review them thereafter to assure the DOC is properly identifying and correcting any errors or shortcomings in the posting materials.

D. Follow-Up

The DCA will continue to monitor the District's postings to assure compliance with the Employment Plan and to assess the District's attention to proper procedures.

III. Hiring Activity

A. Activities

The DCA's Office monitored the following hiring activities during the month of September:

- (1) The validation of applications for Police Officer on September 9, 14 and 21, 2011
- (2) The randomization of the Police Officer Eligibility List on September 21, 2011
- (3) The validation of applications for the GIS Manager position on September 21, 2011;

The District informed the DCA of the above activities in advance of when the above validations and randomizations would take place, and they were monitored. The randomization process for the Police Officer position was conducted in an appropriate manner. A number of problems arose in the validation process for the Police Officer position, however, as described in section B. below.

B. Problems Noted

The DCA noted several significant problems with the above hiring activities for the Police Officer position and the GIS Manager, including the following:

- (1) The District's failure to follow proper procedures regarding the determination of eligibility of applicants, (2) an incorrect determination of eligibility, and (3) the minimum and

preferred qualifications listed on the job descriptions did not correspond to the disqualification questions on the ATAS. These problems are described in detail below.

1. Failure to Follow Proper Validation Procedures

The Employment Plan states that all applicants who do not complete the ATAS application process will not be considered eligible and their names may not be included on the Preliminary Eligibility List. The DCA found that an employee in the HRD reviewed the applications of five applicants for Police Officer and marked them as “eligible” for consideration for employment despite the fact that all had failed to complete the ATAS application. When the DCA brought this to the attention of the Director of the HRD, she investigated the matter and confirmed the error. The status of the five applicants was changed to “ineligible” in the DCA monitor’s presence. The HRD employee who was responsible for the error was interviewed by the DCA and the Director of the HRD, and he admitted he had not followed the proper procedure made the error. The DCA was advised that the employee was told this type of error could lead to discipline in the future.

The DCA conducted an online search of the political activities of the five applicants who were inappropriately designated as eligible, and no political connections were found. The DCA also reviewed the applications of the five applicants who had not completed the application and noted that all met the minimum qualifications for the position.

2. Incorrect Determination of Eligibility

The DCA also noted that the District validated an applicant as eligible for the Police Officer position when he should not have been considered eligible based on the minimum qualifications posted on the ATAS. The Employment Plan provides that, Applicants who indicate they do not have all of the Minimum Qualifications will not be considered eligible for the Position.” One of

the minimum qualifications listed for the Police Officer position was possession of “at least an associate degree from an accredited institution of higher learning or three (3) or more years of active duty in the U.S. armed forces.” While the candidate in question had nearly 30 years of experience as a police officer, he did not list any military experience on his application or resume. The only education the applicant in question listed was “three years of college.”

The DCA was present for the validation, and observed the Director herself validate this individual. In order to process the large volume of applicants as quickly as possible, the Director took over the validation during the HRD employee’s lunch break. She used the employee’s computer and made the entries under the employee’s TALEO login.

Following the validation, the DCA suggested that the Director review the application prior to continuing with the hiring process, but did not give a reason for the suggestion. The Director reviewed the application and immediately came to the conclusion that the applicant did not meet the education requirement, and she reverted his status to ineligible in the ATAS. She noted in the comments section of the ATAS, “Error in validating education requirements. No indication of associate’s degree.”

3. Improper Use of Log-In

When meeting with the DCA regarding the above situation, the Director did not recall validating the specific applicant’s application previously, as she stated, “We made a mistake on this one. He clearly doesn’t have the education.” Additionally, when asked if she knew the reason the applicant was marked as eligible, the Director stated she could not recall, but that it was most likely simply an error.

Had the DCA not have been present for the monitoring, there would have been no documentation that the validation was conducted by the Director and it would have been

recorded on the ATAS as being done by the HRD employee whose log-in she had used. The log in code is intended to create of record of the identity of the District employee who performs specific activities on the ATAS. The use of that code by other employees compromises the accuracy and reliability of the ATAS record.

4. Failure of ATAS Questions to Mirror Minimum and Preferred Qualifications

There were four minimum qualifications and one preferred qualification listed on the job description for the GIS Manager position. Three of the minimum qualifications were accurately reflected in the disqualification questions contained on the ATAS. One minimum qualification, i.e., “through knowledge of the use, application and operation of Arc Info, a GIS Computer software program, including editing, plotting and analysis,” did not have a corresponding disqualification question on the ATAS. The preferred qualification also did not have a corresponding question on the ATAS. This deficiency was observed by the DCA shortly after the position was posted, and the Director was advised. The District determined that it would not apply the minimum qualification or preferred qualification that was not on the ATAS during the validation process. Therefore, the error did not cause any applicants to be eliminated from consideration improperly, and the DCA did not recommend reposting the position. Furthermore, an online review of the applicant in question did not reveal that he had any political connections.

C. Recommendations

The problems described above highlight a number of deviations from proper validation procedures. Based on the DCA’s investigation described above, however, it appears the error was a matter of carelessness and not motivated by any political reasons. Nevertheless, it is imperative that District employees follow proper procedures and exercise care in the validation

process, particularly in light of the lack of built-in safeguards in the ATAS. It is also imperative that all District employees adhere to the log in procedures and perform validation and other functions on the ATAS only when they are logged in using their own individual log in information. This is critical to the DOC's and OIIG's ability to investigate possible violations of the Employment Plan and instances of Unlawful Political Discrimination, as well as the DCA's ability to assess the District's achievement of substantial compliance. The DCA has suggested to the District that all employees receive continued training on TALEO and that their work be monitored by the DOC in the same manner that the DCA has monitored it. We have also suggested that the District develop an ATAS procedure manual that will list the specific manner in which the ATAS is to be used, including stipulations that employees may use the ATAS only when they are logged in under their personal identification log in.

The DCA notes that these issues regarding the improper validation in the Police Officer posting was brought to the attention of the District's DOC. At the request of the DCA, the DOC conducted an independent investigation of the matter and submitted a written report of her findings to the DCA. The DOC's activities in this matter are discussed below. The issues related to the GIS Manager position were not brought to her attention because they were quickly and effectively remedied.

D. Follow-Up

The DCA will continue to closely monitor all aspects of the hiring process, including the District's activities on ATAS. It is hoped that the problems noted in this report will be resolved in future and that the DOC, as she becomes more familiar with her duties, will take a more active role in monitoring and resolving these issues.

IV. Hiring of Non-Exempt Employees

The District hired a Division Superintendent in the Maintenance Department on September 16, 2011. The position was posted on July 14, extended on July 28, and closed on August 15. The interviews for this position were conducted on August 24th and the selection was made in August. The DCA monitored all aspects of the hiring process for this position and did not find any evidence of political discrimination.

V. Hiring of Exempt Employees

The District filled one exempt position during the month of September, the Director of Finance. The Employment Plan requires the District to establish minimum qualifications for its exempt positions and post the exempt positions on its website. It also requires the Director of Human Resources to certify that the individual hired meets those minimum requirements and to send that certification to the DOC, Office of the Independent Inspector General (“OIIG”) and DCA (while acting) within five days of the individual’s hire. The District adhered to the requirements of the Employment Plan in this instance. The DCA confirmed that the individual hired possesses the minimum qualifications by reviewing the job description for the position and the resume he submitted to the District.

VI. Transfers

The DCA was not provided with any information regarding transfers during the month of September.

VII. Demotions

The DCA was not provided with any information regarding demotions during the month of September.

VIII. Disciplinary Actions/Terminations

There were a number of terminations in September. None of them has resulted in a complaint to either the DCA or the Special Complaint Administrator (“SRA”). The DCA received no notice of any disciplinary actions during the month of September. On a going forward basis the OIIG will monitor all District disciplinary actions and the DCA will receive reports from the OIIG re same.

IX. Overtime and Compensatory Time

The DCA was not provided with any information regarding overtime or compensatory time for the month of September.

X. Director of Compliance Activities

As also noted in the DCA’s fifth report, the District fulfilled its requirement under the Employment Plan of establishing the position of DOC. The DOC position was posted, applications were validated, candidates were interviewed and the selection was made. All these activities were monitored by the DCA and were in compliance with the Employment Plan. The DCA has confirmed that she possesses the minimum qualifications for the position, and his observation is that she has performed well thus far based on the following activities that took place in September:

A. Development of Forms

The DOC developed a number of forms to be used by the District to track Shakman-related activities. They include forms for requesting copies of the General Superintendent’s

Reports, and for requesting and volunteering for transfers, temporary assignments, and overtime, which will enable the District to document and track these Shakman-related activities. She also drafted a complaint form for employees to use when filing complaints with her office. She submitted all forms to the DCA for review and incorporated his suggestions in the final documents.

B. Investigation and Report Regarding Police Officer Posting

The DCA asked the DOC to investigate the issues with the Police Officer validation process described above. The DOC wrote a detailed report describing her investigation, findings and conclusions. The DCA made suggestions for improving future investigations. The DCA concurred with the DOC's report on the matter.

C. Weekly Meetings

The DCA and the DOC met on a weekly basis during the month of September. They will continue to do so in the coming months in order to assist her in meeting the duties required of her office by the Employment Plan. The DCA is encouraged by the cooperation shown by the DOC and the District in this regard.

XI. Post SRO Complaints/OIIG Transition

The Employment Plan contemplates that the OIIG will begin monitoring certain employment actions. These include exempt list modifications, upgrades and reclassifications, discipline, resident watchmen program, and overtime. In addition the DCA expects the investigation of SRO complaints to be transferred from the SRA to the OIIG's office. The assumption of these responsibilities by the OIIG will not prevent the DCA from also engaging in

any of the activities authorized by the SRO. The OIIG will report on his activities to the DCA, and the DCA will monitor those activities as he deems necessary to assure that the OIIG is handling them in a manner that will assure the District's compliance going forward and after the DCA' departure. The OIIG has thus far demonstrated an extremely cooperative attitude toward the DCA, and it is expected that that attitude will continue.

CONCLUSION

This is the first of the DCA's monthly reports detailing the Districts implementation of the Employment Plan filed in July and its progress toward substantial compliance. Issues raised but not resolved in this report will be addressed in the monthly reports to follow. The monthly reports are intended to develop a detailed record of the districts efforts to achieve substantial compliance under its new leadership and in accordance with the Employment Plan and Supplemental Policies, and to document the cultural change required by the SRO toward that end.