

**SCPD EMPLOYMENT FIRST OVERSIGHT COMMISSION**  
**JANUARY 09, 2018**  
**SMYRNA REST AREA, SMYRNA**

**Present:** Lloyd Schmitz, Chair, Council on Blind/SCPD; Julie Petroff, DOL-Division of Industrial Affairs (DIA); Sandy Reyes, Department of Human Resources; Ron Sarg, DCVA/MOAA; and Amber Rivard, Support Staff.

**Absent:** Emmanuel Jenkins, DDC; Jackeline Saez-Rosario, Advocate; Pat Maichle, DDC; Cindy Sterling, ServiceSource/AND; Laura Strmel, SJCS; and Laura Waterland, DLP-CLASI.

**CALL TO ORDER/Introductions/Approval of December Minutes**

Lloyd called the meeting to order at 9:58 am. Everyone introduced themselves. Due to lack of quorum, the December minutes were not approved.

**ADDITIONS OR DELETIONS TO THE AGENDA**

John added that the Commission should discuss more about DIA and that not many individuals know about the Division of Industrial Affairs. He asked what their capacity is for that Division. Julie stated that individuals think of the Department of Labor (DOL) as assisting them in receiving employment in a workplace. DIA helps injured workers in receiving worker compensation due to illness or injury on the job they have, and Office of Anti-Discrimination and most of the discrimination claims are from people with disabilities being discriminated in the workplace. There was a concern with the short-term disability program due to an individual exceeding the six months due to injury in the workplace, sickness or mental condition being terminated from their employment. There was a statutory effort in replacing the individual to some other position in the agency. It was proven difficult due to positions in the same agency being filled up fast. John asked if any of the individuals for workers compensation ever thought of asking for accommodations when they come back to work in order for them to be allowed a bit more time for recovery if it takes longer than six months. Sandy stated that individuals do not realize when being on short-term disability (injury) that an ADA accommodation could allow them to gain extra time to heal. The courts had not been clear on how long it is possible to extend an absence instead of termination. A question was raised on how it could be explained to the courts on the extended absence due to their short-term disability.

John stated another concern in which individuals use up their sick leave and some State employers not allowing the individuals to use their vacation if they used up their sick leave. Most State employers do not follow certain policies when it comes to sick leave and using vacation time. There was discussion that there should be training on reasonable policy related to disability-related compensation. John added that if Sandy could bring up any new procedures for the ADA Title I policy for employment of State employees with disabilities.

**BUSINESS**

**Guest List and Membership Outreach**

John said that he had sent a few letters and all the Commission members had a list of individuals they were hoping to reach out to come to future meetings. A few of the groups that were on the list to contact were the Work Investment Board and Delaware Business Leadership Network (DEBLN). Lloyd stated that if there are any other suggestion of groups to invite to the table to contact him and Amber then share it with John to invite those whom want to participate. John added that the letter he sent out was called Calling All Champions and Col. Sarg assisted in drafting minor details. He stated that it was viewed at a meeting, corrected by members and sent out to people on a limited list provided by Dan Madrid. Letters were sent out to nine different groups: State Law (a few), State agencies (a few), private businesses and there was a reply by Annie Norman (Delaware Division of Libraries). Lloyd commented that if John or Amber could provide the Commission a list of additional recommendations of invitees. The next step after inviting individuals from other private businesses and State agencies is to build on the guest list. If there any additional recommendations, the Commission should contact Lloyd or Amber. John commented that he can be copied on the emails to Lloyd or Amber regarding recommended individuals that would benefit from participation at the EFOC meetings.

#### Temporary Co-Chair

Pat Maichle has returned to Developmental Disabilities Council (DDC). There is a new Chair to the DDD Council, Steve Yeatman. Lloyd stated that the Code recommends the Chair appoints a representative. John will be sending a letter to Steve about the available seat at the table and if he would like Pat to continue representing the DDC Council or would he like to appoint someone else. Once it has been settled by Steve, then the Commission can address the issues of Co-Chair. John asked for clarification if someone in lieu of the Chair should be a member or could it be an administrator. Lloyd clarified that it could be a member more than an administrator. John stated the Commission will get a definite answer from the Governor's Office and he will have staff check on it.

#### Capacity Building

Capacity building is the main focus for 2018 meetings. Lloyd asked if the Commission members had anything to offer for discussion on the focus of capacity building. Marissa Catalon had stated in a previous meeting that the State Employment Leadership Network (SELN) provided input and participation that they might be able to contribute to this discussion. Since Marissa was not in attendance, the discussion of capacity building will be set aside until the next meeting.

#### Employment First Annual Report

The last Annual Report was drafted by Dan Madrid and Kyle Hodges. Dan has put the finishing touches on the document. This report has data that was provided by Marissa. Due to lack of a quorum, the report was not voted on, but Lloyd suggested the Commission review and have comments prepared prior to the next meeting in February. It will then be presented to legislators. John commented that something has to be sent to symbolize the work that has been done in the Commission. Commission members agreed that the report should be organized better. There was confusion on the data portion of the report. Lloyd stated that the data in the report is the newest

update data from Marissa and was given only a few weeks after. John reviewed the updated data with the Commission. Delaware Division of Developmental Disabilities Services' (DDDS) Agency Record from 2017 states that individuals working in Day Habilitation Services in 2015 was 43, in 2016 it was 39, and in 2017 it is currently 37. Individuals in Supported Employment for 2015 was 52, for 2016 it was 78, and in 2017 it is 57. Individuals in Pre-Vocational Shelter Employment for 2015 was 10, 2016 was 10 and 2017 was 0. Individuals in Pre-Vocational Shelter Non-Employment for 2015 was 15, 2016 was 12 and in 2017 there currently is 3. The ones with the double asterisks next to the 2017 have been noted that the data information may change. John added that the next column of data was Employment Poverty Status of Persons with Disabilities in the Delaware Analysis of Statistics compendium of 2014 to 2016, but there is no information for 2016 as the data only went up to 2015. He stated that the 2016 data would be helpful in the EFOC Annual Report. There is a data table for Commensurate Wage Providers within the report. There is no updated data table from 2017 from the Division of Developmental Disabilities Services' record or statistics from Employment Poverty.

Lloyd stated that the Commission is lacking in data from general DVR information and DVI information. He asked the Commission how they could encourage DVR and DVI to provide them with the information that is important to place in this report so that the Commission can present this to legislators within the given month (February). John added that the Commission could add the survey that was by AmeriHealth in employing people with disabilities. Andrea Guest has information from the survey and a suggestion was made to possibly ask her to provide that information. Lloyd asked if the Commission should request to have the survey to put into the Annual Report or is the survey something to obtain after submitting the Annual Report. John stated that the Annual Report appears to be more of an historic report. He added that the data from the survey is important to the Report. Since there is no quorum to vote on the Annual Report as a Commission, they can request the survey results and then they can discuss this further when there is a quorum. Lloyd suggested changing the name of Annual Report into Historic Report. Lloyd suggested contacting the Dr. Steve Peuquet from the University of Delaware and invite him to a meeting after receiving information on the survey.

Lloyd asked if there was anything more to discuss about the Annual Report. John commented on the confusing term of subminimum wage discussion and suggested changing it to commensurate wage so the legislators could understand. Lloyd suggested giving Andrea Guest (DVR) and DVI a copy of the data that Marissa collected, and ask them for their own data information. Sandy suggested that Dan Madrid update the Annual Report and add a brief summary of what the Commission does.

#### Sub-Committees Update

Lloyd commented that other than Dan Madrid working on Annual Report, there are no other Sub-Committees. The Commission was going to ask Marissa and her group working on the Moving Forward and Capacity Building, but it was not discussed due to not having quorum.

#### Legislative Changes

In Section 745 of the House Bill 319, it states what the Employment First Oversight Commission consists of. Two members will be added into the Commission and one of them is Sandy Reyes. There was a discussion on how the Commission could craft a language to persuade the legislators into appointing Sandy Reyes. The other point is trying to appoint Laura Waterland due to her not being a Delaware resident, but she is an employee working in the State. Another point of persuasion would be if the Commission expands to draft a letter to the Secretary that states Sandy or someone else has been involved with the Commission and should be appointed as a member.

The Commission could review the bill and then John could add more to it for next meeting. John stated that in the track changes in the bill it speaks about the membership of those representing individuals with disabilities to edge away from State employees and that the individuals be recommended by the Commission. He added that during a discussion at one of the previous meetings with Representative Heffernan, the Commission discussed her apprehension on taking something away from the bill. There was discussion on adding a representative from Human Resources into the membership. Nothing has been submitted in the bill. Sandy suggested that instead of putting the language as having a representative from Department of Human Resources, that it could be announced as the job title “DHR DEO Administrator experienced in ADA policies and advocacy”. John will add it to the draft bill to recommend that people from out-of-state but work in the State of Delaware, should be allowed to become a Commission member. Laura Waterland had emailed John about adding it into the draft and it will be discussed at the next meeting.

### **OTHER BUSINESS**

None

### **ANNOUNCEMENTS**

John spoke about the State Code and Title I of the ADA. There are policies being put in place. Each of the Departments are to follow the requirements such as reasonable accommodations. Sandy Reyes and John McNeal worked on a rough draft and he will include new updates to the draft. Sandy stated that there was a meeting with Monica Gonzalez-Gillespie, Director of Labor Relations and Employment Practices. There were recommended procedures and guidelines that the main suggestion is for all State Departments to have an ADA Coordinator for Title I. There was discussion about Title II being in the Civil Rights Section of a Department. A suggestion needs to be made in providing a training to the HR Departments on the ADA State Code for Title I and II. John commented that any HR person that hires an individual should have a basic understanding of the ADA. He will update the Commission on the draft by email. There was a concern with HR people asking the supervisor on employing people with disabilities. There will be an update on where they are regarding ADA Title I and II and have the Commission view the draft language. John will email Lloyd on the Mission Statement along with policies and procedures. Lloyd will resend this to the Commission.

### **ADJOURNMENT**

Meeting was adjourned at 11:32 am.

Respectfully submitted,

Amber Rivard  
Administrative Specialist