

STATE OF CONNECTICUT



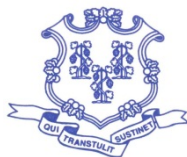
*AUDITORS' REPORT
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
FOR THE FISCAL YEARS ENDED
JUNE 30, 2013, 2014, 2015, and 2016*

AUDITORS OF PUBLIC ACCOUNTS
JOHN C. GERAGOSIAN ❖ ROBERT J. KANE

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AUDITORS OF PUBLIC ACCOUNTS

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August 1, 2018

AUDITORS' REPORT COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES FOR THE FISCAL YEARS ENDED JUNE 30, 2013, 2014, 2015, AND 2016

We have audited certain operations of the Commission on Human Rights and Opportunities (CHRO) in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the fiscal years ended June 30, 2013, 2014, 2015, and 2016. The objectives of our audit were to:

1. Evaluate the commission's internal controls over significant management and financial functions;
2. Evaluate the commission's compliance with policies and procedures internal to the commission or promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the commission, and testing selected transactions. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in Government Auditing Standards, issued by the Comptroller General of the United

States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying Résumé of Operations is presented for informational purposes. This information was obtained from various available sources including, but not limited to, the commission's management and was not subjected to the procedures applied in our audit of the commission. For the areas audited, we identified:

1. Deficiencies in internal controls.
2. Apparent noncompliance with legal provisions; and
3. Need for improvement in management practices and procedures that we deemed to be reportable.

The State Auditors' Findings and Recommendations in the accompanying report presents any findings arising from our audit of the Commission on Human Rights and Opportunities.

COMMENTS

FOREWORD

The Commission on Human Rights and Opportunities operates primarily under the provisions of Chapter 814c, Sections 46a-51 through 46a-104 of the General Statutes. Its principal duty is to enforce state laws prohibiting discrimination in employment, housing, credit, and public accommodations through civil and human rights law enforcement. CHRO investigates all discrimination complaints and attempts to correct any violation it finds through conciliation, public hearing, or court action. It also enforces laws regarding affirmative action and contract compliance of Connecticut state agencies. CHRO functions through a central office in Hartford and four regional offices located in Hartford, Norwich, Bridgeport, and Waterbury.

In a typical fiscal year, about 2,200 complaints are filed with the commission. About 90% are employment complaints, about 4% are housing complaints, and the remainder involve service, credit, and public accommodation complaints. As of June 30, 2016, there were 2,433 open cases.

CHRO also reviews affirmative action plans submitted by state agencies, in accordance with Section 46a-68 of the General Statutes. In fiscal year 2016, the commission reviewed 48 plans, approving 36. Five plans were conditionally approved and 7 were disapproved. In accordance with Section 46a-68a of the General Statutes, the commission may issue a certificate of noncompliance if it disapproves the affirmative action plan. The issuance of a certificate of noncompliance bars the agency from filling a position or position classification by hire or promotion until the commission deems the agency to be in compliance and withdraws the certificate of non-compliance.

Members and Officials of the Commission on Human Rights and Opportunities

Pursuant to Section 46a-52 of the General Statutes, the Commission on Human Rights and Opportunities consists of 9 members. The Governor selects 5 members who are appointed for 5-year terms. The Governor appoints 1 of the commissioners as the chairperson. The president pro tempore of the Senate, the minority leader of the Senate, the speaker of the House of Representatives, and the minority leader of the House of Representatives each appoint 1 member for a 3-year term. The commissioners serve without pay, but receive compensation for reasonable expenses in the course of serving on the commission. As of June 30, 2016, the following members served on the commission:

Cherron Payne, Chairperson
Edward Mambruno, Secretary
Lisa Giliberto
Andrew Norton
Dawn Niles
Edith Pestana
Joseph Suggs
Dr. Shuana Tucker

One vacancy.

Gary H. Collins was appointed chairperson of the commission on July 15, 2013, and served in that capacity until his resignation on August 12, 2015. Cherron Payne was appointed chairperson on January 22, 2016 and continues to serve in that capacity. Andrew Norton also served as chairperson prior to the appointment of Gary H. Collins.

Tanya A. Hughes, Esq. was appointed executive director to a 4-year term on November 13, 2013, having previously served as interim executive director since July 1, 2013. Cheryl Sharp, Esq. was appointed deputy director, effective July 4, 2014.

Robert Brothers served as executive director until his retirement on July 1, 2013.

Martin Luther King Jr. Holiday Commission

Section 10-29b of the General Statutes established the Martin Luther King Jr. Holiday Commission (MLK Jr. Commission). The MLK Jr. Commission is charged with ensuring that the commemoration of Martin Luther King Jr.'s birthday is meaningful and reflective of the spirit of his life and death. The MLK Jr. Commission consists of 19 members, 11 members appointed by the Governor and 8 members by the General Assembly leadership. CHRO serves as the secretariat for the MLK Jr. Commission. As of June 30, 2016, the following members served on the MLK Jr. Commission:

James O. Williams, Chairman	Carol Anderson
Donna Campbell	Sweets S. Wilson

Darryl A. Hugley
Diane Jones
Diane Lucas

There were 12 vacancies on the MLK Jr. Commission as of June 30, 2016.

During the audited period, the following persons also served on the MLK Jr. Commission:

Rev. Dr. Bradford Howard, Jr.
Diane Lucas
Diane Paige-Blondet
Benjamin F. Rhodes, Jr.
Regina V. Roundtree

Human Rights Referees

Section 46a-57 of the General Statutes allows the Governor to appoint 3 human rights referees, with the advice and consent of both houses of the General Assembly, to conduct settlement negotiations and authorized hearings. Human rights referees serve for a term of 3 years. The executive director designates 1 human rights referee to serve as the chief human rights referee for a term of 1 year. As of June 30, 2016, the following persons served as human rights referees within the CHRO Office of Public Hearings (OPH):

Michele C. Mount, Chief Human Rights Referee
Elissa Wright
(Vacancy)

The Office of Public Hearings provided us with a spreadsheet it uses to track its cases. As of March 13, 2017, there were 123 open cases. According to the calendar on the OPH website, as of April 2017, OPH has scheduled cases slated for public hearing/trials, pre-hearing conferences, or other types of hearings, into late 2018.

Recent State Legislation

Public Act 15-249 made significant changes affecting discrimination complaints filed with CHRO. The act shortens the time for CHRO to process certain complaints, allows the respondent to elect to participate in pre-answer conciliation, prohibits the same person from being assigned to conduct the mandatory mediation conference and investigate the complaint, transfers certain responsibilities from the CHRO executive director to the CHRO legal counsel, and makes minor, technical, and conforming changes.

The act also brings domestic workers who work for employers with at least 3 employees under the employment-related anti-discrimination laws administered by CHRO.

These changes took effect October 1, 2015.

Memorandum of Understanding with the Department of Labor

The Commission on Human Rights and Opportunities was assigned to the Department of Labor (DOL) for administrative purposes only, effective July 1, 2012. CHRO and DOL signed a memorandum of understanding (MOU) in late 2012 that specifies the relative responsibilities of the parties. DOL is responsible for CHRO's human resources, affirmative action, and business office functions. CHRO retains certain other responsibilities. The MOU remains in effect while CHRO is under DOL for administrative purposes only.

RÉSUMÉ OF OPERATIONS

General Fund and Federal and Other Restricted Accounts Fund Receipts and Expenditures

General Fund receipts totaled \$163,553, \$1,554,207, \$1,268,854, and \$1,349,447 for the fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively, as compared to \$1,293,115 for the fiscal year ended June 30, 2012. Receipts consisted primarily of federal aid received under cooperative agreements with the Department of Housing and Urban Development (HUD) and the Equal Employment Opportunity Commission (EEOC). Under these agreements, CHRO receives a fixed fee for each HUD and EEOC case, up to a maximum number of cases each fiscal year. These receipts go into the state's General Fund. Receipts in the fiscal year 2012-2013 were much lower than average because the EEOC contract for that fiscal year was not signed until June 2013. As such, CHRO did not receive the first payment of \$494,000 until the fiscal year 2013-2014.

During the audited fiscal years, CHRO also received federal funds from EEOC and HUD for travel, training, administrative costs, special enforcement efforts, and other purposes. Such federal grant receipts totaled \$68,500, \$63,150, \$317,752, and \$87,225, for the fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively.

CHRO reported a total of \$8,182,740, \$12,517,241, approximately \$10,000,000 and approximately \$10,250,000 in known settlements during the fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively. In addition, parties reach confidential settlements in which the commission is not a participant. Due to confidentiality requirements, CHRO does not deposit these settlement payments and they go directly to the complainants.

The Office of Public Hearings reports having dismissed 84, 94, 70, and 98 cases, from the public hearing process, during the fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively. CHRO reported the values of settlements awarded to complainants as \$175,900, \$348,466, \$726,968 and \$303,952, respectively, during the audited fiscal years, not including complaints settled for undisclosed amounts. Similar to settlements received through the conciliation process, CHRO does not deposit these settlements. The Office of Public Hearings also conducts hearings into whistleblower retaliation cases filed pursuant to Section 4-61dd of

the General Statutes. The Office of Public Hearings closed 16, 14, 10, and 9 cases, during fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively.

A summary of General Fund expenditures for the fiscal years ended June 30, 2013, 2014, 2015, and 2016, is presented below:

	Fiscal Years Ended June 30,			
	2013	2014	2015	2016
Budgeted Accounts:				
Personal Services	\$5,039,368	\$5,227,850	\$5,614,357	\$6,154,994
Contractual Services	255,194	294,366	283,653	283,597
Equipment	0	0	0	0
Other Expenses	44,878	29,853	30,520	39,277
Total General Fund	<u>\$5,339,440</u>	<u>\$5,552,069</u>	<u>\$5,928,530</u>	<u>\$6,477,868</u>

During the audited period, total expenditures increased, due to a growth in personal services expenditures. We attributed the increases in the first 3 years of the audited period primarily to general wage increases. We attributed the 10% increase in personal services expenditures in 2015-2016 over 2014-2015 to general wage increases and an increase in filled paid positions from the transfer of 8 employees from the Department of Labor to CHRO in October 2015. As of June 30, 2016, the commission had 76 filled paid positions, a net increase of 1 full-time position over June 30, 2012 levels. However, as discussed below, several retirements and other separations after June 30, 2016 have brought the filled position total down to 66 as of May 2017.

Federal and Other Restricted Accounts Fund expenditures totaled \$61,439, \$146,932, \$223,062 and \$41,954, for the fiscal years ended June 30, 2013, 2014, 2015, and 2016, respectively.

OTHER MATTERS

In prior reports, we reported that position vacancies were having a negative impact on the operation of the commission. As of June 4, 2018, CHRO (not including the Office of Public Hearings) had 65 permanent full-time filled paid positions, out of 82 authorized. Two regional manager positions are currently vacant. HRO Representatives investigate complaints of alleged discrimination, and work mainly in the regional offices. In any given fiscal year, the number of HRO Representatives, most of whom directly investigate allegations of discrimination, comprise approximately half of the commission's total workforce. As of June 4, 2018, CHRO has 32 HRO Representative positions filled, out of 41 authorized. Also, the position of Managing Director/Commission Attorney, while not officially "red-circled," has been vacant since July 1, 2013. Three additional vacant positions, an Administrative Assistant position, and 2 HRO Assistant Commission Counsel 1 positions, have been "red-circled", meaning an agency is phasing out the job title and will no longer place employees under that title. CHRO critically needs to fill these vacant positions just to return to a level of staffing similar to a few years ago.

STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our review of the Commission on Human Rights and Opportunities for the fiscal years ended June 30, 2013, 2014, 2015, and 2016 noted the following conditions:

Required Statutory Reporting

Criteria: Section 46a-82e (b) of the General Statutes requires the commission to report to the judiciary committee of the General Assembly and the Governor annually: (1) the number of cases in the previous fiscal year that exceeded the time frame for making a finding of reasonable cause or no reasonable cause, including authorized extensions, set forth in subsection (e) of section 46a-83; (2) the reasons for the failure to comply with the time frame; (3) the number of actions brought pursuant to subsection (d) of this section and the results thereof; and (4) the commission's recommendation for legislative action, if any, necessary for the commission to meet the statutory time frame.

Section 46a-83 (e) (1) of the General Statutes requires the investigator to make a finding of reasonable cause or no reasonable cause within 190 days from the date of the case assessment review, except that for good cause shown, the executive director or executive director's designee may grant no more than 2 extensions of the investigation of 3 months each. Accordingly, the investigator has a maximum of 370 days (the "time frame") to make this determination.

Note: Effective October 1, 2015, Public Act 15-5 of the June Special Session repealed Section 46a-82e of the general statutes, and substituted the following in lieu thereof:

(b) The commission shall report annually to the judiciary committee of the General Assembly and the Governor: (1) The number of cases in the previous fiscal year that exceeded the time frame, including authorized extensions, set forth in subsection (g) of section 46a-83; (2) the reasons for the failure to comply with the time frame; (3) the number of actions brought pursuant to subsection (d) of this section and the results thereof; and (4) the commission's recommendations for legislative action, if any, necessary for the commission to meet the statutory time frame.

Note: Effective January 1, 2016, Public Act 15-249 repealed Section 46a-83 and substituted the following in lieu thereof:

“(g) (1) Before issuing a finding of reasonable cause or no reasonable cause, the investigator shall afford each party and each party's representative an opportunity to provide written or oral comments on all evidence in the commission's file, except as otherwise provided by federal law or the general statutes. The investigator shall consider such comments before making a finding. The investigator shall make a finding of reasonable cause or no reasonable cause in writing and shall list the factual findings on which it is based not later than one hundred ninety days from the date of the case assessment review, except that for good cause shown, the executive director or the executive director's designee may grant no more than two extensions of the investigation of three months each.”

Condition: For the fiscal years audited, the commission failed to submit the required reports. The last report filed covered fiscal year 2009.

Effect: The lack of CHRO reporting hinders the ability of the Judiciary Committee and Governor to monitor the agency's compliance with statutory time limits for processing complaints. This could also delay actions taken by the General Assembly and Governor.

Cause: While our review shows that CHRO continues to track all cases, it is unclear to us why the agency has not produced the required reports.

Recommendation: The Commission on Human Rights and Opportunities should prepare and submit all reports not previously submitted to the Judiciary Committee and the Governor in accordance with Section 46a-82e (b) of the General Statutes. The commission should also submit all future reports in a timely manner. (See Recommendation 1.)

Agency Response: “Over the past four years, the Commission has embarked on a plan to improve its complaint tracking system (CTS) to record and monitor cases processing activities. Unfortunately, this system is very limited and has been revised as we see the need. We utilize BEST for all of our Information Technology (IT) services and are at the mercy of their staff regarding scheduling and the timing of completion of our requests. According to our liaison/representative, it would have been much more feasible to input the design in the beginning, than it is to try to change and update the system. We have established an IT team which is made up of several attorneys and investigators. We are in the process of putting in place a program that will automatically produce the reports that are required by statute so that they can be properly

included in our reports to the governor's office, legislators, and on our website. We are also exploring a more extensive case management system and are seeking funding and approval."

Failure to Submit the Contract Compliance Report and the Annual Affirmative Action Report

Criteria:

Section 46a-56 (a) (6) of the General Statutes requires CHRO to compile data concerning state contracts with female and minority business enterprises and report to the General Assembly annually concerning the employment of such business enterprises as contractors and subcontractors, known as the Contract Compliance Report.

Section 46a-68 (f) of the General Statutes states the Commission on Human Rights and Opportunities shall monitor the activity of such plans within each state agency, department, board, and commission, and report to the Governor and the General Assembly on or before April 1st of each year concerning the results of such plans, known as the Affirmative Action Report.

Condition:

CHRO has not submitted the required reports.

CHRO has not submitted the Contract Compliance Report since May 2012. That report covered the 2010-2011 fiscal year.

The last Affirmative Action Report CHRO submitted covered calendar year 2008 to 2015. It was produced in 2016. This report was not prepared annually for the period 2008 to 2014 or submitted timely.

Effect:

CHRO has not met the reporting requirements of Sections 46a-56 (a) (6) and 46a-68 (f) of the General Statutes.

The lack of timely reporting by CHRO hinders the General Assembly's efforts in monitoring the nondiscrimination and affirmative action provisions of the General Statutes.

CHRO is not apprising the Governor and the General Assembly of the collective efforts of state agencies to achieve a workforce fully representative of the population. In addition, CHRO did not indicate the status of its individual agency affirmative action plan reviews.

- Cause:* CHRO cited staffing issues as the reason for why it has not produced these reports for several years. While staffing has continued to be an issue, the many years of CHRO noncompliance with these reporting requirements cannot solely be attributed to a lack of personnel.
- Recommendation:* The Commission on Human Rights and Opportunities should comply with the reporting requirements of Section 46a-56 (a) (6) and Section 46a-68 (f) of the General Statutes, and submit the required Contract Compliance and Affirmative Action reports. (See Recommendation 2.)
- Agency Response:* “The Commission has assigned specific staff persons and interns to address this critical reporting deficiency. It should be noted that during the period of review, we had been working on updating these reports. The key person assigned passed away suddenly, on December 20, 2016. Her loss was very crippling to this agency in many ways and we are still trying to gather and promulgate the data that she had begun to assemble. She was previously assisted by our Legislative Liaison, who retired in October 2015. We plan to complete this project by September 30, 2017 to include 2010 to current date. Effective July 21, 2017, we hired a Legislative Analyst who will be responsible for ensuring that all of the requisite reporting categories are adhered to on a timely basis per statute.”

Human Rights Referee Vacancy

- Background:* At the Commission on Human Rights and Opportunities, the Office of Public Hearings (OPH) is responsible for scheduling and conducting all phases of the public hearing process in contested discrimination cases under the commission's jurisdiction and in certain types of whistleblower retaliation cases. Within the OPH, the Chief Human Rights Referee administers the operations of the unit and assigns cases to the other 2 human rights referees. All of the referees are gubernatorial appointees, subject to legislative approval, who function independently from the rest of the commission. Human rights referees serve full-time and conduct settlement negotiations and hearings as authorized by statute.
- Criteria:* Section 46a-57 (a)(2)(E) of the General Statutes requires that on and after July 1, 2011, there shall be three Human Rights Referees who shall (i) be appointed by the Governor with the advice and consent of both houses of the General Assembly, and (ii) serve for a term of three years.

Good business practices suggest that OPH schedules administrative hearings within a reasonable time.

Good business practices suggest that OPH should establish a case management system to provide an effective and efficient means to schedule and administer cases.

Condition:

Since June 2014, the Office of Public Hearings has been operating with less than its full statutory complement of 3 human rights referees, except for about a five-month period in the first half of fiscal year 2016. It appears that 3 human rights referees (one of whom serves as the chief referee) represents the minimum number needed to operate the office.

In addition to the 3 authorized human rights referees, OPH operates with just 1 full-time staff member who performs all of the administrative duties of the office. In that staff member's absence, those duties fall on the human rights referees. This can be problematic, as OPH must avoid the potential of "ex-parte" communications.

A review of the OPH website shows that as of May 2017, OPH is scheduling hearings for late 2018.

The Office of Public Hearings lacks an adequate case tracking system. Presently, OPH performs case tracking manually through case file notations and a basic Excel spreadsheet.

Effect:

Vacancies in the human rights referee position result in longer delays in scheduling cases for public hearing. In some instances, human rights referees who did not preside at the public hearing must conduct settlement conferences. This vacancy complicates the scheduling of these settlement conferences. The absence of an adequate case tracking system causes less efficient management of OPH cases.

Cause:

Long intervals of time have transpired between a vacancy and the filling of that vacancy. The cause of the lack of an adequate case tracking system appears to be primarily due to a lack of financial resources necessary to purchase an off-the-shelf program or to develop one in-house.

Recommendation:

The Chairperson of the Commission on Human Rights and Opportunities should request that the Office of the Governor fill the vacant Human Rights Referee position. CHRO should consider whether the Office of Public Hearings needs additional support and

review the feasibility of incorporating OPH cases into its case tracking system. (See Recommendation 3).

Agency Response-CHRO: “The commission continues to suffer a vacancy in the number of Human Rights Referees. This is extremely troubling, as it tends to halt all of the gains in processing that have been achieved on the regional level. We have reached out to the governor’s office on many occasions to inquire into the status of a search to fill the vacancy. We believe it has not been thoroughly pursued due to the current budgetary crisis. We are hopeful that this will be one of the next positions filled on our list of critical positions that are required.”

*Agency Response-Office
Of Public Hearing:*

“The Office of Public Hearings agrees with these recommendations. As stated above by the auditors, “[f]or the last several fiscal years, the Office of Public Hearings has been operating with less than its full statutory complement of three human rights referees. It appears three human rights referees (one of whom serves as the Chief Referee) represents the minimum number needed to operate the office.” As noted in the study “Commission on Human Rights and Opportunities: Discrimination Complaint Process,” conducted by the Legislative Program Review and Investigations Committee (December 7, 2016 at page 85): Program Review and Investigation (PRI) staff believes the current practice of filling only two of the three statutory human rights referee positions, which are gubernatorial appointments, cannot be sustained if the office is to meet its statutory requirement of holding pre-hearing conferences within 45 days of cases being certified for public hearing. Without a full complement of referees, the time to fully process cases at Public Hearing – which is currently up to or over two years in many instances the current wait time for a public hearing ranges from 8 months to 16 months– will most likely increase. Moreover, whenever one of only two hearing referees is out for vacation, medical, or other leave, there remains only one referee. At least two referees are critical to cover both the settlement and adjudication duties required of referees, which cannot be handled by the same person.... PRI staff recommends: All three statutorily required human rights referee positions in the Office of Public Hearings should be filled.”

The referees adjudicate contested cases certified to our office from the CHRO and have original jurisdiction over whistle-blower retaliation cases. In addition to deciding contested cases that come before the office, our duties as referees include managing the cases from a scheduling point of view; conducting mandatory settlement

negotiations in each other's cases; deciding dispositive, production, and evidentiary motions. With only two of the three statutorily required human rights referee positions being filled, our present docket includes cases that are not scheduled for a public hearing until December 2018. If the third statutory referee is appointed, we could reschedule many of those hearings to an earlier date. As the auditors also note, the Office of Public Hearings operates with only one full-time staff member who provides all secretarial and administrative duties of the office, including case management. In the secretary/administrator's absence, the efficient processing of decisions, pleadings, motions, notices, orders, and other papers filed necessarily impeded in part because of the necessity of avoiding ex parte communications between the parties and the referees. Additional administrative and/or paralegal support to the office would alleviate this potential conflict. The office also agrees with the auditors' recommendation that utilization of improved technology, available for fully integrated case and document management and calendaring, would significantly reduce the amount of staff time and resources required to manually identify and input case file information including papers filed and actions taken during the contested case proceedings."

Revoking Core-CT Access for Ex-Employees

Criteria:

Each agency designates a CORE-CT agency security liaison for human resources and financial applications. According to the Human Resources Management System (HRMS) Role Assessment Handbook, the HRMS Security Liaison is responsible for monitoring all authorized access to the Core-CT HRMS application assigned to their agency personnel, and acts as a point of contact for the Core-CT Security Team for all Core-CT security matters. The security liaison has a number of responsibilities and tasks, including adding new employees, making changes to existing employees' access, and deleting access to former employees via the Agency Application Security Request form (CO-1092).

Condition:

Twenty-five employees separated from CHRO during the period we reviewed (July 1, 2012 to April 5, 2017). Of those employees, 22 have not had their access in Core-CT formally revoked as required by Core-CT Security protocols.

- Effect:* Failure to inform Core-CT Security when employees leave an agency makes it possible for unauthorized access to Core-CT accounts.
- Cause:* It appears that CHRO has not properly assigned the full range of tasks to the designated Core-CT security liaison.
- Recommendation:* The Commission on Human Rights and Opportunities should promptly notify Core-CT security when employees separate from the agency so their accounts can be formally locked. (See Recommendation 4).
- Agency Response:* “We agree with this recommendation and have taken appropriate actions to ensure that employees who are separated from service are terminated in CORE-CT. CHRO previously had assigned this responsibility to an employee who was not completely certain of all of her responsibilities. This responsibility has since been transferred to two other employees. They have been informed that their duties include notifying and ensuring that Core-CT access is updated for all employees who have been separated from state service.”

Annual Internal Control Self-Assessment Questionnaire

- Criteria:* The Office of the State Comptroller requires all executive branch agencies to annually complete an internal control self-assessment by June 30th and to keep that assessment on file at the agency. The purpose of the questionnaire is to help managers evaluate their internal control systems and identify possible deficiencies within their areas of responsibility by establishing an annual self-evaluation and risk assessment process.
- Condition:* The Department of Labor did not prepare the CHRO internal control self-assessment questionnaires for the fiscal years 2012-2013, 2013-2014, 2014-2015, and 2015-2016.
- Effect:* CHRO has not realized the benefits of the self-assessment process, and, as a result, the commission has weaker internal control.
- Cause:* Beginning in the 2012-2013 fiscal year, the Department of Labor became responsible for the preparation of the commission’s questionnaire.
- Recommendation:* The Department of Labor should prepare the annual internal control self-assessment questionnaire required by the Office of the State Comptroller. The Commission on Human Rights and

Opportunities should keep its questionnaires on file. (See Recommendation 5).

Agency Response-CHRO: “CHRO will ensure that henceforth the Department of Labor will prepare on behalf of CHRO the annual Internal Control Self-Assessment Questionnaire and will keep it on file as required by the State Comptroller.”

Agency Response-DOL “DOL made CHRO aware in 2017 that the self-assessment questionnaires for 2012 through 2016 had not been completed. DOL took the initiative to correct this action by completing the questionnaire for 2017 and contacted the state auditors to advise if the previous years were needed as well. State auditors’ response was to complete 2017 only, which we completed on time and submitted to CHRO to keep on file. DOL has resolved this issue and has taken steps to insure that this will be completed on a yearly basis, in a timely manner.

Excessive Use of Paid Administrative Leave, and Inappropriate Use of Accrued Leave and the Voluntary Schedule Reduction Program to Increase Vested Service Time

Criteria:

Section 8 of the P-2 collective bargaining agreement states that an appointing authority may, pending an investigation of alleged action that constitutes grounds for dismissal, place an employee on paid leave of absence for up to 60 days. The authority shall give the employee written notice of the leave of absence with pay, which shall state the effective date, the duration of such leave and reasons for the action. If the employee is not dismissed because of the investigation (or within the 60 days), the employee shall be reinstated retroactive to the starting date of the leave. The reinstatement shall not preclude other disciplinary action.

According to Form CT-HR-7c, an employee must receive approval from the agency head to participate in the Voluntary Schedule Reduction Program (VSRP) prior to beginning leave under the program.

Section 5-248c-1 through Section 5-248c-3 of the Regulations of Connecticut State Agencies governs the Voluntary Schedule Reduction Program. Section 5-248c-1 (c) defines scheduled reduction as a voluntary reduction in the number of hours worked by an employee, by taking unpaid prescheduled individual or partial days off on an occasional basis, or by reducing the number of hours worked per week on a regular basis. Section 5-248c-3(e) of the Regulations of Connecticut State Agencies states that if a

holiday falls on a day when an employee would not have been scheduled to work as a result of a schedule reduction, the employee shall receive pro-rata holiday credit of 20% of the scheduled weekly hours.

Sound business practices suggest that Voluntary Schedule Reduction Program leave, and accrued vacation and personal leave, should not be used to extend an employee's vested state service when there is no likelihood of the employee's continued employment at the end of such leave.

Condition:

In 2016, CHRO placed an employee in the P-2 bargaining unit on paid administrative leave for 123 full days and 2 partial days. The employee took the paid administrative leave on 2 occasions: the first for 74 days and the second for 51 days. The 74-day leave exceeds the 60-day maximum allowed by the collective bargaining agreement. Per a stipulated agreement, the employee returned to work in June 2016 after the first paid administrative leave before going on the second administrative leave in August 2016. Per a second and final stipulated agreement, the employee remained on the payroll and charged 11 hours per week to unpaid voluntary leave and 29 hours per week to accrued vacation and personal leave. The stipulated agreement stated, "As (employee) was hired on January 19, 2007, effective January 19, 2017 this should equate to ten (10) years of service." On January 19, 2017, the employee separated from state service.

Other conditions noted:

The employee began a Voluntary Schedule Reduction Program on October 28, 2016, prior to receiving agency head approval. The agency head approved the leave on November 9, 2016. Accordingly, the employee used 14 hours of VSRP that was not in accordance with the requirements.

The employee received 8 hours of holiday pay on November 24, 2017, a day when the employee was scheduled for the Voluntary Schedule Reduction Program. According to Section 5-248c-3 (e) of the Regulations of Connecticut State Agencies, an employee is only entitled to a pro-rata holiday credit at the rate of 20% of the employee's scheduled weekly hours, which in this case were 29. Accordingly, the employee was only entitled to 5.8 hours of holiday pay instead of 8 hours.

DOL completed an investigation on behalf of CHRO following the employee's first paid administrative leave (March 11, 2016) on May 5, 2016, yet the employee remained on paid administrative leave until June 27, 2016, approximately 7 weeks later. CHRO

placed the employee on a second paid administrative leave on August 16, 2016, and DOL completed the investigation on September 29, 2016. The employee remained on paid administrative leave until October 27, 2016.

Effect: The commission failed to comply with the provisions of Section 8 of the P-2 collective bargaining agreement, because the first paid administrative leave exceeded 60 days. The use of the Voluntary Schedule Reduction Program and accrued vacation and personal leave were solely to extend the employee's time of service to reach 10 years. According to the Tier 2 retirement benefits plan, an employee becomes eligible for vested medical benefits after reaching 10 years of vested service.

The use of the Voluntary Schedule Reduction Program and accrued leave (vacation and personal) is not appropriate to extend the length of an employee's vested service and constitutes an undesirable practice.

Cause: CHRO used the Voluntary Schedule Reduction Program, and vacation and personal leave, to facilitate the separation of the employee from state employment.

Recommendation: The Commission on Human Rights and Opportunities should comply with state personnel regulations and contracts when placing employees on paid administrative leave and should strengthen internal controls over voluntary leave. CHRO should seek guidance and approval from the State Retirement Commission when provisions of a proposed stipulated agreement have the potential to grant retirement benefits, (which are outside CHRO's authority) and should seek guidance and approval from the Office of Labor Relations (OLR) pertaining to stipulated agreements involving collective bargaining agreements, which OLR negotiates and administers. (See Recommendation 6).

Agency Response-CHRO: "It should be noted that CHRO's human resources are outsourced to the Department of Labor. During all periods noted, we worked with DOL personnel. In all matters, we sought appropriate guidance and approval and were assured that all employment actions were proper and in accordance with any and all collective bargaining agreements, employee manuals, and other related provisions. Any discrepancies were outside of our control. We have followed up with the Department of Labor who has provided responses to questions about delays and or overpayments. We have been assured that the overpayments were very small in amounts and reimbursements are being pursued."

Agency Response-DOL **“Excessive Use of Administrative Leave with Pay**

The employee was placed on paid administrative leave under a former HR Director. The agency will monitor future incidents for adherence to state regulations.

Inappropriate Use of Accrued Leave and Voluntary Schedule Reduction Program (VSRP)

A stipulated agreement was signed under the direction of a former HR Director. The agency will no longer enter into a similar agreement with an employee.

Voluntary Schedule Reduction Program utilized prior to authorization from agency head

The agency acknowledges that technically the employee started the VSRP prior to the signature from the agency head. However, the intention of the employee to utilize the VSRP, in accordance with the stipulated agreement, was known to the agency head. In the future the agency will monitor any request for VSRP approval so that they do not commence previous to authorization by the agency head.

Holiday Pay While on VSRP

The agency will monitor use of VSRP and pay employees for holiday(s) in accordance with Section 5-248c-3 of the Regulations of State Agencies.”

RECOMMENDATIONS

Our prior report on the Commission on Human Rights and Opportunities contained 5 recommendations, 2 of which are repeated.

Status of Prior Audit Recommendations:

- **The Commission on Human Rights and Opportunities should prepare and submit all reports not previously submitted to the Judiciary Committee and the Governor in accordance with Section 46a-82 (b) of the Connecticut General Statutes. The Commission should also submit all future reports in a timely fashion.** This recommendation is being repeated. (See Recommendation 1).
- **The Commission on Human Rights and Opportunities should complete the merit assessment reviews and make findings of reasonable cause or no reasonable cause within the required statutory time frames.** Public Act 15-249 made significant changes in the manner in which the commission processes discrimination complaints. Due to the substantial changes in the way CHRO now processes non-housing complaints, this recommendation is not being repeated.
- **The Commission on Human Rights and Opportunities should comply with the reporting requirements of Section 46a-56 (a) (6) and Section 46a-68 (f) of the Connecticut General Statutes and submit the required Contract Compliance and Affirmative Action Reports.** This recommendation is being repeated. (See Recommendation 2).
- **The Commission on Human Rights and Opportunities should comply with all provisions of the Performance Assessment and Recognition System handbook when awarding managerial merit increases.** The commission has taken corrective action to address this recommendation. Accordingly, this recommendation is not being repeated.
- **The Commission on Human Rights and Opportunities should update its investigator forms and procedures manual.** The commission has taken corrective action by producing a new investigators' manual. Accordingly, this recommendation is not being repeated.

Current Audit Recommendations:

- 1. The Commission on Human Rights and Opportunities should prepare and submit all reports not previously submitted to the Judiciary Committee and the Governor in accordance with Section 46a-82e (b) of the General Statutes. The commission should also submit all future reports in a timely manner.**

Comment:

CHRO did not submit the required reports for the audited fiscal years. The last fiscal year CHRO filed this report was FY 2009.

- 2. The Commission on Human Rights and Opportunities should comply with the reporting requirements of Section 46a-56 (a) (6) and Section 46a-68 (f) of the General Statutes, and submit the required Contract Compliance and Affirmative Action Reports.**

Comment:

CHRO has not submitted the Contract Compliance or Affirmative Action Reports for several years dating back to the 2007-2008 fiscal year.

- 3. The Chairperson of the Commission on Human Rights and Opportunities should request that the Office of the Governor fill the vacant Human Rights Referee position. CHRO should consider whether the Office of Public Hearings needs additional support and review the feasibility of incorporating OPH cases into its case tracking system.**

Comment:

The Office of Public Hearings has operated with less than its full statutory complement of 3 human rights referees for the last several years. OPH operates with just 1 full-time staff member who performs all the administrative duties of the office. The Office of Public Hearings lacks an adequate case tracking function.

- 4. The Commission on Human Rights and Opportunities should promptly notify Core-CT security when employees separate from the agency so their accounts can be formally locked.**

Comment:

Twenty-five of 27 employees who separated from CHRO during the period we reviewed have not had their access in Core-CT formally revoked as required by Core-CT security protocols.

- 5. The Department of Labor should prepare the annual internal control self-assessment questionnaire required by the Office of the State Comptroller. The Commission on Human Rights and Opportunities should keep its questionnaires on file.**

Comment:

The Department of Labor did not prepare the CHRO internal control self-assessment questionnaires for the fiscal years 2012-2013 through 2015-2016.

- 6. The Commission on Human Rights and Opportunities should comply with state personnel regulations and contracts when placing employees on paid administrative leave and should strengthen internal controls over voluntary leave. CHRO should seek guidance and approval from the State Retirement Commission when provisions of a proposed stipulated agreement have the potential to grant retirement benefits (which are outside CHRO's authority), and should seek guidance and approval from the Office of Labor Relations (OLR) pertaining to stipulated agreements involving collective bargaining agreements, which OLR negotiates and administers.**

Comment:

CHRO placed an employee on administrative leave for 14 days beyond the 60-day maximum, and used the Voluntary Schedule Reduction Program solely to extend the employee's length of service to be eligible for vested medical benefits. The employee went on voluntary leave before receiving approval, and received a small overpayment of holiday pay.

ACKNOWLEDGEMENT

The Auditors of Public Accounts would like to recognize the auditors who contributed to this report:

Mark Fortin
Gary Kriscenski

CONCLUSION

In conclusion, we wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Commission on Human Rights and Opportunities and the Department of Labor during the course of this examination.



Gary Kriscenski
Principal Auditor

Approved:



John C. Geragosian
State Auditor



Robert J. Kane
State Auditor