

IPEA's Legislative priority for 2012 session

PERSONNEL COMMISSION

PROBLEM:

The Idaho Division of Human Resources (HR) has become increasingly politicized over the last few years, and the result is a decreasing professionalism of the state's workforce. When state employees feel that they are not allowed to do the job they were hired to do because they fear retaliation for "crossing" some influential person or corporation, employee morale suffers and the quality of work suffers.

SOLUTION:

Pass legislation to reverse the move of the HR Department to the Governor's office and back to the authority of an empowered Personnel Commission.

RATIONALE:

Here are examples of real situations IPEA has dealt with in the last three years.

1. IPEA members who worked as produce inspectors informed us that they were routinely supervised and disciplined by non-State employees who work for or own the agri-business in which they were stationed. This meant that inspectors were under the authority of the very people producing the product they were inspecting. These employees were often not allowed to take lunch breaks. These same employees were threatened, either overtly or implicitly, by the loss of their jobs if they did anything the business owner didn't like. These employees were hesitant to use the state's grievance system because they had been threatened with retaliation by the processing plant management.
2. IPEA members working as investigators for a state government entity contacted IPEA when their employment was terminated or they were threatened with termination. These employees believe their actual or threatened terminations were due to the fact that they recommended disciplinary action against certain "well connected" companies they were investigating.
3. IPEA members working for a state agency have reported retaliation for filing grievances concerning employee safety violations. They have also reported widespread abuse of the hiring and promotion policies of the state. One recent example was that a non-qualified applicant was hired above more qualified applicants for a supervisory job. Later, when it was reported that this applicant did not meet the minimum requirements for the position, the person was demoted back to her original position. But then management decided to close the job announcement, sent this

person to training to improve her skills, and then reopened the position and hired her anyway.

Unfortunately, IPEA has been informed of many more situations similar to those listed above, and it is the belief of the IPEA Board of Directors and staff that these abuses stem from the 1996 decision of the Idaho Legislature to move the authority of HR from the Personnel Commission to the Governor's office.

Prior to 1996, the Personnel Commission was tasked with hiring, firing, and supervising the Director of Human Resources. The commission was also responsible for creating and maintaining the merit system for hiring, evaluation, and promotion of the state workforce. In 1996 the legislature moved this authority to the Governor's office, so we no longer have an independent commission comprised of professional HR managers over-seeing the activities of the Division of HR. At this time the legislature also down-graded the position of "Director" of HR to an "Administrator" of Human Resources, which also stripped the position of much needed authority. This Administrator answers to the Governor rather than an independent Personnel Commission. As a result, we simply do not have a truly professional HR Department in the state, and abuses have become widespread.

Prior to the beginning of the 2010 legislative session, IPEA worked with then-Representative Anne Pasley-Stuart to draft legislation to correct this problem, and we continue to try to get our legislators to pass the bills. There are two draft bills, one that changes the authority back to the Personnel Commission, and one that changes the position of HR Administrator back to HR Director.

Each legislative session we see new pieces of legislation emerge that further weaken our HR policies in the state. IPEA addresses those issues when they arise. But we believe just about every issue that comes up related to HR stems from the "micro-managing" of HR for political reasons.

Here's an example of an HR related issue that came up in the 2010 Idaho legislature. The legislature passed a rule change for new hires. They increased to 25 the number of names that an HR person could choose from among the qualified people for the job. In year's past, this number was as small as five. When a position was open, HR for the Department had to choose among those top five candidates to fill a position to ensure they were hiring the most qualified person. Now they can choose to interview and hire anyone on that list of 25 qualified candidates, regardless of the candidate's score. That means that the person who scores highest on the test may not even get an interview, and the agency can hire number 25 if they so choose.

What was most interesting in that particular committee hearing was the testimony from state HR professionals. They actually were testifying about all of the interesting ways they were "forced" to go around the law so they could hire whoever they wanted, even if that person didn't meet the minimum qualifications for the job or if that person's score didn't put him or her in the list of top candidates.

The lack of a strong Personnel Commission and an independent HR director for the state breeds this kind of a system. If you want to get a job or a promotion in a state office now, it's not about what you know, it's about who you know. And it's not about how good you are at your job, it's about whether the "right" people want to see you promoted.

IPEA staff sat in on a meeting the current HR Administrator hosted for top level HR people in the state. The Governor spoke at the opening of the meeting. The purpose for the meeting was to introduce a new online program for evaluating employees that will be consistent across departments of state government. There is nothing wrong with that. In fact, we would like to see more consistency because that should breed more fairness.

But the Governor's talk made it clear that the reason for rolling out this new system is because, to paraphrase the Governor, the state is getting sued too much by unhappy employees. The Governor seemed to be instructing the HR people to do a better job of documenting to make it easier to fire people, so the fired employee wouldn't have a basis to sue the state.

At IPEA we believe this is the wrong approach. Here's an example of why. One of our members has worked in his particular supervisory capacity for about ten years. He worked his way up through the ranks and has had nothing but stellar performance evaluations. He has had good relationships with his supervisors and coworkers. But he suddenly got a new supervisor. This particular supervisor has made it clear to everyone that she wants to give his job to someone else. She is systematically giving him bad evaluations without giving him a performance improvement plan. She talks openly to him and his coworkers about the fact that she plans to force him out of his job.

A new and improved evaluation plan won't protect this employee. We have consulted with him on his options, and right now his only recourse is to document, document, document. In the event he does get fired, he will have a really good case to sue the state. But if the state had a decent system for employee grievances, with the option to have a real hearing in front of a qualified Personnel Commission, his issue could probably be resolved without going near a courthouse. He would have a chance to be heard, and the state wouldn't be paying out another settlement for unjustifiably firing someone.

A good HR system with a qualified HR Director at the helm whose work is evaluated by a qualified Personnel Commission will only save the state money. It will ensure that we have a qualified and professional workforce where all employees are treated fairly. We will also have a workplace environment that fosters creativity and working together, rather than one of fear and intimidation.