



STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR

CHRISTOPHER T. SUNUNU
Governor

May 28, 2020

Lori Shibiante
Commissioner
129 Pleasant Street
Concord, N.H. 03301

Dear Commissioner Shibiante,

Pursuant to my authority under Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08 and 2020-09; and Emergency Order #37 I have approved your written request, in attachment, to take the following actions related to Executive Branch hiring:

1. Posting and hiring of a Program Planner III (Position # 16042) with the current allocation being 55% General Funds, 41% Federal Funds and 5% Agency Income.

The Department of Administrative Services is authorized to take the actions necessary to effectuate this authorization.

Sincerely,

A handwritten signature in blue ink that reads "Christopher T. Sununu".

Christopher T. Sununu
Governor

CC Charles Arlinghaus, Commissioner, Department of Administrative Services

POSITION WAIVER

May 22, 2020

His Excellency, Governor Christopher T. Sununu
 State House
 Concord, NH 03301

Dear Governor Christopher T. Sununu:

REQUESTED ACTION

Approval is requested for a waiver of Emergency Order # 37 in order to fill the following position within the:

Agency:	HHS: Commissioner'S Office	
Reason Code:	Full Time Position	
Position #:	16042	
Position Title:	Program Planner III	
Anticipated Hire Date (MM/DD/YY):	June 15, 2020	
Labor Grade:	25	
Step:	3	
Date of Vacancy (MM/DD/YY):	November 27, 2019	
Vacancy Rate (%):	11%	
Appropriations:	Agency	095 HHS: Commissioner'S Office
	Department	095 HHS: Commissioner'S Office
	Bureau	LLRS Legal & Regulatory Services
	Accounting Unit (XXXX)	5680 Legal Services
	Class	010 Personal Services Perm Clas
	Expense Account (500XXX):	500100 Regular Officers And Employees
Total Annual Salary:	\$	55,556
Total Annual Benefits:	\$	28,981
Total Cost:	\$	84,537
Estimated # of Pay Periods in FY:		-

Funding	% of Funding (ex: 5 = 5%)	Total Cost Based on Estimated Pay Periods Left in FY
000 FEDERAL FUNDS	41%	-
0010 General Fund	55%	-
007 AGENCY INCOME	5%	-
		-
		-
		-
Total	100%	-

EXPLANATION

(16) This position provides critical functions to the Department of Health and Human Services by assisting the Commissioner with protecting the rights of individuals with developmental disabilities and/or mental illness. The Department's current lack of a full time complaint investigator to address complaints of individuals with mental illness has been identified by the Disability Rights Center - NH as problematic, and they have asked how the State plans to ensure these individual's complaints are addressed. The State could be at risk for litigation if this position is not filled. The Office of Client and Legal Services only has 3 other employees, 2 of whom are attorneys, and there is no capacity to re-assign these critical functions. Additionally, this position will help ensure the State is in compliance with Federal quality assurance and complaint resolution expectations, and help avoid the Centers for Medicare and Medicaid Services finding the State deficient in these areas.

1. What services or constituency group will be affected if this position is not filled?

The Office of Client and Legal Services is created pursuant to RSA 171-A:19, to assist the Commissioner with ensuring the rights of individual's with mental health or developmental services are protected. Individuals with mental health will be particularly affected if this position is not filled, as this position will serve in part to investigate complaints of abuse, neglect, exploitation, or rights violations of individuals with mental health against community mental health centers. This position will also review and assign all complaints of abuse, neglect, exploitation, or rights violations on behalf of individuals with developmental disabilities. This position will also provide the Bureau of Developmental Services with assistance meeting the Federal expectations around rights protection for individual's with developmental disabilities, which the State has failed to meet in recent years.

2. Are the services/duties performed by this position required by law, rule, court order or some other mandate? If yes, explain.

RSA 171-A:19 requires an Office of Client and Legal Services to assist the Commissioner with ensuring the rights of individuals with mental health or developmental disabilities are protected. He-M 204 requires DHHS to have complaint investigators to address complaints of individual's with mental health against community mental health centers.

3. Did the position become vacant because of a promotion or personnel action within the organization, or did the incumbent move to another state position? Define

The position became vacant on 11/27/19 when the incumbent retired.

4. Can other personnel within the department cover the duties of this position? Explain in detail

No. The existing staff cannot satisfy all the requirements of this position. Two staff in the Office of Client and Legal Services are attorneys charged with providing legal support to two Bureaus within the Department. The third employee in this Office is currently at and sometimes above capacity in fulfilling full time obligations.

5. Can the duties be completed by a part-time position? Explain in detail

No. This position requires full time support to fulfill these critical functions.

6. If this position has been vacant for a period of time, explain how the work previously done by this position has been allocated to, or covered by others during this vacancy period.

The duties of this position have been covered primarily by the Director of the Office of Client and Legal Services. This has caused the delay in the completion of some of the duties of the Director, and of this position. Additionally, this has required the Director to have to work some overtime

7. Has this position been reclassified or established with the passage of the FY '20-21 budget or after?

No.

8. Do you anticipate filling this position with an internal candidate? Explain

No. This position was posted internally on 1/3/2020. No internal applications were received. The position was posted externally on 1/13/20. A candidate was identified for this position in March 13, 2020, and the Director of the Office was working with the Department of Personnel to request hiring at a Step 3. However, due to the hiring freeze as of March 16, 2020, this position has not yet been filled.

9. If you are hiring at a step beyond 1, please provide justification.

The identified candidate's most recent employment had a salary of \$ 55,000. Bringing this candidate in at a Step 3 would ensure that her most recent salary is being matched and not decreased. This position requires four years of experience working with individual's with developmental disabilities and/or mental illness, and the capacity for program planning, monitoring, and evaluation. The identified candidate has 17 years of experience that spans all aspects of the requirements of this position, with 8 years experience in quality assurance with the identified populations, and 9 years experience working directly with individuals with developmental disabilities and/or mental illness or supervising this work. The candidate is also skilled in resolving complaints on behalf of individuals with mental illness, which is a critical component of the work in this position. The candidate's organizational and quality assurance skills will also assist the State in meeting the Federal expectations around ensuring cases of abuse, neglect, and exploitation for individual's with developmental disabilities or mental illness are minimized


List of currently pending submitted waivers with the priority ranking (#1 = top ranking):

N/A

List of waivers previously granted:

N/A

Respectfully submitted,



Lori A. Weaver
Deputy Commissioner