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Pennsylvania Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

RE: Pennsylvania State Civil Service Commission
Proposed Regulation #61-6
Implementation of Act 69 of 2016 and Act 167 of 2016
IRRC Identification Number 3167

Dear Commissioners:

On April 22, the Pennsylvania State Civil Service Commission (SCSC) had published in the Pennsylvania Bulletin, proposed regulations for Act 69 of 2016 and Act 167 of 2016. The Pennsylvania Independent Regulatory Review Commission (IRRC) 30-day comment period on the proposed regulations is open from April 22 to May 22. Department of Corrections (DOC) has serious concerns regarding the impact the proposed regulations will have on us and are providing comments to the proposed regulations. Please note that SCSC did not contact us to solicit our input on these proposed regulations.

Last year, the General Assembly passed and Governor Wolf signed into law Acts 69 and 167 of 2016. These laws made very significant and important changes to the Pennsylvania Civil Service Act (the Act). In short, these statutory amendments were enacted to modernize how hiring is done through the SCSC and to improve service delivery. The changes would make it easier for candidates to apply for positions, create a larger pool of candidates from which agencies could choose, and give the agencies the ability to decide the method of examinations to be used in evaluating candidates for positions. Instead of implementing the law as written, SCSC has decided to issue proposed regulations which will undermine the intended purpose of the laws and give SCSC the ability to thwart the implementation of them.

Approximately 82.50% of DOC's positions are covered by the SCSC. Therefore, we have a very significant and personal stake in having the laws implemented as written and intended. We are providing the below specific examples of how the legislative changes will allow DOC to improve services and how the proposed regulations will negatively impact our service delivery.

Section 95.1. Application requirements.

Act 167 amended Section 212 (d) of the Act was amended to provide: "The commission shall enter into an agreement to utilize the form and method of an employment application that is standard across departments and agencies that are under the Governor's jurisdiction for the purpose of entrance to, or promotion in, the classified service." 71 P.S. §741.212(d).

This change to the law was made to make it easier for people to apply for state jobs by having a single site for both non-Civil Service and Civil Service positions. For Civil Service positions at DOC, this change would be beneficial as it would lessen the confusion of candidates regarding which website to visit to apply and providing potential job opportunities, both non-Civil Service and Civil Service, on that same website.

Section 95.20. Authority to Select Method of Examination.

Act 167 amended Section 502 of the Act to allow the appointing authority (the agency), and not SCSC, to determine the method of the “examinations.” SCSC currently uses written tests or experience and training (“E&T”) to evaluate candidates for positions. However, DOC is in a better position to know how candidates can best be evaluated for our specific positions. For example, Corrections Officers 3 and 4, Corrections Counselors 1 and 2, and Drug & Alcohol Treatment Specialists 1 and 2.

In addition, with written tests, candidates must take time off work and drive to one of the six SCSC test sites for written exams. It is particularly cumbersome for Corrections Officers to schedule to take the written examinations for Corrections Officers 3 and 4 as the security and efficient operations of the facilities must be maintained regardless of the testing schedules.

Section 97.11. Appointment Process – Use of Alternative to Rule-of-Three.

Act 69 amended Section 601 to allow expansion of hiring eligible lists other than the standard “Rule-of-Three.” With the standard Rule-of-Three, DOC had difficulty filling certain positions. Most prevalent are Corrections Officer Trainee candidates as multiple candidates (sometimes as many as 50-60) are hired from a single list. If an unacceptable veteran or veterans are blocking the list, it forces the facility to select the veteran(s) even though there more acceptable candidates below them on the list.

In addition, the regulations have onerous requirements that were not in the Act 69 amendment to Section 601.

First, the regulation requires specification of the job classification or classification series to which the alternative rule will apply. This language ignores the concept of “vacancy-based” hiring. Act 69 amended Section 602 of the Act to permit vacancy-based postings. This regulatory requirement would preclude DOC from seeking an alternative to the Rule-of-Three for vacancy-based postings. For DOC, the regulations pose a significant potentially negative impact. The DOC hires an average 830 Corrections Officer Trainees each year. The ability to utilize an alternative to the Rule-of-Three would positively impact the efficiency of hiring for the DOC’s largest annual employment group.

Second, the regulation forces us to keep the alternative to the Rule-of-Three in place for at least 12 months. This will dissuade DOC from using an alternative to the Rule-of Three especially regarding Records Specialist, Corrections Records Specialist, Human Resource Analysts, and Human Resource Assistants. There will be uncertainty as to how effective the alternative Rule is for these positions until it is implemented. In the event the alternative Rule is not effective, the regulation would have DOC stuck using the alternative Rule for at least one year. Therefore, DOC will be forced to continue using the Rule-of-Three for most or all positions instead of taking a chance on how the alternative Rule may work out for filling positions.

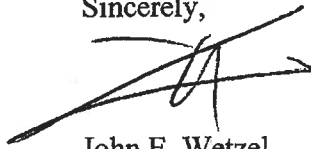
Section 98.1 and 98.2. Vacancy-Based Hiring.

Act 69 was intended to allow agencies to fill vacant positions as they occur through "vacancy-based" job postings. This is how jobs are posted in the private sector and how DOC wants to post most of its job openings. We specifically want to use vacancy-based postings for Licensed Psychologist Manager, Corrections; Licensed Psychologist; Corrections Librarian; Corrections Barber Instructor and Manager; and Corrections Cosmetology Instructor.

In addition, DOC believes that we, and not SCSC, are in a better position to know which jobs should be done through vacancy-based posting. For example, with non-Civil Service positions such as Corrections Community Center Monitor, Corrections Utility Plant Operator, Corrections Utilities Supervisor, Corrections Water Treatment Plant Foreman, and Corrections Wastewater Treatment Plant Foreman. Similarly, we want to use vacancy-based postings for Civil Service positions but believe the regulation is an impediment to do so.

DOC appreciates the Commission's review of our comments to the proposed regulations and your consideration of the many negative effects of the proposed regulations on this agency if they are adopted as written. Please contact me if you need any additional information on the matters addressed in this letter.

Sincerely,

A handwritten signature in black ink, appearing to read 'John E. Wetzel', with a long horizontal stroke extending to the right.

John E. Wetzel
Secretary of Corrections