



Aug 19, 2015

Board of Directors
South Carolina Commission for Minority Affairs
2221 Devine Street
Suite 408
Columbia, SC 29205

Dear Chair **Ms. Tia-Brewer-Footman** & CMA Commissioners,

The **Native American Indian Advisory Committee** is officially requesting that you consider completing a **Human Resource Job Performance** evaluation on Executive Director, *Mr. Thomas Smith* and Native American Coordinator, *Mrs. Marcy Hayden* pursuant to regulations of the South Carolina Office of Human Resources. It is my request that the Board of Directors of the Commission for Minority Affairs, which are Governor Appointees, completes this review and evaluates the competence and ability of these employees. As Chair *Designee* of the Native American Advisory Committee, I have been asked to request this, under the advisement from Mr. Kevin Paul and Mr. Samuel Wilkins of the South Carolina Office of Human Resources. We, the Native American Advisory Committee feel that recent events and in lieu of the **Office of Inspector General's (OIG)** recent Assessment of the CMA, this is necessary. Furthermore, this is standard operations for the Employee Person Management System for South Carolina State Employees, in which each agency administers their own evaluations, for each employee. So I am not asking anything that is not in line with state regulations and policy.

As you know, the Commission for Minority Affairs has a nine-member Board of Commissioners who provides oversight and assists with determining the vision, direction, and priorities of the agency. Presently, there are four newly seated Board members. There appears to be many things that are of concern to myself, as a citizen of South Carolina and as the *Chair Designee* of the **Native American Advisory Committee**, with regard to this Agency "The Commission for Minority Affairs" (CMA), where the Executive Director, Mr. Thomas Smith, did not have a Board Meeting for more than two and one-half years and therefore **has never had a Job Performance Review or Evaluation** completed by the Board of Directors while in the position of Executive Director. There are also many other concerns with regard to his management of this State agency, as an ineffective manager, in which the Board of Directors directly oversees this agency and the job performance of

its executive. I presented my concerns about this last year to Mr. Samuel Wilkins , Director of the SC Office of Human Resources and was advised to request this “Job Performance Review and Evaluation” of Mr. Smith from you. He informed me that he had no records of the HR reviews and evaluations of CMA and that each State agency maintained their own “Job performance evaluations and reviews.” Since this state agency directly influences and affect the Natives of this state, the Advisory Committee felt the need to request compliance with the standard HR policy for the CMA.

Members of the Native American Indian Advisory Committee, deem this is important for ALL the Natives of the State of South Carolina. As stated in the recent Bill H 3746, dated 6 June 2013:

Whereas, in order to properly serve the Native American and other minority interests in this State, the Commission for Minority Affairs needs and deserves the ability to meet, carry out its statutory duties, and conduct business on behalf of Native Americans and other minorities in this State, whether or not a quorum of the total membership of the Commission’s board has been appointed or continues to serve in office;

Whereas, in order to clarify that it is the intent of the General Assembly that the Commission for Minority Affairs meet, carry out its statutory duties, and conduct business as provided in Chapter 31 of Title 1, notwithstanding any contrary opinion of law and whether or not a quorum of the total membership of the Commission’s board has been appointed or continues to serve in office. Now, therefore, That the Commission for Minority Affairs meet, carry out its statutory duties, and conduct business on behalf of Native Americans and other minorities as provided in Chapter 31, Title 1, notwithstanding any contrary opinion of law and whether or not a quorum of the total membership of the Commission’s board has been appointed or continues to serve in office,

In addition:

Title 8 - Public Officers and Employees, CHAPTER 11, State Officers and Employees, ARTICLE 1 of the General Provisions, states in SECTION 8-11-10. Repealed by 2007, Act No. 73, Section 1, eff June 13, 2007SECTION 8-11-160. Agency Head Salary Commission; salary increases for agency heads, and requires:

All boards and commissions are required to submit justification of an agency head's performance and salary recommendations to the Agency Head Salary Commission..... Salary increases for agency heads must be based on recommendations by each agency board or commission to the Agency Head Salary Commission and their recommendations to the General Assembly.

In the best interests of the members the Native American Advisory Committee or the best interests of the state agency in which he now serves. We are extremely disappointed in the work and leadership of Mr. Smith. The Native American Indian Advisory Committee, from the first, was very supportive of Mr. Smith and his authority as director of CMA. Our Native leaders met with him individually to lend our support for his promotion as Executive Director at CMA. We encouraged Mr. Smith to keep integrity and not try and pander to superficial issues in the Native communities. We encouraged Mr. Smith to address the identified issues, listen to all the leaders of the advisory committee (not just a few), and use the mission of CMA and guide the leadership for effective resolutions and present opportunities for the native leadership to establish connections to needed state resources. At this point, over 70% of the Native leaders are not satisfied with the

work of CMA with the Native People of SC. In the last year, we (Native American Indian Advisory Committee) have not met at all. Although, recently there has been more response from CMA to our inquiries, I believe it is because of the recent change of Board members and the closer scrutiny from the Governor's office and the State Office of the Inspector General. Even now, most information is minimal and there is no free flow of information or transparency.

Unfortunately, Mr. Smith has allowed the staff of CMA to be rude on a number of occasions, condescending and belittling towards the Native people. We have been either treated as children or criminals, taking any disagreement of opinions as a threat. SLED has sat in many of our meetings needlessly and followed Natives leaders out-of-doors to oversee private discussions with the South Carolina State Archeologist. Many times, the director has spoken negatively about Native people and promoted the stereotype of being undisciplined and aggressive. This is why, all confidence in CMA in meetings or acknowledging Native issues and concerns has been critically damaged. Mr. Smith denies all accountability for the failure of CMA and its relationship with the Native American communities and entities of SC. He states that he inherited the problems that exist in the CMA office. But in his tenure, he has NOT made any effective changes to make the situation better. In fact, CMA has become less effective and less transparent in its operations.

If you saw the **OIG Report** on the Agency, there is a desperate need across the board with regard to the Agency and what it needs to do to meet it's goals. This investigation was unbiased and was representative of the entire agency and not focused on Native people. The **OIG** report made it very clear that there needs to be evaluations, training and other necessary things to get this agency meeting its goals and mission. I would think that it is Mr. Smith's duty, responsibility and obligation as executive director to uphold the best practices established by CMA and its board. Consequently, the current Board of Directors needs to make their expectations for the Executive Director articulated within the context of a "job Performance evaluation and review." Furthermore, it is regular practice/standards for all state agencies to administer *Job Performance Evaluations* on an annual basis for the state employees and it helps with the management and functioning of any organization/ corporation/ agency. An evaluation could provide all with a better understanding of what the expectations are for the *Executive Director* and *Native American Indian Coordinator* positions and what is supposed to be required of any employee and employer for that matter. It also has the potential of awarding the good employees with raise, compensation, commendations and other forms of appreciation. Seemingly, as per the IGA Report, there are also issues related directly to an employee's performance that periodically need to be addressed. We, **Native American Indian Tribal Leaders and Advisory Committee members**, support these types of "checks and balances" to be done within the CMA? This standard procedure should have been and on-going annual thing at CMA. I realize that the CMA Board of Directors have recently changed with new Governor Appointees and that prior to that there were challenges in having a complete Board, which prohibited the Board completing an *Job Performance Evaluation* for the Executive Director. **Actually, Mr. Smith has NEVER had a performance evaluation in his current position as Executive Director.**

We have brought many issues of misinformation and misconduct of Ms. Hayden to the attention of Mr. Smith seeking some type of resolution, acknowledgement or apology. Never has Mr. Smith addressed these issues with us, nor has there ever been an apology or correction. In addition, Mr. Smith often has seemingly had difficulty in leading/delegating/directing his staff with regard to the Native American communities. On many occasions, it seemed that the staff made important decisions and that Mr. Smith was told what to say and

think. An example of this is provided recently on the occasion of a recognition review for a native entity. Mr. Smith was actually told how to vote on a review of a particular petition which was extremely unethical and inappropriate **(this was evident and is validated on the official recording of the proceedings, held in the CMA offices).**

Mrs. Hayden, as Native American Coordinator, needs good direction to accomplish anything and these directives must come from Mr. Smith, (and not from Advisory Committee Members) , since he is her direct boss and supervisor. She therefore, also needs to be evaluated. Ms. Hayden has been largely instrumental in the breakdown of communication between Native leaders and CMA. Ms. Hayden has used that office to promote her own personal agendas and damaged most if not all relationships with the native communities and other state agencies. Ms. Hayden has deliberately caused rifts within communities, performed tasks outside her authority and miscommunicated her authority within CMA. All her attempted efforts to help the Native people of South Carolina have been unsuccessful due to poor planning, poor promotion and she doesn't use the advice of native leaders in navigating native issues and concerns. Over 75% of the Native leadership that serves on the Native American Indian Advisory Committee feel that Mrs. Hayden has NOT done her job and many feel that she is unequipped to serve in that position. A few years ago, the Native American Advisory Committee was informed that the CMA Board had asked Mr. Smith to terminate her tenure in that position and that he has never complied with the CMA Board's request. I encourage you, our new CMA Board members, to look into those previous meetings and the recorded minutes of those meeting to assess what actually transpired in those proceedings. Ms. Marcy Hayden needs to be replaced as Native American Coordinator for CMA.

The Native American Advisory Committee realizes that the CMA staff and employees have to be directed and follow the direction of the Executive Director and that much of the responsibility for the agency falls onto that position. We also realize that Mr. Smith's position is not an easy task, in dealing with the vast personalities and nuances of the diverse ethnic communities within South Carolina. Therefore it is even more imperative that Mr. Smith have a *"Job Performance evaluation and review,"* first. **It is also very importantly for you to understand that Mr. Smith has never had his annual required Job Performance evaluation since there has not been an operating Board of Directors or quorum since he became Executive Director.** Job Performance Evaluations provide employees with an opportunity to adjust and improve their work from each review to the next review, or their prior and their previous annual reviews. First and foremost, supervisors and managers must clearly communicate expectations, including the criteria by which an employee will be evaluated. This is what is continually lacking in the CMA office. No Advisory Committee member knows what the Coordinator is supposed to be accomplishing for and/or with the Native Tribal entities and there has been lack of Direction from Mr. Smith to satisfy the goals of the agency and the tribal communities or initiatives. The State of SC has regulations that included specifics on "PERFORMANCE REVIEW DATE" the first day which marks the beginning of a new performance reviews period. Why is NOT CMA doing these regularly? Mr. Smith should be meeting with all the employees of CMA to discuss the job duties, performance characteristics, objectives and success criteria for EACH rating period and annually for each agency. In compliance with the SC Human Resource Department Policy, I understand that *"If an employee does not receive an appraisal prior to the performance review date, the employee will receive a 'successful' rating by default."* Consequently, Mr. Smith and Ms. Hayden have received a **"successful"** rating **by default**, in these years since 2010. Furthermore, all performance appraisals will become part of the employee's official personnel file.

After speaking with stakeholders, all the representatives of the Native American Advisory Committee, I have a majority of those tribal entities that feel we identified specific issues that we would ask you to address regarding both Mr. Smith and Mrs. Hayden. I have provided a chart detailing the responses from the Native American Indian Leadership that serve on the Advisory Committee for the CMA. Clearly, a majority of the NA Committee Members agreed to “request” that CMA Board perform a *Job Performance evaluation/review* for Mr. Smith and Mrs. Hayden and that the Board considers replacing Mrs. Hayden as the Native American Coordinator.

The Executive Director and Coordinator positions are expected to work efficiently and effectively and to be mindful of the public’s expectations of the Commission for Minority Affairs. If necessary, an employee should be dismissed due to the frequency or nature of his or her misconduct or inappropriate workplace behavior. An employee who has been given the opportunity to improve deficiencies in conduct or inappropriate workplace behavior in accordance with CMA’s goal and mission and whose misconduct or inappropriate behavior continues should be dismissed. Serious offenses should be cause for immediate dismissal without prior opportunity to improve. As stated before, it is my impression that the previous Board of Director’s for CMA, asked that this process begin for Mrs. Hayden and that the Executive Director never completed with the requested termination of Ms. Hayden, as requested by the Board of Directors of CMA. Certainly this information, specific times and votes of your predecessors, should be available to you all, in the minutes of the previously help Executive Committee Board Meetings.

There needs to be new leadership and a new Native American coordinator in order to restore integrity and trust in CMA office.

I look forward to your responses to this request, and also working with the CMA to better meet the interests of our Natives American Indian citizens of South Carolina and the *State Recognized Tribal entities* that CMA are mandated to serve, and the Native American Indian leaders that serve on your Advisory Committee. **I would hope the Board of Commissioners would understand that performance evaluation would go to validate that the office of CMA is accountable and those employees are answerable for their conduct and actions.**

Thank You again for any assistance you can give to bring clarity to these issues and requests. We look forward to your response to our inquiries. If you have any questions, please feel free to contact me.

Respectfully I remain,



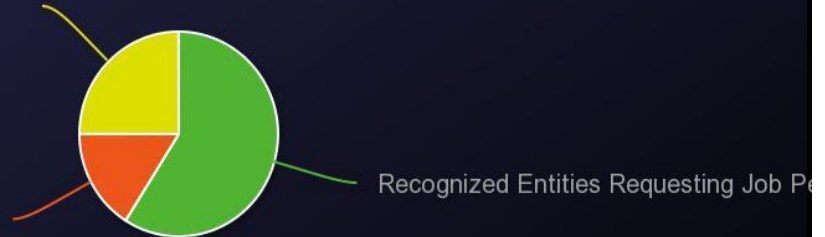
Dr. Will Moreau Goins, Chair *as the designee appointed by the Executive Director*
Native American Advisory Committee
Eastern Cherokee, Southern Iroquois & United Tribes of SC, Inc. (*State Recognized*)
<http://cherokeeofsouthcarolina.com/>

NATIVE AMERICAN INDIAN ADVISORY COMMITTEE REQUEST OF HUMAN RESOURCE JOB PERFORMANCE EVALUATION FOR THE CMA EXECUTIVE DIRECTOR & NATIVE AMERICAN INDIAN COORDINATOR

Survey Results from the Chair (designee) of the Native American Indian Advisory Committee

Known, via written letter-Not Included in this survey : 25 %

Requesting a Human Resource Job Performance evaluation : 16 %



- Recognized Entities Requesting Job Performance Review/Evaluations
- State Recognized Entities NOT requesting a Human Resource Job Performance evaluation
- Entities that have made their perspective known, via written letter-Not Included in this survey

meta-chart.com

Tribal entities who WERE surveyed & included in survey results

Chief, Bill Harris-Catawba Indian Nation

Will Moreau Goins, Ph.D., CEO-Eastern Cherokee, Southern Iroquois & United Tribes of SC

Ms. Lisa M. Leach Collins- Wassamasaw Tribe of Varnertown Indians

Vice Chief, Peggy Scott-Santee Indian Organization

Chief, Carolyn Chavis Bolton- Pee Dee Nation of Upper

Chief, Louie Chavis -Beaver Creek Indians

Mingo, Vernon Tanner-Chaloklowa Chickasaw Indian People

Chief, Andy Spell-Edisto Natchez Kusso Tribe of SC

Chief, Elizabeth Skyve Vereen-Pee Dee Indian Tribe of Beaver Creek

Chief, Ralph Oxendine- Sumter Tribe of Cheraw Indians

Tribal entities who were NOT included in Survey Results- Previously sent letter expressing their opinions and perspectives regarding the State Office of Inspector General Report on CMA

Chief Harold (Buster) Hatcher-The Waccamaw Indian People

Chief Gene Norris -Piedmont American Indian Association/ LEastern Cherokee Nation

Chief Pete Parr- SC Pee Dee Indian Tribe of SC