



REQUEST FOR BOARD ACTION

ITEM NO. 14

DATE OF MEETING: April 2, 2012

REQUESTED BY: F. D. Rivenbark, Commissioner

SHORT TITLE: Resolution Authorizing Rotary Exchange Program as Employee Training

BACKGROUND: A DSS Social Worker was selected from a regional pool of applicants to join a team of other professionals from across the U.S. to participate in an exchange of Social Work Practice with professionals from Argentina and other countries world-wide. The focus of this training is "children's health issues." Professionals attending this training will observe child health & welfare practices at the Health Department in Buenos Aires, Argentina; will observe and exchange information and ideas at the Children's Hospital, Military Center Hospital, Southern Hospital, the Optometrist Facility, Garrahan Children's Hospital, Mother's and Children's Hospital, Alvarez Hospital; and will hold discussions with the Legislature, the Governor, and Representatives from the Leloir Institute, which specializes in biotechnology and related health professions. Additionally, the professionals will spend time at the National Congressional Library to hold discussions and make comparisons of Social Work practice in the various countries.

SPECIFIC ACTION REQUESTED: To consider a resolution to approve the study exchange program as on the job training and grant the training and experience without requiring Social Worker to use personal leave. The training and trip are **free of costs to Pender County.**

COUNTY MANAGER'S RECOMMENDATION

Manager would like to defer final approval to the Board and makes no recommendation.

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

a resolution is approved for the study exchange program as on the job training and grant the training and experience without requiring Social Worker to use personal leave.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS

YEA VOTES: Brown ___ Tate ___ Rivenbark ___ Ward ___ Williams ___

George R. Brown, Chairman 4/2/2012
Date

ATTEST 4/2/2012
Date

Amber M. Parker

From: Juffras, Diane M <juffras@sog.unc.edu>
Sent: Tuesday, March 06, 2012 12:57 PM
To: amparker@pendercountync.gov
Subject: leave questions

Amber,

There is a somewhat difficult legal question. In my opinion, the bottom line is that if the county is asking her (through a commissioner or through the authority of her boss, the DSS director) to attend a program and her attendance will be of benefit to the county, she should be paid during the time she participating in the program. It sounds as though the social worker was encouraged or even requested to apply for this program, in which case, it is job-related and ought to be covered. If the social worker had come to the DSS director and had been the one to tell the director about the program and ask for time off, then I think the question of whether or not she should be paid would be up to the county's discretion.

I say this is a somewhat difficult question because it involves the often-complicated relationship between the BoCC, the DSS board and the DSS director. The problem is that here, a commissioner asked the director to have some employees apply. An individual commissioner never speaks on behalf of the entire board and the director should have known that it was not a request from the board (unless the board told the commissioner to speak with the director about this). If it were the request of the entire board, then I think it would be reasonable for the director and employee to assume that the board considered it to be a job-related and paid trip.

From the social worker's perspective, it is probably reasonable for her to assume that a request from the director to apply and attend this program meant that it would be a month during which she was attending a work-sponsored and paid training. The legal question becomes a complex one of "apparent authority" – was it reasonable for the social worker to assume that the director had the authority to send her on a program during which she would be paid as if she were in the office? This is a question about which I would have to consult with my colleagues and will, if you so request.

If the county will not keep her on the payroll during the program, then she must be given the option of not attending – without any pressure from anyone to do so at her own financial sacrifice. Because to do otherwise, would be to ask her to something that benefits the county without paying her for her time – in which case, she must be paid!

Diane

Diane M. Juffras
Associate Professor of Public Law and Government
School of Government
UNC-Chapel Hill
(919) 843-4926
juffras@sog.unc.edu
www.sog.unc.edu

From: Amber M. Parker [<mailto:amparker@pendercountync.gov>]
Sent: Tuesday, March 06, 2012 11:10 AM
To: Juffras, Diane M
Subject: leave questions

Hi Diane,

We have an employee who applied for a program (a social work exchange program through Rotary) and the employee will be going to Argentina for a month and Rotary is paying the costs of the travel. The DSS Director is requesting that this employee be paid as time worked for on the job training. Our previous county manager, Rick Benton, denied her request as time worked but agreed to allow the employee leave without pay. The DSS Director recently made the request to the Board of Commissioners and they forwarded the request to our new manager, Mickey Duvall. Mickey stated he worked with you a lot in the past and he requested I ask for your opinion on this subject. Do you feel this type of a program can be considered on the job training where the employee is paid as time worked? Our current policy does not address this type of a situation and our commissioners seem worried to go down a slippery slope.

I included two of the DSS Director's emails below for more detail on the program and her request to justify this as on the job training.

Thank you for any advice you can spare,

Amber Parker

In less than one month, our Social Worker will be off to Argentina to participate in an exchange of Social Work practice with other professionals from across the United States and beyond.. I feel this is a great honor, especially for Pender County because from among a large pool of applicants, our Social Worker was selected.. She speaks fluent Spanish although she is not Hispanic nor Latino.. This speaks volumes for her skills in communicating, not only with Pender County Hispanics, but with other individuals from across the continent.

>From a professional perspective, the Social Worker will be on the job for the month that she serves on the Rotary exploratory team researching Child Health and Welfare Issues. She will bring back a wealth of information to be shared with Pender County. She will report back to the Southeastern Region and will provide a report to the Board of Commissioners as well as share what she learns with Social Services and with the Health and Mental Health Departments. If she were receiving similar training in Chapel Hill or some other location in the U.S. **FREE OF COSTS TO PENDER COUNTY**, I don't believe there would be any question about the days she is away from the agency being considered as training. I don't see any difference in this situation. As a matter of fact, the training and experience will be extraordinary and should be welcomed in a world where "diversity" is the norm.

So I am asking you, once again, if you and the Board of County Commissioners will consider this experience as **training** for Pender County DSS and Health/Mental Health, and not require the Social Worker to use her vacation leave during this experience. It will not be a vacation for her. She will be working hard everyday, and will be working longer hours every day than she would be working if she were on the job in Pender County. The BOCC only meets once in March. Her trip is in April. I first made this request in January, but to date have not been given a definitive answer. Will you please make this request of the Chairman and Board at the March 12th meeting if you have not already done so?

Amber,

Approx. one month ago, Commissioner F.D. Rivenbark asked if I would have one or several staff apply for a trip to Argentina through the Rotary organization. The purpose of the trip is to study Child Health Issues and (I suppose) exchange ideas from America's perspective. One of the DSS Child Protective Services Social Workers was accepted (an esteemed honor). The Study/training is for one month (April 2012).

I am very supportive of this concept and will ensure that the Social Worker's cases are covered while she is away (even if the Supervisor and I have to cover them ourselves). My question is: How will the leave be handled in this situation? May we apply for educational leave? The expenses of the trip will be paid by Rotary.

Another question is can the Social Worker be considered as being in a status of **on the job training** since she will be working to bring back knowledge and ideas to help improve our service delivery to Pender County children? Or is there another category that can be considered so that the Social Worker continues to receive her paycheck?

Please let me know what you feel is the best way to handle this request. I know we will need the Manager's permission on whatever is decided, so I am making the request while Mr. Benton is still our Manager, rather than wait several months.

Amber M. Parker, *MPA, MA, SPHR*
Human Resources Director
Pender County Government
805 S. Walker St.
Burgaw, NC 28425
910-259-0900 (office)
910-789-0266 (mobile)
amparker@pendercountync.gov

Notice: Email correspondence to and from this address may be requested, released, and viewed as public information (G.S. 121 and G.S. 132).