

Shakman Decree Unlawful Political Discrimination



Cook County
Training Presentation
Offices of the Cook County Board President

Shakman Decree

- The Shakman Decree entered into by Cook County prohibits the conditioning, basing, or knowingly prejudicing or affecting any aspect of employment of any person as a Governmental Employee (other than Exempt Positions), upon or because of any political reason or factor including, without limitation, any Employee's political affiliation, political support or activity, political financial contributions, promises of such political support, activity or financial contributions or such Employee's political sponsorship or recommendation is prohibited.
- The Shakman Decree prohibits all County employees from knowingly inducing, aiding, abetting, participating in, cooperating with the commission of, or threatening to condition, base or knowingly prejudice or affect the employment of any County employee or applicant based upon political factors.
- The principles underlying the Shakman Decree are based on the First Amendment's Constitutional Right to Free Speech.
- In conclusion, the Shakman Decree strictly prohibits political based hiring, firing, promotions, and other job actions for positions where political considerations are not appropriate.

Cook County Human Resource Ordinance Personnel Policies

- On November 29, 2006, the Cook County Board enacted Ordinance 06-O-52 amending Chapter 44, Article II of the County's Personnel Policies to prohibit political discrimination in all aspects of Cook County employment, including hiring, promotion, discharge, award of overtime and transfer of employees in non-exempt positions under the Office of the President.
- The Ordinance applies to all non-exempt positions under the Office of the President and prohibits all exempt and non-exempt employees from directly or indirectly influencing any aspect of employment, on the basis of political considerations whether based on political affiliation, political campaign contributions and/or political support.
- The Ordinance further states that it is the duty of every County employee who learns of any unlawful political discrimination in any aspect of government employment with the County, or who believes that such unlawful political discrimination has occurred or is occurring is to report this information to the Cook County Inspector General. Violations of this Ordinance may result in discipline up to and including discharge.

What does the Shakman Decree and County Ordinance mean?

- Employees and job applicants have a right to be free from political discrimination in public employment.
- Political factors must not be considered in Shakman covered positions.
- Shakman Decree violations may constitute contempt of court and may result in criminal prosecution and may be punishable by fine or imprisonment and subject the County and possibly yourself to liability or disciplinary action.
- In addition to the Shakman Decree, County Ordinances prohibit unlawful political discrimination and prohibits the consideration of political factors in the hiring, discharge, promotion of applicants and employees. Violations of the County Ordinance may subject you to discipline up to and including discharge.
- It is the duty of all employees to report allegations of such violations to the Cook County Inspector General. Complaints can be made to the Inspector General through the Cook County Inspector General Complaint Hotline at 312-603-0745 or by facsimile to the Cook County Inspector General at 312-603-9744.

Appointment of Shakman Compliance Administrator and Compliance Administrator Duties

- Judge Wayne R. Andersen, an Illinois Northern District Federal Court Judge, appointed retired Cook County Circuit Court Judge, Julia Nowicki to serve as the County's Compliance Administrator to ensure the County's future compliance with the Shakman Decree.
- The Compliance Administrator ("CA") has been authorized to study the existing employment practices, review the County's hiring practices including observing actual hiring sequences, answer questions and provide guidance to employees as requested, assist the County in establishing a train the trainer program, assist in defining appropriate hiring practices and assist the County in undertaking a feasibility analysis for an application tracking system. The CA may be contacted at 312-386-1532.
- Although the CA's task is forward looking, the CA has the authority to adjudicate past claims of unlawful political discrimination. Any claims of unlawful political discrimination arising after February 2, 2007 should be forwarded to the Cook County Inspector General. Complaints can be made to the Inspector General through the Cook County Inspector General Complaint Hotline at 312-603-0745 or by facsimile to the Cook County Inspector General at 312-603-9744.

HIRING AND INTERVIEW PROCESS

- When participating in the hiring and interview process, political factors must not be considered for Shakman covered positions.
- An employee's or applicant's political affiliation, political support or activity, political financial contributions, promises of such political support, activity or financial contributions or such employee's or applicant's political sponsorship or recommendation shall not be considered during the hiring or interview process.
- All employees involved in the hiring process, including but not limited to employees screening applications, employees creating eligibility lists, employees performing interviews and employees executing the decisions and justification to hire will be required to execute the Cook County Shakman Certification Form for County Personnel. Execution of this Form certifies that political considerations did not enter the hiring process or employment actions.
- All persons interviewed for Shakman covered positions will be required to execute the Cook County Shakman Certification for Applicants/Candidates indicating that political considerations were not a part of their application process.
- Questions regarding the required Shakman Certification should be directed to the Chief of the Bureau of Human Resources at 312-603-6105, the Compliance Administrator, Julia Nowicki at 312-386-1532 or Assistant State's Attorney, Patrick Blanchard at 312-603-5440.

Shakman Certification

With respect to all County jobs that are not exempt from the Shakman decrees, all County employees are strictly prohibited from directly or indirectly:

1. Conditioning, basing, or knowingly prejudicing or affecting any term or aspect of County employment of an existing County employee, upon or because of any political reason or factor;
2. Affecting the hiring of any individual as a County employee because of any political reason or factor;
3. Knowingly inducing, aiding, abetting, participating in, cooperating with or encouraging the commission of any act which is proscribed by the Shakman decrees.

Political considerations may not enter, in any manner whatsoever, into personnel decisions for nonexempt covered positions in the County of Cook.

Employees will be expected to certify that they are aware of and are in full compliance with the above-stated prohibitions regarding personnel decisions by the County. The certifications, executed under penalty of perjury, as provided for by law, indicate that to the best of the employee's knowledge, political reasons or factors did not enter into any County employment actions taken with respect to the Applicant/Employee. The certification further notes that an employee's failure to comply with the above prohibitions and/or failure to submit an accurate Shakman Certification form may result in sanctions, including disciplinary action up to and including discharge and may subject the employee to prosecution for perjury.



Cook County Shakman Certification For Applicants/Candidates

On October 28, 1969, a lawsuit entitled *Michael Shakman, et al. v. Democratic Organization of Cook County, et al.*, No. 69 C 2145 (N.D. Ill.) was filed seeking the court to prohibit Cook County and the Board of Commissioners of Cook County ("County Board"), among other defendants, from conditioning, basing or affecting any term or aspect of governmental employment upon or because of any political reason or factor.

On May 5, 1972 and January 7, 1994, before the United States District Court for the Northern District of Illinois, the County and County Board voluntarily entered into Consent Judgments, prohibiting the conditioning, basing or affecting any term or aspect of governmental employment upon or because of any political reason or factor. Those Judgments provided that the Court retained jurisdiction with respect to, among other matters, issues of political hiring and the designation of a number of positions which should be exempt from the prohibitions established under the Consent Judgments.

The position for which you are applying or are a candidate for employment is subject to the prohibitions established under the Consent Judgments, thus political considerations, factors or reasons may not enter, in any manner whatsoever, into the employment process or into personnel decisions.

Please execute the below certification in acknowledgement that you understand the above and certify under penalty of perjury, as provided for by law that, to the best of your knowledge, political reasons or factors did not enter into any County employment actions taken with respect to your application.

I am aware that with respect to all County jobs under the jurisdiction of the President that are not exempt under Shakman that the County and its employees are strictly prohibited from directly or indirectly conditioning, basing or knowingly prejudicing or affecting any term or aspect of County employment or potential hiring upon or because of any political reason or factor or knowingly inducing, aiding, abetting, participating in, cooperating with or threatening any act which is proscribed above.

I certify, under penalty of perjury, as provided for by law that, I am aware that political considerations may not enter, in any manner whatsoever, into personnel decisions for Shakman covered positions with the County and that I have not engaged in any of the above-stated prohibitions.

I understand that failure to comply with the above prohibitions and/or failure to submit an accurate Shakman Certification form may result in sanctions and may subject me to criminal prosecution.

Print Name

JobTitle/Department

Signature

Date

Conclusion

- The Shakman Decree and County Ordinances strictly prohibit political based hiring, firing, promotions, and other job actions for positions where political considerations are not appropriate.
- Political based hiring or promotions in Shakman covered positions can not and will not be tolerated at the County.
- The Cook County Human Resources Department shall take all necessary steps to ensure that the County is in compliance with the Shakman Decree and County Ordinances.