

# New Hampshire Commission for Human Rights

## COMMISSIONERS

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**INVESTIGATORS**  
KATRINA E. TAYLOR  
NICOLE LEMELIN  
DANIEL DEYERMOND  
KELLY MEDEROS  
JOYCE J. SAMUEL

**INTAKE COORDINATOR**  
ERICA ROSIGNOL

**SECRETARY**  
LARA PHILLIPS-RAMOVIC

## NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

December 1, 2022, at 5:00 PM

### MINUTES

**ATTENDANCE:** Commissioners present: Christian Kim (chair), Douglas Palardy, Harvey Keye, Nancy LeRoy, Basra Mohamed, Elizabeth Asch and Adrienne Evans

Commission Staff: Executive Director, Ahni Malachi  
Assistant Director Sarah Burke Cohen  
Intake Coordinator as Secretary Erica Rosignol  
Assistant Attorney General Sean Locke

Commissioner Kim called the meeting to order at 5:16 PM.

#### 1. PUBLIC COMMENT

Commissioner Kim asked if anyone from the public was present and wished to make public comment. There was no one present.

#### 2. APPROVAL OF OCTOBER MEETING MINUTES

At the last meeting the Commissioners entered non-public session to discuss personnel matters. Upon returning from that session, the Commissioners were remiss and did not vote to seal those meeting minutes. Therefore, Commissioner LeRoy moved and Commissioner Asch seconded relative to the non-public session that occurred during the October 6, 2022 meeting that pursuant to RSA 91-A:3,III to “withhold minutes of the non-public session until such time as the majority of the Commissioners are of the opinion that it was no longer likely that the divulgence of the information in the minutes would affect adversely the reputation of any person not a member of the agency, or render the proposed action ineffective.” Upon a roll call vote, all were in favor: Commissioner Kim - yea; Commissioner Palardy – Abstained; Commissioner Keye –

yea; Commissioner LeRoy — yea; Commissioner Mohamed - yea; Commissioner Asch; and Commissioner Evans - yea. The motion carried.

Commissioner LeRoy moved, and Commissioner Asch seconded a motion to approve the minutes as amended.

### **3. GACDI UPDATE**

Executive Director Malachi discussed the ongoing work of the Governor’s Council on Diversity and Inclusion (“GACDI”). She confirmed that the toolkit is finished, and that the council’s draft is complete and submitted for final review for the Attorney General’s and Governor’s offices. At the next meeting, GACDI will discuss any minor changes sent back by those offices. Executive Director Malachi described that the toolkit is a living document that can be added and changed. She is also anticipating larger discussion surrounding marketing and distribution soon. Executive Director Malachi also, discussed that GACDI will be seeking a sponsor to submit legislation in the upcoming cycle to have a portrait of Rogers Johnson, the late president of the Portsmouth NAACP and Chair of GADCI, in the state house in honor of his life and accomplishments. There are also plans for a monument marker in his honor on the Black Heritage Trail on the Seacoast, with fundraising effort updates to follow.

### **4. OFFICE UPDATES**

Executive Director Malachi introduced the new Intake Coordinator, Erica Rosignol to the Commission. She is taking the minutes for this meeting.

Executive Director Malachi attended the Governor’s round for the budget cycle and a link of the recording will sent to Commissioners to review the testimony. The Senate and House rounds will take place in either February or March.

Executive Director Malachi explained that a New Hampshire employer requested the HRC and EEOC partner to conduct a training about employment discrimination under both the state and federal laws. Further, another New Hampshire employer has also requested the HRC conduct a training on sexual harassment, which will occur in December.

Executive Director Malachi discussed that ARPA funds were requested for a case management system. After submitting a proposal with the help of DOIT, the Commission was awarded \$42,000.00 for this project. In the past, financial allocation of HRC’s budget has not allowed the Commission to transition into an electronic case management system. Executive Director Malachi explained the significance of the case management system in terms of efficiency, cost, and approach to mapping out a plan for success. This includes using Maine’s HRC, who already has a similar system in place, as a model as well as tailoring the system to the specific needs of the Commission with the guidance of the DOIT. Assistant Director Sarah Burke Cohen also mentioned the comprehensive protection and security benefits of the database.

Commissioner Kim inquired about the digitization of older records and document retention requirements. Executive Director Malachi explained that graphic services for the state does searchable scanning for documents. She is working on getting an estimate for cost and the time it would take to have Graphic Services scan older documents. Commissioner Palardy inquired about the necessity of retaining older documentation relative to the Commission. Executive Director Malachi explained cases up to 4 years old are requested from time to time. Executive Director Malachi and Assistant Director Burke Cohen were not sure the exact record retention policy that applies to the HRC.

## **5. REVIEW OF INVESTIGATOR CASE LOAD**

Assistant Director Burke Cohen discussed the investigators' caseload. Assistant Director Burke Cohen said the investigators continue to move cases through the process efficiently. Currently, 14 cases were docketed and 29 were closed in November. The number of contract cases closed are comparable to last year. Despite the HRCs small staff, the investigators have worked diligently to meet goals for case closures in the past year and continue to do so as we move forward.

Assistant Director Burke Cohen also explained that there is a plan implemented for an investigator to comb through and evaluate the status of pending/unassigned files. She is hopeful that at least 25 of those cases will be able to be pulled out of the pending file and resolved prior to assignment to an investigator.

Assistant Director Burke Cohen expressed how effective the mediation process is in resolving cases quickly and how it is important that it remains a free program to encourage participation. Investigator Katrina Taylor, the Mediation Program Coordinator, stated that it currently has an 85% success rate. Volunteer mediators will be approved again in January. Commissioner Keye inquired where mediators are found and what to do if a CP decides they are unhappy with the outcome after signing settlement agreement. Assistant Director Burke Cohen explained mediator are local attorneys, retired judges, and certified mediators. She elaborated that settlement agreements are enforced in court as a contract issue, outside of the Commission's jurisdiction.

## **6. HEARING SCHEDULE UPDATE**

Assistant Director Burke Cohen discussed the hearing schedule and updated it. No hearing will be held in December or January. On February 15, there will be a public hearing in the case of *Corrigan v. NH DOT*. Commissioner Kim will Chair the Hearing Panel and Commissioners Mohamed and Evans will serve as the other two members of the panel of three. The hearing initially scheduled in March, *Kaufman v. The Mountain Group*, will be held on May 17. Commissioner LeRoy will serve as the Chair of the Hearing Panel and Commissioner Asch will serve on the panel and one final Commissioner will also be determined at a later date.

## 7. OTHER BUSINESS

Assistant Director Director Burke Cohen is working on the Administrative Rules Project that will update all the HRCs administrative rules and make them current. She explained that the HUM 100s define who the Commission is and what the Commission does; HUM 200s are expired currently and set out the investigative process; and the HUM 300s outline the Adjudicative Hearing process. Assistant Director Burke Cohen stated that HUM 100s and 300s are not expired and are such that they will not expire; however, they need revisions. HUM 200s are currently expired, but Assistant Director Burke Cohen is hopeful that once introduced that due to the time of rule, they will also not expire going forward. Commissioners will be sent any revisions regularly for review before being asked at a Commissioners' Meeting to approve the revision prior to submission to the Joint Legislative Committee on Administrative Rules ("JLCAR"). The JLCAR process can take up to 200 days before a rule becomes final. Assistant Director Burke Cohen discussed the revisions in the 100s & 300s and had a few final suggested revisions that needed to be made. The Commissioners decided that Assistant Director Burke Cohen will provide drafts of the HUM 100s & 300s before the next meeting in January at which the Commissioners will vote to approve submission to JLCAR.

Commissioner Keye inquired why the rules may need changing. Assistant Director Burke Cohen referenced the revision of antiquated rules (i.e., jurisdiction) as well as wording and consistency. Commissioner Mohamed asked why the Commission's phone number will be removed in the revision. Assistant Director Burke Cohen explained that it is a tentative change until JLCAR staff can confirm it is allowed and it is being deleted because if the phone number or address is changed in the future, the Commission would need to go through the entire formal rule process to change it.

Commissioner Kim wanted clarification on revisions to the rules pertaining to copy process per request, requests being in writing, number specifying pages per request and the overall process of requests. Assistant Director Burke Cohen added clarification for perceivable issues and explained that these choices were based upon practicality. She also ensured that revisions in this section were aimed to augment efficacy in terms of cost and time.

Commissioner Asch suggested adding to the rules that further information about how to reach the Commission and how this can be found on the website. Assistant Director Burke Cohen agreed this was a good idea and suggested that mentioning the submission of complaints being found on the website specifically would also be helpful.

Commissioner Palardy brought up rule revisions regarding the definition of employers and potential loopholes with employer amount relative to jurisdiction. This issue was briefly discussed.

Executive Director Malachi discussed proposing potential legislation, which would add protection for Domestic Violence (DV) victims in employment and housing, for a future legislative session. Executive Director Malachi explained that she needs permission from

Commissioners to move forward with investigating this and locate stakeholders to address issues and concerns.

Investigator Kelly Mederos explained the context of hardships such as money and housing, which make it difficult for victims to get out of their situation. Additionally, she mentioned barriers that are still present when DV victims can escape their situations. Laws allow employers and landlords to discriminate against DV victims because there are little to no protections for them in NH. However, other surrounding states (i.e. MA, CT, NY, RI) have protections put into place or classify DV victims as a protected class under anti-discrimination laws. Commissioner Mohamed mentioned crisis centers are temporary housing and that housing is the biggest issue within her own office.

Commissioner LeRoy asked about research and suggested reviewing language of other states that already have protections of place. Executive Director Malachi elaborated on challenges of legislation. Commissioner Keye said that he believes DV to be a huge infraction on Human Rights and agreed that DV victims being a protected class aligns with the Commission's mission.

Commissioner Kim asked about previous proposals of DV. Assistant Director Burke Cohen explained previously, the DV component was tied with a source of income (with housing) proposal. The bill was not passed in its entirety due to legislators struggling with source of income component.

Executive Director Malachi clarified whether the Commissioners agreed whether DV should be classified as a protected class or specific protections added to the law. Assistant Attorney General Locke suggested public accommodation be added under jurisdiction. Commissioner Kim raised the issue of factors of likelihood of legislation to pass concerning language as well as broadening scope. Commissioner Mohamed and Investigator Mederos clarified the vulnerability of victims and the barriers unique to DV victims exclusively. Commissioner Asch and Assistant Attorney General Locke elaborated on the discriminatory nature and dangers of DV specifically. Investigator Mederos suggested connecting with the Commission for Domestic Violence.

Commissioner LeRoy moved and Commissioner Asch seconded a motion to task the Commission staff to investigate the idea of adding domestic violence as protected class to RSA 354-A. The motion carried.

Assistant Director Burke Cohen suggested the Commissioners brainstorm additional proposals for protected classes (veterans, source of income, etc.) Commissioner Keye brought up the expansion of events to make Commission more known to the public. In addition, Commissioner Palardy cautioned the importance of the public understanding the function and jurisdiction of the Commission.

## **8. NON-PUBLIC SESSION**

Commissioner Kim requested the Commissioners enter non-public session to discuss a personnel matter. Commissioner Asch moved that pursuant to RSA 91-A:3, II (e), the Commission enter non-public session to discuss consideration or negotiation of pending claims or litigation. Commissioner Mohamed seconded the motion. Upon a roll call vote, all were in favor: Commissioner Kim - yea; Commissioner Palardy – yea; Commissioner Keye – yea; Commissioner LeRoy — yea; Commissioner Mohamed - yea; Commissioner Asch; and Commissioner Evans - yea. The Commission entered non-public session at 7:30 PM

At 7:33 PM, the Commissioners returned to Public Session, Commissioner Asch moved and Commissioner LeRoy seconded that pursuant to RSA 91-A:3,III to “withhold minutes of the non-public session until such time as the majority of the Commissioners are of the opinion that it was no longer likely that the divulgence of the information in the minutes would affect adversely the reputation of any person not a member of the agency, or render the proposed action ineffective.” Upon a roll call vote, all were in favor: Commissioner Kim - yea; Commissioner Palardy – yea; Commissioner Keye – yea; Commissioner LeRoy — yea; Commissioner Mohamed - yea; Commissioner Asch; and Commissioner Evans - yea. The motion carried.

## **9. ADJOURNMENT**

Commissioner Leroy moved for adjournment and Commissioner Asch seconded. The Commissioner’s meeting adjourned at 7:39PM.