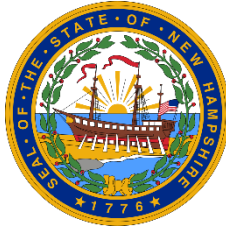


# New Hampshire Commission for Human Rights

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## NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

April 6, 2023, at 5:00 PM

### MINUTES

**ATTENDANCE:** Commissioners present: Christian Kim (Chair), Nancy LeRoy, Elizabeth Asch, and Melissa Moriarty

**Commission Staff:** Executive Director, Ahni Malachi  
Asst. Director Sarah Burke Cohen  
Intake Coordinator Erica Rosignol

Commissioner Kim called the meeting to order at 5:27 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 MARCH MEETING MINUTES

Commissioner Leroy moved, and Commissioner Asch seconded a motion to approve the minutes. The motion carried.

#### 3. GACDI UPDATE

Executive Director Malachi discussed the ongoing work of the Governor's Council on Diversity and Inclusion ("GACDI"). The Government Affairs subcommittee has been

reviewing current legislation making its way through the house. Most of the legislation they were watching have either been ITL'd or Tabled. New members were added to Outreach and Education subcommittee.

Executive Director Malachi discussed conversations about Diversity & Inclusion Trainings offered by the Bureau of Education and Training (“BET”). An official meeting has been postponed until August.

#### **4. OFFICE UPDATES**

Paralegal, Keith McCrea, started on March 24, 2023, with the Commission. Investigator Kelly Mederos has been helping with his training.

Executive Director Malachi met with the NH Commission on Aging a few weeks ago to speak about the Commission.

Executive Director Malachi will meet with the DHHS-Bureau of Homelessness next week. The role of the bureau is to provide technical assistance to homeless shelters and the like. A meeting is also scheduled with Waypoint, who deals with youth homelessness.

Executive Director Malachi explained the importance of outreach and that this may also encourage letters of recommendation for the Commission’s potential contract with HUD.

On March 7, Executive Director Malachi provided testimony for House Finance Budget Committee with the DOJ. On April 21, 2023, at 3:00PM, after the DOJ, Executive Director Malachi will also provide testimony for the Senate Finance Budget Committee.

Executive Director Malachi continues to attend Community Outreach meetings sponsored by the DMV, which are now bimonthly. These meetings focus on DMV issues and allows different parts of the community to connect. Ava Castillo, an advocate for immigrants in the community, is also present at these meetings as well as ACLU. Executive Director Malachi also met Councilor Stacey Brown at the meeting. Executive Director Malachi GACDI toolkit with her and may do a Youth at Work presentation for the students.

Executive Director Malachi met with Jill Laroe, a Special Agent for the FBI. Executive Director Malachi explained that the FBI can help in certain areas in 354: A. The FBI has jurisdiction relative to FHA and perhaps public accommodation. Special Agent Laroe will present on what the FBI does relative to the Commission’s area of jurisdiction at the Commissioner’s meeting in June.

Most of the Commission staff attended a free Narcan training sponsored by The Doorway/ Recovery Friendly Workplace Initiative team. Executive Director Malachi showed the Commissioners the free kit of Narcan spray that was provided after the training. Commissioner Asch inquired about how the trainings works and if the state is included specifically in this initiative. Executive Director Malachi explained that The

Doorway support those who need services for drug addiction. She also explained that the Recovery Friendly Workplace Initiative includes 300-400 businesses, including the state. Part of this initiative is to promote protection from discrimination for those who struggle/ have struggled with drug addiction. Commissioner Moriarty asked about this being a frequent problem in government offices and agencies. Executive Director Malachi explained that although this is not a typical issue, the Commission will be keeping two kits in office.

Executive Director Malachi continues participation with the Juvenile Justice Reform Commission's subcommittee on Ethnic and Racial Disparities ("ERD"). These meetings include people from different backgrounds (i.e., judges, attorneys, DHHS DCYF, JJPOs, etc.). She explained that the focus of recent meetings has been data collection and the "Transformation" regarding system improvements. DHHS DCYF is also how to move forward with the planning of a potentially smaller community-based facility as the youth detention facility is closing soon. Executive Director Malachi also connected with NH Juvenile Court Diversion Network through the ERD subcommittee. She will be a keynote speaker and facilitate a "problem-solving session" at their summit in June. These are folks that provide diversion services in the community.

Around mid-March Executive Director Malachi, Assistant Director Burke Cohen, and Attorney Sean Locke met with the new HUD representative regarding NH Fair Housing Assistance Program ("FHAP") discussions.

Executive Director Malachi is still working with DAS on the Commission's move of offices. The Governor is happy with the Commission joining the DOJ at 1 Granite Place. However, these plans are not yet finalized. The lease for this location was approved by the Governor and the Executive Council. Other agencies are also wanting to move to that location as well. Executive Director Malachi hopes to get some numbers tomorrow to "fit up" the space and provide them to the Governor before she meets with the Senate at the end of the month.

The House voted to accept HB2, with recommendations from the Governor in HB1 for the Commission. The Senate Budget Hearing will take place on April 21, 2023, and will stream on YouTube.

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

Assistant Director Burke Cohen discussed the investigators' caseload. We are at 51% for our total EEOC contract of 200 cases. Assistant Director Burke Cohen met with Investigator Taylor who stated there were 8 mediations scheduled in April/May and 3 pending scheduling for April/ May. Most of the scheduled mediations are cases from the pending file with 2 cases from investigators. Investigator Mederos has reviewed large portion of the pending file. Her assignment is to review the cases, inquire directly with the parties or representatives about mediation, organize the file and ensure it is complete. Overall, the investigators are doing a great job in getting through cases. In May, two interns will be starting at the Commission and with us for the summer.

## **6. HEARING SCHEDULE UPDATE**

Assistant Director Burke Cohen discussed the hearing schedule and updated it. There is one public hearing scheduled for May 17, 2023, at this time. It is unclear if it will be going forward because Respondent is winding down toward dissolution.

Assistant Director Burke Cohen discussed the concept of individual liability under RSA 354-A as discussed in the NH Supreme Court case against *Fred Fuller*. She further explained there is a NH statute that a company must maintain representation if there is pending legal activity, even if it is dissolved unless the company has filed for bankruptcy. If bankruptcy is filed, the Bankruptcy Court has the authority to stay all pending litigation.

Commissioner Asch asked about preparation for the schedule hearing on May 17, 2023. Assistant Director Burke Cohen explained that a packet will be distributed on the day of the hearing. She went over additional expectations for a hearing. There is no true preparation as the Commissioners will come into the case as if they were a jury in a court case. They will not have any evidence prior to the hearing. Commissioners will be able to go through exhibits, testimony, etc. during the hearing and following the hearing during deliberation.

Commissioner Kim also inquired if there are rules about switching up Commissioners on panels per hearing assignments. Assistant Director Burke Cohen confirmed that there are none. The hearings are *de novo* and must be a panel of Commissioners that do not include the Investigating Commissioner or any Commissioners who may have a conflict of interest due to one of the parties, attorneys, or witnesses.

Commissioner Moriarty inquired about how the case came to a hearing and if the hearing will be recorded. Assistant Director Burke Cohen explained the process that follows attempted conciliation; wherein parties can elect to stay at the Commission or remove the case to Court. In this case, the parties have elected to have the hearing go forward before the Commission. She also confirmed that hearings are recorded. Executive Director Malachi added that hearings are opened to the public as well.

Assistant Director Burke Cohen plans to send pre-hearing information to the Hearing Panel Commissioners to allow the Commissioners to check for conflicts in preparation for the hearing. Regarding the remaining Hearing Calendar, Assistant Director Burke Cohen said a significant portion continue to settle and/or be removed to court by a party.

## **7. OTHER BUSINESS**

Assistant Director Burke Cohen went over the revised Commission rules. She revisited the 300s, which were approved earlier in the year. A few changes to the 300s were made to match up with wording of paragraphs in the 200s.

Commissioner Leroy moved to approve the changes made to the 300s, and Commissioner Asch seconded the motion. The Motion carried.

Assistant Director Burke Cohen discussed 200s changes. She explained that she has received input from investigators and will get further input from AAG Locke. She explained what the changes included and her overall goal of making the rules align with how the Commission process its cases, more succinct and easier to understand. Commissioner LeRoy pointed out a grammatical issue, which was discussed.

As a case was remanded from an appeal this year, it has come to the Commission's attention that a rule relative to the process would be helpful. Assistant Director Burke Cohen has been doing research for the language on rules about remand. Additionally, she has been looking into the protocol for other agencies. This will be revisited at a future meeting.

Commissioner Kim moved to approve the substance of changes to the 200s, and Commissioner Leroy seconded. The motion carried.

**8. NON-PUBLIC SESSION**

None.

**9. ADJOURNMENT**

Commissioner LeRoy moved for adjournment, and it was seconded by Commissioner Asch. The Commissioner's meeting adjourned at 6:43 PM.