

New Hampshire Commission for Human Rights

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NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONER'S MEETING

AUGUST 1, 2019 at 5:00 PM

MINUTES

ATTENDANCE: **Commissioners: Matthew Mayberry (chair), Harvey Keye, Sheryl Shirley, Nancy LeRoy, Alex Samuel and Jose Luna. Douglas Palardy participated by telephone.**

**Commission Staff: Executive Director, Ahni Malachi
Assistant Director: Sarah Burke Cohen**

Guest: Greg Carson, HUD Field Office Director

The meeting was called to order by Chairman Mayberry at 5:09 PM.

1. PUBLIC COMMENT

Commissioner Mayberry opened the floor for public comment and seeing none, public comment was closed and the meeting business proceeded.

2. APPROVAL OF JUNE MEETING MINUTES

Commissioner Keye moved and Commissioner Shirley seconded to accept the June 6, 2019 meeting minutes. The Motion carried.

3. HUD REPRESENTATIVES: Greg Carson, HUD Director of Field Operations presented information to the Commissioners about the process of the Commission becoming HUD Substantially Equivalent, which would make the NHCHR eligible for some HUD funding out of HUD's Fair Housing and Equal Opportunity Office. Mr. Carson explained that the NHCHR has attempted to become HUD Substantially Equivalent within recent history at least three times. Mr. Carson added that at this point in time that NH is the only state east of the Mississippi River that does not have a grant

from HUD to administer the Fair Housing Laws in a manner similar to the Work Share Agreement the Commission has with the EEOC. Mr. Carson and the Commissioners discussed the previous issues that the Commission had with becoming Substantially Equivalent, which include both statutory and administrative rule issues. Commissioner Shirley inquired about one of the sticking points being that the NHCHR needed a staff attorney to handle HUD cases. Mr. Carson said that was one of the issues and that there had been discussion of alternatives to having a staff attorney at the NHCHR such as working with the NH Department of Justice. Commissioner Luna asked if the NHCHR should review the statutes and rules relative to HUD Substantial Equivalence to determine if there are areas that are gray and may allow for easier processing. Mr. Carson said it is always a good idea to review the statutes, rules, policies and procedures to determine what can be accomplished. Mr. Carson went on to discuss HUD's Technical Assistance Program. This Program will assign a HUD staff member to provide Technical Assistant to the NHCHR and help walk the NHCHR through the application process. Mr. Carson added that there is significant motivation at HUD to get the NHCHR processed to substantial equivalence and eligible for HUD funding.

Commissioner Shirley moved and Commissioner LeRoy seconded for the Commissioners to affirmatively direct the Executive Director to start the application process for Substantial Equivalence with HUD. The Motion carried.

The Commissioners went on to discuss the timeline. There is a window to introduce legislation in October. Mr. Carson also discussed, prompted by questions from Commissioner Luna, that there is a financial impact of getting approved as Substantially Equivalent to NH to include the NHCHR being eligible for HUD grant money to investigate/prosecute cases, potentially additional conferences/trainings will be held in the state as some organizations won't hold events in NH due to the FH/EEO. It also allows the investigations to be local, which is beneficial for both parties involved.

Mr. Carson stated the processing of the application takes about 90 days in Washington DC. At this juncture, Mr. Carson will contact Susan Forward at HUD to let her know the NHCHR is interested in starting the application process. Once the process is started, a HUD staff member will be assigned to provide the NHCHR with technical assistance and help the NHCHR get to a point where HUD would certify substantial equivalency if certain items are completed i.e. statutory changes/administrative rule changes. Generally, the entire process will take 1 year from beginning to end to include statutory/rule changes. Commissioner Shirley explained that this would be a good time for this process as the NHCHR is currently going through rule making and potentially we could make some changes before the JLCAR process begun. Director Malachi will follow up with Mr. Carson to find out what is necessary for the process to begin. After his presentation, Mr. Carson departed.

4. OFFICE UPDATES:

Banners/Posters: Director Malachi showed the new NHCHR posters. The posters have been redesigned and modernized. The posters have also been updated to ensure that all protected classes named in the statute or on it. The posters will be available for printing

online on the NHCHR's website. The posters are required to be posted by the statute. The Commissioners discussed the ramifications of not posting the posters. Director Malachi and Assistant Director Burke Cohen explained that the statute states that a violation/misdemeanor can be charged, but offer not mechanism for doing such. The Commissioners suggested the Director talk with other FEPAs to determine how they require posting, enforcement of such and any penalties for not adhering to the posting requirements. Before his departure, Mr. Carson stated that the Massachusetts Commission Against Discrimination offers the posters in a package together with all other employment related posters required by law. Director Malachi will look into the other FEPAs posting requirements, etc.

Roll Banners: Director Malachi sent around pictures of the roll banners as they had not arrived at the time of the meeting. She explained there banners will be used at trainings or similar activities at which the NHCHR would have a table.

VISTA/GRANT: Director Malachi discussed the grant received from the NH Charitable Foundation and that the Governor and Executive Council recently approved the NHCHR's acceptance of the grant. Director Malachi explained that she will be putting together the packet necessary to hire the VISTA. The VISTA will be charged with updating and putting together the NHCHR's training program over the next year.

EEOC/NHCHR ENGAGEMENT: Director Malachi discussed the workshops that the EEOC/NHCHR are collaborating on during the week of August 12-16. She invited Commissioners to attend as able. She requested Commissioners sign up on line. She stated the link is available on the Commission's website.

African Caribbean/We Are One Fair: Director Malachi stated this event is being held on August 17, 2019. A space will cost \$150.00, which the NHCHR has in its budget. However, at this juncture, it is unclear if it could be manned. The Commissioners also brought up other multi-cultural festivals being held throughout the state such as in Concord on September 22, 2019 and in Laconia. Director Malachi and Assistant Director Burke Cohen will follow up relative to these events to see if the NHCHR is able to obtain space.

SB263: Director Malachi explained that SB263 was signed into law by the Governor and will become effective on September 17, 2019. Director Malachi explained that the NHCHR is currently working to determine how the process for "Public Education" cases will work going forward and how it works in other New England states. Director Malachi also stated she is in the midst of scheduling a meeting with NHCHR (Director Malachi, Assistant Director Burke Cohen, and Commissioner Mayberry), AG MacDonald, a representative from the NH DOE, a representative from the Civil Rights Unit, and NH Judicial Branch. The goal of the meeting will be to discuss the impact of SB263 on all these agencies, the process, tracking and other logistics. Several Commissioners expressed interest in attending this meeting. Commissioner Mayberry and Director Malachi stated they would let the Commissioners know about the date and time of the meeting. They also asked that because the meeting will have a number of

attendees that the Commissioners director questions through Director Malachi. The Commissioners went on to discuss the idiosyncrasies of the newly passed legislation.

5. REVIEW OF INVESTIGATOR CASE LOAD:

Assistant Director Burke Cohen informed the Commissioners that the EEOC Contract had been met. The Assistant Director and Director are planning a thank you luncheon for the investigators,

6. HEARING SCHEDULE UPDATE

Assistant Director Burke Cohen discussed the hearing schedule and requested volunteers for October and November, which she received. Commissioner Mayberry requested that four hearing be scheduled per month as able to ensure cases continue to move forward.

7. HEARING PANEL TRAINING DISCUSSION:

Tabled until next month.

8. HRC ADMINISTRATIVE RULE DISCUSSION:

Commissioner Samuel discussed the current status of the Administrative Rules. He stated he is at current annotating the 100s and 300s and that upon completion these would be ready for submission. He said that the 200s will take a little longer and may require more discussion. The Commissioners determined that if the NHCHR were to become substantially equivalent that the rules relative to HUD cases would likely be better as its own section given that it will require specific timelines, etc. Because the HUD rules will be separated, it will allow the NHCHR to move forward with the current rules to submission to the JLCAR.

Commissioner Luna moved and Commissioner Shirley seconded the acceptance of the NHCHR's drafted administrative rules enumerated in the 100s and 300s. The Motion carried.

9. OTHER BUSINESS:

Commissioner Luna requested to discuss the happenings of the Governor's Advisory Council on Diversity and Inclusion ("GACDI"). Commissioner Luna stated that most recent meetings of the GACDI have been very productive. The GACDI has discussed bringing listening sessions to high school students in varied school districts to get further input from residents of NH. Commissioner Luna also stated that the GACDI has decided to establish a five member of the Executive Committee (i.e. Steering Committee), which will manage all issues before they are brought to full council. Commissioner Luna also explained that the GACDI is interested in doing more public education and will do this by working with Public Access TV. Commissioner Luna stated the GACDI wants to do a session or several on Public Access during which it answers questions and distribute information gathered during the GACDI listening sessions throughout NH.

Commissioner Mayberry, Director Malachi and other Commissioners had concerns that the GACDI was attempting to do public education/public relations about the laws against discrimination, which is part of the objective of the NHCHR. The Commissioners and

NHCHR staff discussed concerns that the GACDI was overstepping the directives of the Governor. Commissioner Luna explained that the GACDI sees itself as the ears of the Governor in this area and a place where residents of NH can report information and not be judged. Although the Commissioners understood this concept, there was still some concern. Commissioner Shirley and LeRoy requested Commissioner Luna bring the meetings minutes from GACDI meetings to the NHCHR meetings for the Commissioners to review. Although Commissioner Luna stated the minutes were public and available on the GACDI's website, the Commissioners requested Commissioner Luna physically bring the meeting minutes or email the minutes to NHCHR staff so that the minutes could be made part of the Commissioners' meeting packet. Commissioner Mayberry suggested that there needs to be a meeting with the Governor's staff and GACDI to revisit what the Governor's directive is for the GACDI to ensure it continues on that path and does not venture into the NHCHR's purpose to enforce and educate the community about the laws against discrimination.

Commissioner Luna also stated he has suggested in the past that the NHCHR do an educational session on Access TV, but his suggestion never moved forward. Commissioner Mayberry said that given that it is a new group of people, previous ideas such as Commissioner Luna's should be brought forward again and discussed.

Commissioner Luna reiterated that the GACDI's venture onto Access TV would be a dissemination of information already gathered. Commissioner Keye stated he believed the objective of the GACDI is good as it is ensuring that discrimination in NH is looked at.

Commissioner Luna offered to allow another Commissioner to take his spot on GACDI. Commissioner Mayberry stated that it would not be a good idea given the amount of work Commissioner Luna has done on the GACDI. With that said, Commissioner Mayberry requested Commissioner Luna make regular updates about the GACDI at every Commissioner's meeting. Commissioner Mayberry directed Director Malachi to add a spot on the monthly agenda for an update from Commissioner Luna on the GACDI.

10. ADJOURNMENT

Commissioner LeRoy moved to adjourn the meeting and it was seconded by Commissioner Shirley. The Motion carried and the meeting adjourned at 7:20 PM