

New Hampshire Commission for Human Rights

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NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

October 3, 2019 at 5:00 PM

MINUTES

ATTENDANCE: **Commissioners: Matthew Mayberry (chair), Harvey Keye, Sheryl Shirley, Douglas Palardy (arrived at 5:10 PM), Nancy LeRoy and Alex Samuel (by telephone).**

Absent: **Jose Luna**

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

The meeting was called to order by Commissioner Palardy at 5:01 PM.

1. **PUBLIC COMMENT**

None.

2. **APPROVAL OF SEPTEMBER MEETING MINUTES**

Commissioner Shirley moved and Commissioner LeRoy seconded a Motion to approve the minutes. The Motion carried.

3. **DIVERSITY & INCLUSION COUNCIL REPORT**

None given as Commissioner Luna was absent.

4. **OFFICE UPDATES**

FHIP/FHAP (HUD) CONFERENCE: Director Malachi reported on her attendance to this conference. Director Malachi explained to the Commissioners that NHCHR had been invited to participate in this conference by Greg Carson even though NHCHR is not a FHAP. Director Malachi said she learned a great deal of information from the conference and was able to network with multiple agencies and HUD staff, including the HUD Assistant Secretary for Fair Housing & Equal Opportunity, Anna Maria Farías. Director Malachi reported that Assistant Secretary Farías is very excited that NHCHR will work toward becoming substantially equivalent and offered support towards this end.

Director Malachi stated Assistant Attorney General Perlow and she met with HUD representatives and received information on key areas that will need to be revised both in our statute and rules for us to move forward with substantial equivalence. Director Malachi and AAG Perlow will work on getting this information formatted for review by the Commissioners and advice on how to proceed.

IMPLEMENTATION OF SB263: SB263 became effective on September 17, 2019. Director Malachi and AAG Perlow met with General Counsel for NH DOE, Diane Fenton. It was an introductory meeting to begin discussions on how NHCHR and NHDOE will work together to ensure the effective enforcement of SB263 while still ensuring all other laws over which NHDOE has jurisdiction are enforced. Director Malachi, AAG Perlow and Attorney Fenton decided further meetings would be prudent and possibly a monthly or quarterly meeting would be best. Commissioner LeRoy inquired if meetings should be more regular than quarterly. Director Malachi replied likely there will be more regular meetings and the frequency of meetings will be on a case by case basis. Director Malachi also explained that the NHCHR and NHDOE will likely enter into a Memorandum of Understanding relative to sharing information and case work. Once it has been drafted, Director Malachi will present it to the Commissioners. Director Malachi also discussed the meeting held on September 30, 2019 that included Commissioners Mayberry and Samuel, Assistant Director Burke Cohen, AG MacDonald, AAG Perlow, AAG of the Civil Rights Unit, Liz Lahey and herself. This meeting was also an introductory conversation relative to the implementation of SB263 and how NHCHR, NHDOE and NHDOJ will interact in the enforcement of the law. Director Malachi stated she would updated the Commissioners on the implementation of SB263 as the establishment of policies and procedures moves forward. At this juncture, the NHCHR has only had 2 calls relative to public education and one of the calls was actually an employment matter. Director Malachi also stated that the NHCHR was informed at the September 30, 2019 meeting that AAG Liz Lahey was leaving the Civil Rights Unit and DOJ effective in early October. AG MacDonald told Director Malachi that he would let us know when a replacement was hired.

ADMINISTRATIVE ATTACHMENT: Director Malachi explained that now that the budget has been passed, the NHCHR is officially administratively attached to the NHDOJ. Director Malachi described some of the duties/responsibilities that would be shifted to the Business Office at NHDOJ which included timecard processing, bill

paying, supply ordering, and onboarding/exiting of staff. Director Malachi will be meeting with NHDOJ Business Office Representatives to discuss the NHCHR's needs. Commissioner Shirley inquired if the movement of these responsibilities would impact staff. Director Malachi explained that the movement would not impact staff. Although some of the responsibilities fall to the Administrative Assistant position, that person will oversee the work done at NHDOJ to ensure it is done correctly. Furthermore, the Administrative Assistant position has been underutilized and according to its Supplemental Job Description there are a significant amount of tasks that will replace the tasks being completed by NHDOJ. Commissioner Shirley requested a copy of the Administrative Assistant's Supplemental Job Description. Director Malachi explained that having the Administrative Attachment will allow the office to run smoother and allow the Administrative support staff to support the Commission staff with our statutory mandate of enforcing the law and providing trainings. The Commissioners' expressed concern that attachment was a precursor to the Commission being absorbed into the NHDOJ. Director Malachi stated this is not true and not possible without a huge statutory change to NH RSA 354-A. Commissioner Mayberry added that the attachment frees up the Administrative Assistant to complete other necessary tasks for the Commission and allows the Commission to strengthen its relationship with the NHDOJ.

EEOC FEPA REGIONAL CONFERENCE: Director Malachi stated the EEOC FEPA Regional Conference will be located in New Hampshire this year. Director Malachi said the dates are currently in flux according to the EEOC due to hotel difficulties. Director Malachi will update the Commissioners once the dates and location are solidified. Commissioner Mayberry asked if the NHCHR needed to do anything as it is the host. Director Malachi explained the host state generally sets the training topics/agenda. Director Malachi will update the Commissioners once the agenda is set and will the the Commissioners know if anything else is needed. The Commissioners are welcome to attend the conference.

5. **REVIEW OF INVESTIGATOR CASELOAD**

Assistant Director Burke Cohen stated the NHCHR fulfilled its FFY19 EEOC Contract plus eight. Assistant Director Burke Cohen said the FFY20 contract has not yet been signed and that we have not yet been given the contract amount. Assistant Director Burke Cohen also commended the investigators for their hard work in completing our contract.

6. **HEARING SCHEDULE UPDATE**

Assistant Director Burke Cohen stated the hearing scheduled for November 5, 2019 will not go forward as it has been removed to NH Superior Court by Respondent. Assistant Director Burke Cohen asked for volunteers for the December 4, 2019 Hearing Date. Commissioner Mayberry, Palardy and Keye volunteered and Commissioner Samuel volunteered to be back up. Assistant Director Burke Cohen stated the process of scheduling probable cause cases and that those on the schedule are those received to date.

7. **HRC ADMINISTRATIVE RULES DISCUSSION**

Commissioner Samuel is continuing his work on the Administrative Rules and preparation or submittal to NH JLCAR. Director Malachi added that there will likely need to be additional changes added to the Administrative Rules relative to substantial equivalence for HUD. However, it is likely the changes for HUD will be in the form of adding specific rules only applicable to housing cases, so it would not impact the other sections. Director Malachi will bring those recommended changes to the Commissioner as soon as they are completed.

8. **OTHER BUSINESS**

Commissioner Samuel asked if new cases under SB263/Public Education would count toward EEOC Contract. Director Malachi explained that they would not and that those types of cases would be state only cases similar to Public Accommodation cases.

Commissioner Shirley inquired about the percentage of probable cause cases. Director Malachi explained that Assistant Director Burke Cohen and she are currently reviewing the statistical information provided and how it is provided. Director Malachi wants to be sure the Commissioner is providing accurate information and helpful information. Commissioner Shirley suggested Director Malachi reach out to other agencies to find out how they report/track their statistical information. Director Malachi concurred this would be a good idea and will do so.

Director Malachi and Assistant Director Burke Cohen requested the Commissioners contact the Commission should they have questions or concerns relative to an Investigator's recommendation prior to sending in the decision form. Commissioner Mayberry requested the Commissioners contact either Director Malachi or Assistant Director Burke Cohen, who will set up a time to discuss the case.

Commissioner Shirley requested there be consistency in the Decision Sheet. She indicates sometimes there are multiple boxes and other times there are not. Director Malachi and Assistant Director Burke Cohen will look into this issue and address it with staff.

9. **ADJOURNMENT**

Commissioner Palardy motioned for Adjournment, which was seconded by Commissioner Shirley. The Commissioners' meeting adjourned at 5:45 PM.