

New Hampshire Commission for Human Rights



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NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

November 7, 2019 at 5:00 PM

MINUTES

ATTENDANCE: **Commissioners: Matthew Mayberry (chair), Sheryl Shirley, Douglas Palardy (by phone at 5:15 PM), Nancy LeRoy, Alex Samuel and Jose Luna**

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

Assistant Attorney General: Jill Perlow

The meeting was called to order by Commissioner Palardy at 5:12 PM.

1. **PUBLIC COMMENT**

None.

2. **APPROVAL OF OCTOBER MEETING MINUTES**

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

3. **DIVERSITY & INCLUSION COUNCIL REPORT**

Commissioner Luna reported there has not been a meeting, but a final meeting has been scheduled for December 12, 2019. At the meeting, the Council intends on writing its final report to be submitted to the Governor in December.

4. **OFFICE UPDATES**

OFFICE SPACE: The Commission’s lease ends in October 2020. Executive Director Malachi reported that the Assistant Director and she have been looking for a bigger space for the Commission. The Assistant Director and Executive Director have viewed a few properties. Executive Director Malachi has been in touch with AAG Perlow, Michelle Caraway, the Commission’s budget person, and Gail Rucker from the Bureau of Planning and Management, who will assist with the “Request for Proposal” process. Executive Director Malachi explained the reasoning behind the Commission’s need for additional space due to additional staff. Commissioner Shirley asked if the Commission’s budget could sustain an increase in rent. Executive Director Malachi explained that she is working with Michelle Caraway to determine what amount the Commission could afford.

FISCAL NOTE/LEGISLATION: Executive Director Malachi explained that legislation was proposed that would make it discriminatory to not allow pets in housing. She was requested to complete a fiscal note. Executive Director Malachi explained the fiscal note does not allow for comments relative to the substance of the legislation. She said the fiscal note stated the Commission could not estimate the impact the bill would have as it would add an additional protected class. Regarding other proposed legislation, Executive Director Malachi stated she will be reaching out to Senator Levesque to discuss legislation Levesque is proposing relative to eliminating Respondent’s ability to remove cases to court following a probable cause finding. This was the legislation discussed by Attorney Richards-Stower at the Commission’s previous meeting.

FEPA/EEOC REGIONAL CONFERENCE: This Conference is scheduled for December 4, 5, & 6. It will be in Portsmouth. Executive Director Malachi will forward the Agenda after it is completed. Commissioner LeRoy asked about it. Executive Director Malachi explained that it is an opportunity for the Regional FEPAs to meet and discuss different topics that impact employment law.

At 5:32 PM, Commissioner Mayberry moved that pursuant to RSA 91-A:3, II (j), the Commission enter into non-public session to consider confidential, commercial, or financial information and RSA 14:31-a, II, which states “[t]he detailed reports of every audit conducted pursuant to this section shall become a public record upon approval by the fiscal committee. Audit work papers and notes are not public records. However, those materials necessary to support the compilations in the final audit report may be made available by majority vote of the fiscal committee after a public hearing showing proper cause. For the purposes of this section, work papers shall include, but are not limited to, all preliminary drafts and notes used in preparing the audit report.” Commissioner Palardy seconded the motion. Upon a roll call vote, all were in favor: Mayberry – aye, Palardy – aye; Samuel – aye, Luna – aye, Shirley – aye and Nancy - aye.

At 6:12 PM, the Commissioners returned to Public Session. LeRoy moved and Mayberry 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: Mayberry – aye, Palardy – aye; Samuel – aye, Luna – aye, Shirley – aye and Nancy - aye

5. REVIEW OF INVESTIGATOR CASELOAD

Assistant Director Burke Cohen discussed caseload. She explained that the Commission proposed to EEOC that it could close 200 dually filed cases in the federal fiscal year. Assistant Director Burke Cohen explained that although that number hasn't been confirmed by contract that the Commission will base its case numbers for the federal fiscal year off of the number 200 unless it hears otherwise from the EEOC. This means the Commission has completed 29% of the contract as of the end of October 2019.

Director Malachi stated AAG Perlow and she are working on a new process of moving cases. Therefore, Director Malachi will not be hiring the additional staff that came with the new budget until new process is in place.

Commissioner Mayberry inquired about why it appeared the number of cases unassigned was going up. Assistant Director Burke Cohen stated that filings are up, but that she would look further into it. Assistant Director Burke Cohen also discussed that many cases are mediating to settlement prior to assignment.

6. HEARING SCHEDULE UPDATE

Assistant Director Burke Cohen stated there will be no hearing in December. She requested volunteers for the scheduled January 2020 hearing that may go forward. Commissioners Luna & LeRoy volunteered to sit on the January 2020 panel if it were to go forward.

7. HRC ADMINISTRATIVE RULES DISCUSSION

Commissioner Samuel said he is continuing his work on the rules. He explained that a fiscal impact statement will need to be filed, which Director Malachi stated would likely be sent to her for completion. Commissioner Samuel said it has been difficult for him to wade through the Administrative Rules Manual, but he thinks he has a better understanding of what needs to be done to prepare the rules for submission.

Commissioner Samuel asked about adjustments for HUD rules. Director Malachi explained that at this juncture she is working through the investigative process with AAG Perlow and additional work on HUD substantial equivalence has been delayed. With that said, Director Malachi suggested and the Commissioners discussed that any additional HUD rules necessary for substantial equivalence be established in a separate section. This would mean we could move forward with the current rules without handicapping the process toward substantial equivalence. AAG Perlow and Director Malachi have been discussing what needs to be changed by rule and statute relative to becoming substantially equivalent for HUD and this discussion has yet to conclude.

8. **PERSONNEL MATTERS**

Discussed during non-public meeting at 5:32 PM pursuant to above vote.

9. **OTHER BUSINESS**

None.

10. **ADJOURNMENT**

Commissioner LeRoy motioned for Adjournment, which was seconded by Commissioner Luna. The Commissioners' meeting adjourned at 6:32 PM.