

New Hampshire Commission for Human Rights



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NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

February 13, 2020 at 5:10 PM

MINUTES

ATTENDANCE: **Commissioners: Douglas Palardy (chair), Nancy LeRoy, Sheryl Shirley, Jose Luna (until 6:10PM), and Alex Samuel (via phone)**

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

Commissioner Palardy called the meeting to order at 5:10 PM.

1. **PUBLIC COMMENT**

Chairman Palardy announced himself as chairman of the Commission as the governor nominated him on January 22, 2020 following Commissioner Mayberry's resignation.

2. **APPROVAL OF JANUARY MEETING MINUTES**

Commissioner LeRoy moved and Commissioner Luna seconded a Motion to approve the January minutes. The Motion carried on a roll call vote with Commissioner Shirley abstaining.

3. **DIVERSITY & INCLUSION COUNCIL REPORT**

Commissioner Luna discussed the Annual Report, dated January 2, 2020. He stated that, in the end, the recommendations were not as strong as he had liked but reminded the Commission that the Council only makes recommendations. Commissioner Luna discussed other topics communicated during the listening sessions across the state.

4. OFFICE UPDATES.

Commissioner Training Manuals: Director Malachi presented the new training manual for the Commissioners. She explained the manuals are modeled after the Investigator Training manuals.

Legislative Budget Assistant (LBA): Director Malachi discussed the LBA Financial Audit Report presentation scheduled for the following day. Assistant Director Burke Cohen and Director Malachi will attend the presentation of the Financial Audit Report by the LBA to the Fiscal Committee on February 14 for testimony. After the Fiscal Committee approves the report, it will be made available to the public and is no longer confidential. A copy will stay in the Commission office, is also available online, and each Commissioner has a bound copy for their records.

EEOC Contract: Director Malachi explained the contract process with the Equal Employment Opportunity Commission (EEOC) relative to the specific amount of cases paid for during the federal fiscal year. She explained that we currently have not received our approved EEOC contract but that we are moving cases to closure based on the requested contract amount. Commissioner Luna asked about the consequences of completing the contract early and closing more cases. Director Malachi explained how the NHCHR would request a subsequent upward modification, i.e. additional cases allotted to the NHCHR, which would add to the contract total for the federal fiscal year. Should the NHCHR surpass its contract number and any cases allotted in an upward modification, then the NHCHR would not get paid for the closure of any dual filed cases closed during that federal fiscal year. The Commissioners encouraged the NHCHR staff to continue to close cases promptly even if it means no payment from the EEOC. The Commissioners made this decision based on the backlog of cases still retained by the NHCHR.

5. REVIEW OF INVESTIGATOR CASELOAD

Assistant Director Burke Cohen stated that 57% of the NHCHR's EEOC proposed contract amount is complete, only 1/3 into the fiscal year, again crediting the efforts of the staff. Chairman Palardy declared that the pace of the investigators was encouraging in that the backlog was being reduced steadily.

Commissioner Shirley inquired as to whether NHCHR had statistics on the rate of Probable Cause (PC) findings over time. While Assistant Director Burke Cohen did not have stats at the moment, her sense during her time at the Commission is that settlements overall—PC and No Probable Cause (NPC)—are on the rise, which the NHCHR considers a positive trend.

Director Malachi returned to the EEOC contract to close out that discussion. She addressed mediations, citing information from Investigator Taylor who is the Mediation Coordinator. Three of the four mediations in January were successful, which is

encouraging since that is a rate of potentially one per week. For the previous Federal Fiscal Year (FFY), the success rate for mediations was 75%.

6. HEARING SCHEDULE UPDATE

Assistant Director Burke Cohen addressed the hearing schedule and provided the updated schedule to the Commissioners.

Chairman Palardy returned briefly to the discussion of caseloads and confirmed there was unanimity about closing cases regardless of contract status, as he thought that the backlog of cases was the most significant issue since he had been on the Commission. There was consensus on this issue. Director Malachi noted the difference between how New Hampshire and other states, for example Connecticut go about fulfilling EEOC contracts.

At this point, Chairman Palardy wished to return to Office Updates. Director Malachi addressed Legislative Service Requests (LSR) and how active the current legislative session has been. She discussed there is currently pending legislation that may impact the NHCHR. Chairman Palardy acknowledged a need for Commissioners to be informed, but trusted the Director as to how often and about which bills the Commissioners should be aware. Commissioner Shirley posited the question if the Commission should have a stance on legislation. Chairman Palardy acknowledged that the Commission's current stance is to remain neutral about legislation rather than to choose a side. Chairman Palardy stated he believes this practice should remain, however is open to having further discussion on a case-by-case basis with the Commissioner's as new legislation is put forth in the future. Director Malachi stated how the role of NHCHR at legislative hearings at this time was informative; explaining to legislators and committees what the NHCHR does and how any proposed change(s) to the statute would affect the scope and effectiveness of the NHCHR. The Commissioners decided Director Malachi would update the Commissioners at the monthly Commissioners' meeting with relevant legislation and any action it might require.

Assistant Director Burke Cohen then moved back to hearing information, and solicited volunteers among the commissioners for March and April. Commissioners LeRoy, Luna, Samuel and Palardy volunteered to fill vacancies and tentatively assigned Commissioner Keye a position.

7. HRC ADMINISTRATIVE RULES DISCUSSION

There was no update relative to the Administrative Rules at this time.

8. **OTHER BUSINESS**

- a. **Appointment of Mediators.** Assistant Director Burke Cohen added two additional names to be considered for appointment as NHCHR volunteer mediators. Chairman Palardy made a motion to appoint David N. Cole and Maria Joseph, which was seconded by Commissioner Samuel. The motion carried unanimously.

Commissioner Luna excused himself at 6:10PM and departed the meeting.

- b. Chairman Palardy initiated a general discussion on the investigative process. Director Malachi stated that she was in the process of reworking the current intake and investigative processes with the assistance of AAG Jill Perlow, but would give a full update to the Commissioners when the documents were complete. Commissioner LeRoy asked how long between a claim was initiated and the next step in the process. Assistant Director Burke Cohen stated from claim to assignment to an investigator the time is about 12 months on average. Investigators are working on a few cases from 2016, but mostly 2017 and 2018 cases. Assistant Director Burke Cohen went on to discuss how the cases are distributed and how investigators, depending on their experience and preference, tackle their current caseload. The case completion time varies significantly based on any number of variables. She said cases are assigned on a monthly basis. Chairman Palardy stated, and the other Commissioners agreed, that the investigators had made impressive gains in closing cases during his tenure. Assistant Director Burke Cohen credited the staff with their hard work and efficiency. She added that last year's interns were helpful as well.

9. **NONPUBLIC SESSION.**

None.

10. **ADJOURNMENT**

Chairman Palardy motioned for adjournment and Commissioner Shirley seconded. The Commissioner's meeting adjourned at 6:30 PM.