

New Hampshire Commission for Human Rights



2 INDUSTRIAL PARK DR.
CONCORD, NEW HAMPSHIRE 03301-8501
TEL (603) 271-2767
TDD Access: Relay NH 1-800-735-2964
FAX (603) 271-6339
E-MAIL: humanrights@nh.gov
www.nh.gov/hrc

COMMISSIONERS
DOUGLAS J. PALARDY, CHAIR
SHERYL L. SHIRLEY, Ph.D
HARVEY KEYE
ALEX SAMUEL
NANCY LEROY
BASRA MOHAMED
CHRISTIAN KIM

EXECUTIVE DIRECTOR
AHNI MALACHI

ASSISTANT DIRECTOR
SARAH E. BURKE COHEN, ESQ.

INVESTIGATORS
KATRINA E. TAYLOR
NICOLE LEMELIN
DANIEL DEYERMOND
KATE MULLEAVEY
TAMARA SAXBY

ADMINISTRATIVE ASSISTANT
WILLIAM DARLING

SECRETARY
NANCY RODGERS

NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

September 3, 2020 at 5:00 PM

MINUTES

ATTENDANCE: Commissioners present: Douglas Palardy, Sheryl Shirley, Nancy LeRoy, Alex Samuel (but absent for 5:27PM – 5:34PM), Christian Kim, Basra Mohamed and at 5:21PM until 5:30 PM – Harvey Keye

Commission Staff: Executive Director, Ahni Malachi and Assistant Director, Sarah Burke Cohen
Assistant Attorney General: Jill Perlow

(All participants attended this meeting via Zoom)

Commissioner Palardy called the meeting to order at 5:02 PM.

As Chair of the Human Rights Commission, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

- a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means: We are utilizing Zoom for this electronic meeting. All members of the Commission have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting by contacting the Commission's office at 271-2767 and receiving the meeting id and passcode.

- b) Providing public notice of the necessary information for accessing the meeting:
 We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting telephonically. Instructions have also been provided on the website of the Commission for Human Rights at <nh.gov/hrc>.
- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access. If anybody has a problem, please call 271-2767 or email at: <humanrights@nh.gov>.
- d) Adjourning the meeting if the public is unable to access the meeting. In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let’s start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law.”

Commissioner Palardy: home, alone; Commissioner Shirley: home, alone;
 Commissioner LeRoy: home alone; Commissioner Samuel: home, alone;
 Commissioner Kim: home, alone; and Commissioner Mohamed: home, alone
 5:21 PM – 5:30 PM – Commissioner Keye: home; alone

1. PUBLIC COMMENT

Commissioner Palardy asked if anyone from the public was present and wished to make public comment. There was no response.

2. APPROVAL OF AUGUST MEETING MINUTES

Commissioner LeRoy moved and Commissioner Samuel seconded a motion to approve the August minutes as amended. Roll call: Commissioner Palardy: Abstained; Commissioner Shirley – yea; Commissioner Samuel—yea; Commissioner LeRoy - yea; Commissioner Mohamed – yea; and Commissioner Kim—yea. The motion carried.

3. DIVERSITY & INCLUSION COUNCIL UPDATE

Executive Director Malachi updated the Commissioners. There was a meeting on August 25, 2020. The meeting primarily reviewed the COVID-19 Report. This was a subcommittee requested by the governor. The primary focus of the report was to outline the impact of COVID-19 on minority groups. The report was reviewed, but it was decided to discuss how to proceed with the findings this month.

4. OFFICE UPDATES.

New investigator has been hired. Her name is Lura Seavey. She started on August 14, 2020. She is an internal candidate of the state and came from NHES. Nancy Rodgers, the Commission's part-time secretary officially retired on September 1, 2020. Executive Director Malachi said we will put some items together for her to commemorate her service at the Commission.

We talked about upward modification last month. We requested 30 additional cases to our contract. It has been granted and our total amount for FFY2020 will be 200 cases.

Executive Director Malachi discussed her time on the LEACT. She explained many people gave testimony to the LEACT relative to interactions with Law Enforcement. The report has been completed and submitted. It was submitted on Monday to the Governor, Senate President and Speaker of the House. Commissioner Shirley asked about comments made by Executive Director Malachi during the LEACT committee that were reported by the media. Executive Director Malachi explained many media outlets reported on the testimony before the LEACT every day and she did not track every article. Commissioner Palardy suggested Executive Director Malachi have a google ping on her name to ensure you are aware of what is being reported in the media.

Commissioner Palardy asked how the new investigator was doing. Assistant Director Burke Cohen stated Lura's training was going well. Assistant Director Burke Cohen said Investigator Seavey is catching on very quickly. She currently has a caseload of 15 and is moving it forward. Investigator Seavey has completed investigative plans and is right on target with her knowledge of how to understand, analyze and apply the law.

Commissioner Palardy also asked about office coverage. Assistant Director Burke Cohen confirmed the office was covered by one investigator per day. She said the schedule will be adjusted next week due to staff having to balance work and remote learning for their children. Assistant Director Burke Cohen stated it is good to have the staff in once per week as it allows them to access things such as the copier that they would not have access to at home. She also said the investigators have been great about staying socially distant and wearing masks when there are multiple people in the office.

5. REVIEW OF INVESTIGATOR CASELOAD

Assistant Director Burke Cohen discussed caseload. She stated as Executive Director Malachi stated we received a 30 case upward modification from the EEOC and have fulfilled that modification plus. She said she does not think there will be the ability to have additional case, but that Executive Director Malachi and she will keep an ear open in case there are. Assistant Director Burke Cohen also stated there was a big number of cases filed this month and a significant portion were attorney filed. We continue to process our cases forward. Assistant Director Burke Cohen stated once Investigator Seavey is assigned her entire caseload that it will subtract 50 cases from the unassigned file.

6. HEARING SCHEDULE UPDATE AND PANEL ASSIGNMENT

Assistant Director Burke Cohen talked about the hearing scheduled and stated the case scheduled for October 28, 2020 will go forward. She said she needed an additional Commissioner for that panel. Commissioner Palardy stated he believe it was him as he had previously emailed. Assistant Director Burke Cohen stated she would add him to the schedule. Commissioner Palardy stated he would need assistance with the hearing given it has been sometime since he has run one. Assistant Director Burke Cohen also discussed that it is likely most of the public hearing will be in person, but some may be virtual as Respondent has some witnesses that are out-of-state and unable according to company policy travel interstate. Assistant Director Burke Cohen stated Executive Director Malachi and she will be working with AAG Perlow to determine how best to conduct the hearing and ensure it is in compliance with the law. Assistant Director Burke Cohen stated they would be looking at other policies set up by other State Agencies/Board, etc. who have been conducting all or part of their public hearings virtually.

7. OTHER BUSINESS

Commissioner Shirley requested the Commissioner be sent updated contact information for the staff and Commissioners. Executive Director Malachi and Assistant Director Burke Cohen stated this would be done.

8. NON-PUBLIC SESSION

Commissioner Palardy moved that pursuant to RSA 91-A:3, II (a), the Commission enter into non-public session to discuss personnel matters. Commissioner Mohamed seconded the motion. Upon a roll call vote, all were in favor: Commissioner Palardy – yea; Commissioner Shirley—yea; Commissioner LeRoy - yea; Commissioner Mohamed—yea; and Commissioner Kim—yea. The motion carried. The entered into non-public session at 5:33 PM.

At 6:30 PM the Commissioners returned to Public Session. Commissioner Shirley moved and Commissioner LeRoy 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: Commissioner Palardy – yea; Commissioner Shirley—yea; Commissioner LeRoy - yea; Commissioner Samuel – yea; Commissioner Mohamed—yea; and Commissioner Kim—yea. The motion carried.

9. OTHER BUSINESS (continued)

Commissioner Palardy will have a weekly meeting with Ahni & Sarah to touch base and allow him to be more involved in the operations of the Commission. Commissioner Palardy stated the exact day and time can be scheduled via email in the next few days.

Commissioner Palardy also stated on an interim basis that Commissioner Shirley will sit in and be involved in any discipline, hiring and/or firing. Commissioner Palardy would also be looped into these meetings and likely would be involved and knowledgeable about it through the weekly meetings with Commission management. Commissioner Palardy stated that Commissioner Shirley's involvement would be for more formal items.

The Commissioners, Executive Director Malachi and Assistant Director Burke Cohen discussed what events/items would fall within requiring Commissioner Shirley's involvement. Commissioner Palardy stated day to day operations and regular reviews in which the staff is meeting expectations would not require Commissioner Shirley to be involved, but would be information that would be passed along to Commissioner Palardy during the weekly meetings with Executive Director Malachi and Assistant Director Burke Cohen.

10. ADJOURNMENT

Commissioner Palardy motioned for adjournment and Commissioner LeRoy seconded. The Commissioner's meeting adjourned at 6:45 PM.