

New Hampshire Commission for Human Rights



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NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

February 4, 2021 at 5:00 PM

MINUTES

ATTENDANCE: Commissioners present: Douglas Palardy, Alex Samuel, Nancy LeRoy and Christian Kim; Basra Mohamed arrived at 5:36PM
Commission Staff: Executive Director, Ahni Malachi and Assistant Director, Sarah Burke Cohen

(All participants attended this meeting via Zoom)

Commissioner Palardy called the meeting to order at 5:05 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 LeRoy: home alone;
Commissioner Samuel: home, alone; Commissioner Kim: home, alone;
Commissioner Mohamed: 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 DECEMBER MEETING MINUTES

Commissioner LeRoy moved and Commissioner Samuel seconded a motion to approve the December minutes. Roll call: Commissioner Palardy - yea; Commissioner Samuel—yea; Commissioner LeRoy - yea; and Commissioner Kim—yea. The motion carried.

3. OFFICE UPDATES

Commissioner LeRoy requested the Supplement Job Descriptions requested at the last meeting. Executive Director Malachi will resend to ensure it has been received.

Executive Director Malachi gave an update relative to legislation pending during this session that may impact the Commission and RSA 354-A. Executive Director Malachi explained how she is following legislation, which includes reviewing the legislation and reaching out to key sponsors to discuss the purpose/objectives of the legislation. Executive Director Malachi also attends and testifies at House/Senate Committee meetings to ensure the Legislators know and understand the purpose and process at the

NHCHR and the possible impact the proposed legislation could have on the NHCHR and RSA 354-A.

Executive Director Malachi discussed the current pending and relevant legislation:

SB 68: requiring an employer to provide reasonable accommodations for pregnant employees. This was formerly SB 759 from last session. It was not included in the omnibus bill. “We” were integral in writing the content of this bill. It is a restatement or clarification of the pregnancy protection we already enforce.

SB 69: requiring employers to provide access to a sufficient space for nursing mothers and reasonable break time. This was formerly SB 618 from last session. It was not included in the omnibus bill. “We” were integral in writing the content of this bill. Investigator Lemelin was an active member of the Lactation Council that worked collaboratively with the BIA (Business and Industry Association). Although the provisions of this bill will live in RSA 275, The Commission had an active role in the creation of this bill and might be called to testify.

HB 231: relative to workplace lactation rights. This is the working draft of SB 618. The Lactation Council was not in agreement on the elements included which is why additional work was done to elevate this to SB 618 (now SB 69). This does have some interaction with RSA 354-A and would also change a few lines in the statute in Section 7. The “better” language is included in SB 69.

HB 140: relative to private rights of action regarding pupil safety. This bill is relative to bullying/cyberbullying. Although we do not cover this specifically, the question was posed to discuss what the consideration would be if the nature of the bullying is discriminatory and under the jurisdiction of the Commission.

HB 198: relative to an exception to the opportunity for public education without discrimination. This was formerly HB 1251 and SB 480 from last session. Both of these bills we killed. There is a re-write to more narrowly focus this bill to cover “Title IX”. The CRU (Civil Rights Unit) is watching this bill also and will most likely present testimony. Because this bill is relative to 354-A, the Commission may be called to give testimony as well.

HB 359: creating a private cause of action for discrimination based on hairstyles relative to a person's ethnicity. I will attach an email previously sent to Jill to engage in an internal discussion more focused on the erosion of the Commission’s jurisdiction than the addition of a new protected class. It is the Outlook item related to “LSR 21-0130.1. It is the same as HB 359 now). Although engaging in a conversation relative to a protected class for “hair” is an important one. This legislation reflects a push by a national organization to have similar legislation enacted across the country.

HB 506: relative to equal access to places of public accommodation. This is relative to individuals who refuse certain medical treatments. We have interpreted it as an introducing a separate protected class for those refusing such treatments.

LSR 2021-0890 relative to civil rights violations and discriminatory actions related to real estate transactions. I will attach the LSR language as it is not yet been assigned a bill number, so the content isn't readily available.

Commissioner LeRoy expressed some frustration relative to the above LSR. Executive Director Malachi will discuss with Commissioner LeRoy. The language contained in the LSR is language that the Commission will need to become compliant with HUD standards that would make the Commission eligible for a HUD contract.

Commissioner Samuel made an inquiry about HB506 and the support it has. Executive Director Malachi explained there were 10 sponsors, but has not been made aware of a large support base.

Finally, Executive Director Malachi reminded the Commissioners to process the cases they receive and to contact the Commission staff promptly if they are in need of additional information so the case can continue to process.

4. REVIEW OF INVESTIGATOR CASE LOAD

Assistant Director Burke Cohen stated the NHCHR does not currently have a contract amount for EEOC; therefore, the number is defaulted to the amount of last year's contract, which was 170 cases. The staff is moving cases along as quickly as possible while also completing intake and office coverage. Many parties are utilizing the Commission's Mediation Program, which is helping reduce the unassigned cases. Assistant Director Burke Cohen stated she is also been attempting to complete direct negotiations with the parties to move cases along.

Commissioner Palardy and Commissioner LeRoy expressed concern that the number of "Unassigned Cases" is trickling back up. He said and Commissioner LeRoy concurred that the Commission needs to continue to find ways to make the number of "Unassigned Cases" decrease through discovering and implementing efficiencies. Assistant Director Burke Cohen concurred with the concerns of Commissioners Palardy and LeRoy. She added the staff have been taking on multiple roles in the office and are continuing to process cases as quickly as they can. Assistant Director Burke Cohen stated when additional staff is hired, it will help alleviate some of the pressure on the staff and allow staff to process cases. In addition, Assistant Director Burke Cohen stated the Intake Coordinator, once hired, and she will be able to better and more effectively manage the "Unassigned Cases" by helping facilitate negotiations directly and/or through the Commission's mediation program.

5. HEARING SCHEDULE UPDATE

Assistant Director Burke Cohen discussed the hearing scheduling. She stated a hearing is scheduled for April 20, 2021. She said the panel is made up of Commissioner LeRoy, Commissioner Mohamed and Commissioner Shirley. However, Commissioner Shirley is no longer available. Commissioner Samuel stated he was available. Assistant Director Burke Cohen explained the hearing will likely be virtual. Assistant Director Burke Cohen and Executive Director Malachi are working with OPLC and DOJ relative to guidance to ensure the hearing abides by state law and protects the rights of all parties involved. Assistant Director Burke Cohen stated she would send out the Prehearing Order/Report to the panel members for review and determination if there was any conflict. She requested the panel members respond promptly if there was a conflict with a party or witness and/or the date of the hearing.

6. OTHER BUSINESS

Executive Director Malachi discussed the status of hiring. She explained the reclassification process that needed to be completed by NH Personnel. The revisions to the Supplemental Job Descriptions of the positions have been completed. Executive Director Malachi has to send a request for approval to the Governor for 2 part-time positions (Secretary and Paralegal). She hopes to complete that and have the approval back by next week. The full-time Intake Coordinator position must go before Governor and Counsel for approval. This will occur at their next meeting. Executive Director Malachi is hopeful this will be approved with no issue and will move on with the process as soon as she is able.

Executive Director Malachi discussed the positions being hired. The Secretary will be able to answer phones and do light administrative work on a part-time basis. The Paralegal position will be able to clerk hearings and draft legal documents such as Orders, etc. This position will help alleviate some tasks currently completed by the Assistant Director, which also will allow for efficiencies in the Commission process. Eventually, the part-time intake person will be able to be hired, but it is currently unfunded as is the Office Manager positions. Both positions are in the budget as a prioritized need. If those positions are not funded in the new budget process, the Secretary position can do many of the onsite “secretarial” tasks and the Department of Justice will continue to assist with the other office management tasks.

Commissioner Palardy stated Executive Director should prioritize hiring. He is frustrated by it taking additional time due to the process. He said he will assist in any way he can and the other Commissioners concurred. Commissioner LeRoy also expressed her frustration with the slow process. Executive Malachi explained the process and how it works and how it can be delayed.

Commissioner Mohamed asked about the overall budget process. Executive Director Malachi explained how it generally works and how there have been different items that have occurred related to the COVID-19 pandemic.

Commissioner Mohamed talked about if there were volunteers or interns available. Executive Director Malachi discussed that these were available and have been utilized as we are able. Executive Director Malachi discussed the bottom line need for the new staff as these new staff members will be able to alleviate some of the current challenges of the limited staff.

7. NON-PUBLIC SESSION

None.

8. ADJOURNMENT

Commissioner Palardy moved for adjournment and Commissioner LeRoy seconded. The Commissioner's meeting adjourned at 6:09 PM.