

New Hampshire Commission for Human Rights



COMMISSIONERS

CHRISTIAN KIM, CHAIR
DOUGLAS PALARDY
HARVEY KEYE
NANCY LEROY
ALEX SAMUEL
BASRA MOHAMED
ELIZABETH ASCH

2 INDUSTRIAL PARK DRIVE, BLDG. 1
CONCORD, NEW HAMPSHIRE 03301
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

EXECUTIVE DIRECTOR
AHNI MALACHI

ASSISTANT DIRECTOR
SARAH E. BURKE COHEN, ESQ.

INVESTIGATORS
KATRINA E. TAYLOR
NICOLE LEMELIN
DANIEL DEYERMOND
KATE MULLEAVEY
LURA SEAVEY

INTAKE COORDINATOR
JOHANNA "JONNA" ALLARD

PARALEGAL
KELLY MEDEROS

SECRETARY
ROBIN LAVALLEY

NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

November 4, 2021 at 5:00 PM

MINUTES

ATTENDANCE: Commissioners present: Christian Kim, Basra Mohamed (by phone – office, alone), Douglas Palardy, Nancy LeRoy, Alex Samuel (by phone – home, alone), Elizabeth Asch, and Harvey Keye

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

Commissioner Kim called the meeting to order at 5:14 PM.

1. PUBLIC COMMENT

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

2. APPROVAL OF OCTOBER MEETING MINUTES

Commissioner Asch moved and Commissioner LeRoy seconded a motion to approve the minutes. Roll call: Commissioner Kim – Aye; Commissioner LeRoy – aye; Commissioner Samuel – Aye; Commissioner Palardy – aye; Commissioner Asch – aye; Commissioner Keye – aye; Commissioner Mohamed – aye.

The motion carried.

3. OFFICE UPDATES

Director Malachi stated the Director and Assistant Director attended a virtual workshop put on by the Connecticut Human Rights Commission. The sessions were recorded and so, those that the pair was not able to attend will be able to be viewed later. The sessions attended were Transgender Rights in Education and Service/Support Animals in Housing.

Director Malachi explained though the NHCHR does not yet have a HUD contract that the NHCHR does enforce NHs Fair Housing Act, which covers Assistance Animals. Director Malachi did a presentation before the Manufactured Home Association and Assistant Director Burke Cohen did a presentation before the Real Estate Association's as part of their Train the Trainers. Both these groups had numerous questions revolving around Assistance Animals. The Commissioners discussed issues revolving around Assistance Animals.

Director Malachi discussed GACDI (Governor's Advisory Council on Diversity and Inclusions). She said going forward she will bring a monthly update to the Commissioners. Currently, there have been membership changes. Director Malachi stated she has been appointed the Chair of GACDI. Director Malachi explained that the GACDI has been reviewing and evaluating the Executive Order establishing the council, annual reports and other related documents to the objectives of the GACDI. The goal of the review is to determine what has been done and the path forward. Director Malachi explained the GACDI is looking at a strategic plan, reviewing the purpose, defining terms to ensure all are on the same page and define what is needed to move forward. Commissioner LeRoy inquired why the change in membership. Director Malachi stated 10 members were not happy about HB2 and resigned in protest.

Commissioner LeRoy asked if the office was fully staffed. Director Malachi stated that all funded positions are filled. The Office Manager and P/T Intake positions are "there", but unfunded.

Director Malachi presented the drafted NHCHR COVID-19 Policy. The Commissioners requested that "vaccination" be added to the list of "Preventative Measures". Commissioner Asch recommended that we review and ensure all CDC policies relied on are the most up to date. The Commissioners discussed the policy. Director explained that NH does not have a blanket policy that it is up to individual agencies, and she explained the reason why the policy has been rendered to paper and the intricacies and interaction of it. Because it doesn't seem that the Commission could terminate a staff member for not following the "policy", the Commissioners requested it be revised and called "guidance". The Commissioners also requested the staff sign off that they have received and understand the policy. Director Malachi explained that the guidance will allow for mitigation of thoughts that individuals are being treated differently and gives written documentation outlining recommendations to ensure the safety of the entire office. The Commissioners concur that the guidance should be presented to the staff to ensure everyone understands the expectations relative to COVID-19.

Director Malachi told the Commissioners that Director Malachi, Assistant Director Burke Cohen and AAG Perlow had been working on updating the case processing process. The proposed process was presented to the staff yesterday. The meeting included Director Malachi, Assistant Director Burke Cohen, the staff, AAG Perlow and AAG Sean Locke (Director of the Civil Rights Unit). During the meeting, there was a presentation of the process and input from staff with additional ideas. Director Malachi explained the process goal was to ensure investigations were completed within 180 days from the date

of filing. This time period was decided as after the 180 days, the Complainant would be able to freely remove the case to court. Director Malachi also explained that currently the statutory states the investigation should be completed in 24 months. This time period is not jurisdictional, which means the case will not be dismissed should it not be completed after 24 months. Director Malachi explained there is legislation to revise the 24 months to 12 months. Director Malachi also explained part of the goal with the revision of the process is to eliminate the pending file. Director Malachi revision and reduction of the case process will empower the NHCHR as we process cases. Director Malachi explained that the goal is to be more efficient and effective. Commissioner Keye asked if this change would be beneficial to not only the NHCHR, but also the State of NH. Director Malachi stated yes. Commissioner Keye asked if the process would allow the NHCHR to be more assertive. Director Malachi stated yes. Director Malachi stated going forward. The management and staff will meet once per week to hammer out the details of the new process to include letters, etc. that need to go to parties as part of processing. The NHCHR will also send letters to the members of the NHBA to explain what the new process is and expectations. The staff will also discuss how to process the pending file to a more manageable level.

Director Malachi offered a legislative update. She explained the LSR period for both the House and Senate has closed. There are 895 proposed LSRs, but not all impact the NHCHR's statute. Director Malachi will attend and be present at the Legislative Office Building to ensure the NHCHR's presences should legislation be changed by amendment to one that will impact the NHCHR's statute. In addition, Director Malachi completes all fiscal notes submitted to the NHCHR. She assesses the bill and though most are indeterminable. She, generally, includes a request for additional staff. Director Malachi will be sending the Commissioners a spreadsheet on any/all legislation that needs to be tracked as pieces of legislation that could impact the NHCHR. Director Malachi stated she is willing to answer any questions on an individual basis.

Director Malachi inquired about dates for the SEED training to be completed by Michael Worsely. She also added that Mr. Worsely completed the Cross-Cultural and Ethnic Skills training for the staff on Monday. It was well received. The Commissioners decided November 20 would be the best date. Director Malachi will confirm with Mr. Worsley. The training will take place between 9AM & 4PM at the NHCHR's office.

4. REVIEW OF INVESTIGATOR CASE LOAD

Assistant Director Burke Cohen reiterated the EEOC Contract was fulfilled. She also stated the investigators are working hard and continuing to move their cases forward. Assistant Director Burke Cohen has individual supervisory meetings every month with each staff members. She has talked with some staff during the meetings and has received positive feedback about the process revision. There are some that have some trepidations, but it hasn't seemed to outweigh the positive feedback. Many investigators Assistant Director Burke Cohen has spoke with have also decided to reevaluate their individual processes to help those process line up with the revisions being made to the overall process.

5. HEARING SCHEDULE UPDATE

Assistant Director Burke Cohen discussed the hearing scheduling and updated it. Currently, there will likely be no November hearing and the December cases have been removed/withdrawn. There is potential for January and February cases to move forward. She said she will work on assigning Commissioners to Public Hearing dates in 2022.

6. OTHER BUSINESS

Consent Calendar. Director Malachi explained the possibility of a consent calendar for those cases that may be “administratively closed” for reasons such as jurisdiction. Director Malachi proposed several options for a Consent Calendar. These proposals included the Commissioners voting on items at a regular meeting, one Commissioner processing the cases or Director Malachi be designated by the Commissioners to process those cases. The Commissioners expressed an interest in delegation that authority to Director Malachi. However, the Commissioners requested that there be a list of these cases to ensure knowledge. Director Malachi will discuss delegation with AAG Perlow to ensure the legality.

Commissioner Keye requested that the Commission submit a LSR to include “NH does not tolerate discriminatory practices.” Commissioner Keye wants it to be clear from the NHCHR that “NH does not tolerate discriminatory practices.” Commissioner LeRoy and Commissioner Keye discussed the vehicle of how and who should make the statement. Commissioner Palardy expressed that the NHCHR is more of a governing/enforcement agency and may not be the most ideal agency to issue a statement. Commissioner Palardy also added that the NHCHR would benefit from outreach as many don’t even know about this agency. Commissioner Kim and Commissioner Keye discussed the language of the statement. Commissioner Keye asked if the Commissioners agreed with his statement and that it should be part of/issued by the State of NH. The Commissioners concurred that the statement is a valid statement. Director Malachi explained that although the statement is good, the existence of statutes, councils and agencies that have been set up to push back against discrimination are already enforcing those ideals. Director Malachi explained it sounded like the statement would potentially be a resolution from the House or Senate. A resolution would be getting the House/Senate to agree to and announce certain ideals. Commissioner Keye wanted the announcement and statement to be more direct i.e. NH does not tolerate discriminatory practices. Commissioner Kim said the statement sounded more like a PR/Marketing statement that would be on social media. Director Malachi explained that such a position was requested and denied during the budget process. Commissioner Keye stated he may go to the Governor and request he make a Proclamation. The Commissioners continued their discussion. Commissioner Keye stated he wanted to plant the idea and hope that it will blossom.

7. NON-PUBLIC SESSION

None.

8. ADJOURNMENT

Commissioner LeRoy moved for adjournment and Commissioner Asch seconded. The Commissioner's meeting adjourned at 7:25 PM.