

New Hampshire Commission for Human Rights



COMMISSIONERS

CHRISTIAN KIM, CHAIR
DOUGLAS PALARDY
HARVEY KEYE
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ALEX SAMUEL
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ELIZABETH ASCH

EXECUTIVE DIRECTOR
AHNI MALACHI

ASSISTANT DIRECTOR
SARAH E. BURKE COHEN, ESQ.

INVESTIGATORS
KATRINA E. TAYLOR
NICOLE LEMELIN
DANIEL DEYERMOND
KELLY MEDEROS

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

NEW HAMPSHIRE COMMISSION FOR HUMAN RIGHTS COMMISSIONERS' MEETING

April 7, 2022 at 5:00 PM

MINUTES

ATTENDANCE: Commissioners present: Christian Kim (chair), Alex Samuel, Basra Mohamed, Douglas Palardy (via Zoom. He was home and alone. He departed at 6:48PM.), Nancy LeRoy (via Zoom. She was home and alone.), Elizabeth Asch, and Harvey Keye

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

Commissioner Samuel called the meeting to order at 5:11 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 FEBRUARY MEETING MINUTES

Commissioner LeRoy moved and Commissioner Asch seconded a motion to approve the minutes with a minor revision. The motion carried.

Upon a roll call vote, all were in favor: Commissioner Kim – yea; Commissioner Palardy – yea; Commissioner Asch – yea; Commissioner Keye – yea; Commissioner Samuel— yea; Commissioner LeRoy - yea; and Commissioner Mohamed. The motion carried.

3. GACDI UPDATE

Executive Director Malachi stated the Governor's Council on Diversity and Inclusion ("GACDI") last met on Tuesday, March 15, 2022. At the meeting there was a presentation by the Housing Stability Council. Chris Santeniello talked about the plans

and what the Council would be doing. The next meeting is scheduled for April 19, 2022. Commissioner Keye asked if the HSC reported the number of homeless in NH. Assistant Director Burke Cohen stated that the HSC is a recently started council and has spent time determining what its strategic plan looks like. Therefore, they did not have a great deal on the specifics and statistics. They are looking at working with specific homeless groups such as veterans.

4. OFFICE UPDATES

Executive Director Malachi gave a brief legislative update. SB296 is legislation that was introduced that would remove the statutory language currently allowing respondents to remove cases to court following the issuance of a probable cause decision. Executive Director Malachi stated the bill passed the NH Senate and is now in the house. The House Committee heard testimony on the bill today. Commissioner LeRoy asked why the bill was proposed. Executive Director Malachi explained that Complainants' Bar asserts that allowing respondent to remove is unfair to complainants who do not have representation. Executive Director Malachi stated she testified today, but that the Commission is neutral on this legislation. Executive Director Malachi said she presented a White Sheet to the House Committee that explained the process and showed the hearing schedule for calendar year 2021. The White Sheet showed how cases proceeded following the issuance of a probable cause finding. Executive Director Malachi also discussed that the House Committee was thinking about making an amendment that would also remove the choice of forum from the statute for complainants as well. With that suggested amendment, Executive Director Malachi will be inquiring with the EEOC to determine if such a change that would not allow complainants a choice of venue would affect the Commission's contract with the EEOC.

Later this month, the EEOC is conducting a 3-day training. The details of the training will be forthcoming. The training will be conducted virtually. Commissioner Keye asked if the Commission had information videos about the Commission for people to watch in person. Executive Director Malachi said not really. Commissioner Keye has a video of what the Commission does and will send it to Executive Director Malachi for review.

Executive Director Malachi said she has been replying to several RSA 91-A requests relative to RSA 354-A:29-34, which is the codification of language in HB2 from 2021.

Executive Director Malachi discussed the budget process, which has begun. The first part of the process is submitting your requests for additional personnel. She has requested 4 more anti-discrimination investigators, 1 trainer to give and make trainings, making the Paralegal full-time and making the secretary full-time. She has also requested the funding for the full-time Administrative Assistant and part-time Intake Coordinator be reinstated. Executive Director Malachi discussed the next steps, including what occurs when the Governor's efficiency budget is published. She also stated that several agencies and associations have stated they are willing to testify on behalf of the Commission in support of additional budgetary needs including staffing.

Executive Director Malachi attended the Governor & Executive Council meeting on March 23, 2022. She attended to get permission to accept monies received from the EEOC. The money received from the EEOC is added to the Commission's budget and distributed as determined by the Executive Director. Executive Director Malachi stated there were no questions and the request was approved.

Commissioner Keye said that it seems many more people are looking at the Commission. He said our accomplishments should show our work. He suggested the Commission put together some sort of document that displays its accomplishments. Executive Director Malachi stated the issue could be that due to the continual change of legislators that there will be continued education. Executive Director Malachi stated during her testimony she always explains who the Commission is and what it does to ensure as many legislators as possible are getting educated about the Commission.

Commissioner Samuel asked about the budget received and if it stays with the Commission. Executive Director Malachi explained that "general fund" money is swept at the end of the fiscal year, but federal funds are not swept and can be used in the following fiscal year.

Commissioner Keye asked if there is something that actual measures how the Commission is working toward ending discrimination. Executive Director Malachi discussed how it is difficult to measure the good works being done by the Commission. She discussed how the Commission is outreaching and conducting trainings as requested. Executive Director Malachi and Assistant Director Burke Cohen conducted a training for a private employer yesterday. She discussed the importance of training and how as these trainings are conducted that more are requested and that these trainings influence how employers operate. Commissioner Keye talked about looking to get more publicity that the Commission is doing good works and in doing so is having an affect on ending discrimination. Commissioner Kim concurred with Commissioner Keye that more publicity and recognition could assist with influencing discriminatory actions and allow for more individuals to know who we are.

Executive Director Malachi talked about the presentation that Assistant Director Burke Cohen and she gave to the Employment & Labor Law Section of the NH Bar Association. She said they discussed the new process. She will also be putting this information to send to members of the NH Bar Association.

5. REVIEW OF INVESTIGATOR CASE LOAD

Assistant Director Burke Cohen discussed the investigator caseload. Assistant Director Burke Cohen stated that the federal database continues to not allow the Commission to run statistical information on the cases it has in it. Therefore, there is no report on the total number of cases pending at the Commission. She said the investigators continue to move cases through the process efficiently. In the month of March, the Commission closed more cases than it opened. Further, the Commission has made completed 63% of the EEOC Contract and contract is 50% through.

Commissioner Mohamed asked if the new process was working and assisting with the investigators processing their cases. Assistant Director Burke Cohen said yes. She added that the reduction of the investigator's case load to 25 cases from 50 has allowed the investigators to have more contact with the parties on each case regularly. In addition, Assistant Director Burke Cohen said that the new report status allows for a summary of evidence, which allows for the investigators to more efficiently write reports. Executive Director Malachi stated that with the reduced case load and new process has allowed the movement of cases. The process has empowered the investigators to control their case load and offered a true sense of accomplishment as cases are closed. Further, Executive Director Malachi said that there has also been a restructuring of when reports are dropped off with the Assistant Director. The investigators now drop reports off with the Assistant Director on Mondays for review during that week. Executive Director Malachi stated this new drop off pattern allows the Assistant Director to continue with her other responsibilities and have a more specific time for reviewing.

Commissioner LeRoy expressed concern about the report format. Assistant Director Burke Cohen explained the process that the investigators reports are all reviewed by the Assistant Director before being sent to the Commissioners for review to ensure the investigator is complete and report conveys the investigation. Commissioner Asch said that all Commissioners are allowed to contact the investigators, Assistant Director and Executive Director to discuss the case or request additional information. Executive Director Malachi reiterated this and said the Commissioners are always welcomed to contact staff at the Commission. Commissioner Mohamed inquired about the review of cases. Assistant Director Burke Cohen explained that she reviews all cases prior to the cases being sent to the Commissioners. Assistant Director Burke Cohen also said that if a Motion for Reconsideration is filed on a case that this process has been changed. Following the receipt of a Motion for Reconsideration, the case is reviewed by either the Paralegal or Assistant Director to determine if there are merits to the Motion. Assistant Director Burke Cohen stated that there has been at least one occasion since this process started that a decision was partially overturned.

6. HEARING SCHEDULE UPDATE

Assistant Director Burke Cohen discussed the hearing scheduling and updated it. She stated that the hearing scheduled for July will go forward. It will be a 2-day hearing and is scheduled for July 20 and 21. Assistant Director Burke Cohen stated if SB296 pass that Executive Director Malachi and she that due to the possible volume believe SBC also discussed having 2 hearings scheduled per month to ensure cases move forward promptly. Executive Director Malachi also stated she had been discussing possible alternatives with the Attorney General's office including having an Administrative Law Judge hear cases. Commissioner Asch stated she would prefer scheduling 2 hearings per month instead of bringing in another person. It would allow the Commissioners to be more involved with the cases. Executive Director Malachi stated should SB296 be signed into law, it will most definitely impact the number of cases moving toward public hearing and possibly going to public hearing at the Commission. If SB296 is signed into law, it

goes into effect 60 days after passage. Assistant Director Burke Cohen stated that Executive Director Malachi and she wanted to have this preliminary conversation with the Commissioners prior to the legislation being passed.

7. OTHER BUSINESS

Commissioner Keye asked if the NHCHR should put out a statement condemns the actions by Russia in the Ukraine. The Commissioners discussed this concept and although all agree that the actions should be condemned, decided it was not this bodies place to issue such a statement.

8. NON-PUBLIC SESSION

Commissioners Kim requested the Commissioners enter non-public session to discuss a personnel matter. Commissioner Kim moved that pursuant to RSA 91-A:3, II (a), the Commission enter non-public session to discuss personnel matters. Commissioner Mohamed seconded the motion. Upon a roll call vote, all were in favor: Commissioner Kim – yea; Commissioner Palardy - yea; Commissioner LeRoy – yea; Commissioner Keye – yea; Commissioner Samuel—yea; Commissioner Asch - yea; and Commissioner Mohamed —yea. The motion carried. The entered non-public session at 6:40 PM.

At 6:50 PM, the Commissioners returned to Public Session. Commissioner Kim moved and Commissioner Mohamed 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 Asch – yea; Commissioner Keye – yea; Commissioner Samuel—yea; Commissioner LeRoy - yea; Commissioner Kim – yea; and Commissioner Mohamed. (Note: Commissioner Palardy departed the meeting at 6:48PM.) The motion carried.

9. ADJOURNMENT

Commissioner Kim moved for adjournment and Commissioner Samuel seconded. The Commissioner’s meeting adjourned at 6:52 PM.