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**VERMONT HUMAN RIGHTS COMMISSION  
MINUTES**

**April 23, 2020**

PRESENT (all via Microsoft Teams Meeting): Commissioners: Kevin Christie, Chair, Nate Besio, Don Vickers, Dawn Ellis, and Joan Nagy. Staff: Bor Yang, Executive Director; Nelson Campbell, Supervising Attorney; Melissa Horwitz, Cassandra Burdyslaw, Administrative Law Examiners; John McKelvie, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:15am.

**EXECUTIVE SESSION:**

Commissioner Vickers made a motion to go into executive session to hear confidential cases at 9:20am. The motion was seconded by Commissioner Ellis. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 12:08pm.

VHRC Case No.: PA20-0011

Commissioner Besio moved to accept the recommendation of reasonable grounds that discrimination occurred on the basis of disability. The motion was seconded by Commissioner Ellis. Vote 5-0.

VHRC Case No.: HV20-0006

Commissioner Vickers moved to accept the recommendation of reasonable grounds that discrimination occurred on the basis of disability. The motion was seconded by Commissioner Besio. Vote 5-0.

Commissioner Nagy made a motion to go into executive session to discuss confidential cases at 12:12pm. The motion was seconded by Commissioner Vickers. Vote 4-0. (Commissioner Besio absent).

Commissioner Christie brought the VHRC out of executive session at 12:20pm.

VHRC Case No.: PA18-0026

Commissioner Nagy moved to accept the recommendation of no reasonable grounds. The motion was seconded by Commissioner Ellis. Vote 4-0 (Commissioner Besio recused).

## **BUSINESS MEETING**

MINUTES: Commissioner Nagy moved to accept the minutes of the January 23, 2020 meeting as written. The motion was seconded by Commissioner Ellis. Vote 5-0.

## PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff)

HRC Case No. HV20-0004  
HUD Case No. 01-19-3683-8

HRC Case No. HV20-0008  
HUD Case No. 01-20-3839-8

HRC Case No. HV20-0005  
HUD Case No. 01-20-3979-8

HRC Case No. HV20-0015  
HUD Case No. 01-20-5088-8

HRC Case No. HV20-0013  
HUD Case No. 01-20-4520-8

HRC Case No. HV20-0010  
HUD Case No. 01-20-3988-8

HRC Case No. HV19-0018  
HUD Case No. 01-19-2544-8

## EXECUTIVE DIRECTOR REPORT:

### COVID-19 Response:

Executive Director Yang described how, in light of the COVID-19 pandemic and the Governor's stay at home order, HRC staff has been working remotely for the past several weeks. As expected, the current health crisis has shifted the focus and manner of the HRC's work. Overall, intakes have decreased as Vermonters prioritize their safety, health, and well-being as well as their housing, employment and child-care concerns.

Staff attorney investigators move forward in their current investigations, conducting interviews via Skype or telephone. The HRC is honoring all requests from witnesses and attorneys to

postpone interviews and extend deadlines. HRC staff are also working on developing webinars and rescheduling trainings that were cancelled or postponed.

The HRC will be holding a series of remote town hall meetings connected to “Equity in the time of COVID-19.” The first town hall is dedicated to combating xenophobia and racism against Asian-Americans in housing, employment and places of accommodations. Other town hall meeting topics will include: rent and mortgage arrears and forgiveness; socioeconomic and disability related issues for students and their families; employment-related concerns such as paid parental and family sick leave, health insurance, requesting flexible working conditions, and making reasonable accommodation requests.

In addition to supporting and providing input to the Attorney General’s guidance for employers and employees, HRC staff is also working on an FAQ that will be posted on its website.

The HRC was rewarded a \$5,000 Rapid Response Grant from the Nellie Mae Education Foundation. Grant funds are designated for the purpose of outreach and response to COVID-19 related equity and inclusion issues. The HRC will be developing content and purchasing space and time for public service announcements.

Commissioner Ellis raised the point that any bias reporting program should be broad enough to capture forms of bias against marginalized communities including but not limited to Asian Americans. ED Yang noted that discrimination may occur most often against those that are perceived as ‘not from Vermont,’ and those individuals are generally racial and ethnic minorities. ED Yang confirmed she will review that page on the HRC website to ensure the language is fully inclusive. She also updated Commissioners that HUD plans to distribute additional funds related to COVID-19 housing discrimination and that the HRC would apply for that grant money in the near future.

Commissioner Besio asked whether the HRC receives any benefits from the CARES Act. ED Yang stated that she wasn’t sure, but that the State has asked each state agency to note how much time and effort they spend on COVID-19 related work for possible reimbursement at a later date.

Commissioner Nagy posed the question of whether the burden on the state budget might cause the state to look more closely at any of the HRC’s carryforward funds, and she noted that any federal funds we can access might supplant funds appropriated by the state.

Commissioner Ellis pointed out that any HRC infrastructural improvements, based on HUD or other federal funds, should be intended for long-term use because opportunities to receive additional funding on this scale are rare.

#### The Budget:

As a result of the state of emergency, the Legislature has not yet passed the FY2021 budget. The HRC does not expect any changes to its request.

The HRC is projected to be under budget at the end of FY2020 by \$113,164.97. This amount includes \$30,764.65 of carryforward funds from last fiscal year, vacancy savings from hiring the Director of Policy, Education and Outreach in December 2019, and \$5,380 of Pay Act for FY2020. The HRC also budgeted a little more than needed for upgrades to employees and received \$25,000 in partnership funds from the Department of Housing and Urban Development (HUD). In addition to the carryforward funds, the HRC will receive \$12,500 from HUD in FY2021 to develop a civil rights conference or, alternatively, a series of webinars.

ED Yang reported that a portion of those carryforward funds will be invested in case management software in order to streamline case processing and improve data collection. Another portion of the funds will go toward annual staff salary increases and additional outreach efforts.

Commissioners were asked to weigh in on the use of excess funds beyond office and administrative costs. Commissioner Ellis recommended that HRC staff document the expenditure of funds on policy, education, and outreach with intentionality, in order to push back against the potential curtailment of future HRC budgets. Commissioner Christie supported the idea that the agency should think through the justifications for and sustainability of each staff position in advance.

Commissioner Ellis noted that the HRC is a small, nimble organization and can be a model of adaptability for other state organizations undergoing COVID-19 related disruption. In addition, the agency can and should lean into other legislative efforts that we have not focused on before, such as internet and broadband accessibility, health, and the economic well-being of Vermonters. She encouraged HRC staff to be on the lookout for new areas where equity, access, and discrimination collide and to be willing to address topics and concerns that may not been an HRC priority in the past. Commissioner Christie reiterated that the COVID-19 crisis exacerbates existing issues of marginalization in our communities, and that a lack of communication and connectivity is of particular concern.

#### Outreach & Training:

Due to the social distancing constraints imposed by COVID-19, the HRC is in the process of developing dynamic and interactive webinars in order to continue providing this outreach and training.

#### Meetings, Conferences and other Work:

ED Yang reported that the HRC remains committed to continuous improvement and endeavors to engage in a variety of trainings and conferences and to work effectively with our many partners, despite the current social distancing constraints.

- Staff Attorney Melissa Horwitz will continue to conduct monthly Fair Housing Trainings via Zoom on the second Monday of every month.

- Director of Policy, Education and Outreach Amanda Garcés will be continuing a training on *Dominant Culture* for staff.
- ED Yang continues to work with the Attorney General's Office, Migrant Justice and ACLU and the Vermont Training Council on improving the Fair and Impartial Policing Policy and the associated trainings.

## **POST-CASE UPDATES**

### Francois v. Department of Mental Health (DMH)

Commission Meeting Determination: January 25, 2018

Settlement Agreement Date: July 17, 2018

*Latest:* DMH rolled out a new training program in March that would have satisfied the terms of the agreement. However, the last scheduled training was cancelled due to COVID-19.

### Hay v. University of Vermont Medical Center

Commission Meeting Determination: May 25, 2017

Settlement Agreement Date: December 7, 2017

*Latest:* UVMC requested an extension to provide their report which was due in February. The HRC and DOJ granted that extension.

### McGurl v. Agency of Transportation

Commission Meeting Determination: January 24, 2019

Settlement Agreement Date: May 17, 2019

*Latest:* The status remains unchanged since the last Commission meeting. ED Yang met with DHR General Counsel to discuss a Memorandum of Understanding around the sharing of data and information pertaining to discrimination claims at DHR and the Hire-Into-Range policy. DHR is reviewing the recommended changes and MOU submitted by ED Yang.

### Weygant v. Deery

Commission Meeting Determination: September 26, 2019

Statute of Limitations Expires: March 26, 2020

Settlement Agreement Date: February 21, 2020

*Latest:* The matter has settled. A post-determination conciliation agreement was signed. The Commissioners signed the PDCA.

### Quinones v. Chittenden Regional Correctional Facility and Department of Corrections

Commission Meeting Determination: September 26, 2019

Statute of Limitations Expires: March 26, 2020

Settlement Agreement Date: TBD

*Latest:* The Commissioners granted permission to pursue litigation at the ED's discretion. Since then, the state provided a counteroffer. For reasons discussed in executive session, the ED will not be filing litigation in this case. Mr. Quinones has pursued a private right of action in Superior Court.

## **LITIGATION**

### Congress v. Department of Corrections (DOC)

Commission Meeting Determination: April 18, 2019

Statute of Limitations Expires: December 31, 2019

Settlement Agreement Date: TBD

*Latest:* ED Yang filed a lawsuit in Washington Superior Court before March 31, 2020. Disability Rights Vermont, on behalf of Ms. Congress, will be joining that lawsuit with similar claims.

## **LEGISLATIVE REPORT**

Director of Policy, Education, and Outreach Amanda Garcés reported that the 2020 Legislative session has come to a stop on all bills unrelated to COVID-19, and that everything is occurring via Zoom meeting.

Most recently, the Senate passed S.333, an act relating to establishing a moratorium on ejection and foreclosure actions during the COVID-19 emergency. The bill still needs to be considered in the House.

Policy Director Garcés noted that the Senate is also focusing on rights for students with disabilities, particularly the concern that students cannot access the resources they need and to which they're entitled. She also reported that she recently testified on the collection of race and ethnicity data in relation to COVID-19 cases, alongside Xusana Davis, Tabitha Moore, Mark Hughes. She is also working to mandate the collection of disability and language-access data in relation to COVID-19 cases and invited Migrant Justice and Disability Rights Vermont to join forces in pushing for that data.

Policy Director Garcés is also looking into the issue of health access for both documented and undocumented farmworkers and potentially pursuing a fund for farmworker health access. She is also tracking S.114, an act relating to the emergency judicial response to the COVID-19 public health emergency. She listed a number of other bills that the HRC testified on prior to the state of emergency, such as H.464, H.492, H.496, H.714, and H.808.

Lastly, ED Yang summarized her April 9, 2020 letter to Department of Health Commissioner Levine, which highlighted the importance of accurate data collection on the basis of race, disability, and language access.

**NEXT MEETING May 28, 2020.**

The meeting was adjourned at 2:28pm.

Dated at Brookfield, Vermont this 23rd day of April 2020.

Respectfully submitted:

/s/ Bor Yang

Bor Yang

Executive Director