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## VERMONT HUMAN RIGHTS COMMISSION

### MINUTES

**May 28, 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, Staff Attorney Investigators; John McKelvie, Executive Staff Assistant (minutes).

### EXECUTIVE SESSION

Commissioner Vickers made a motion to go into executive session to hear confidential cases at 8:55am. The motion was seconded by Commissioner Besio. Vote 4-0 (Commissioner Christie absent until 9:10am).

Commissioner Christie brought the VHRC out of executive session at 10:29am.

#### VHRC Case No.: HV20-0007

Commissioner Vickers moved to accept the recommendation of no reasonable grounds that discrimination occurred on the basis of race and skin color. The motion was seconded by Commissioner Nagy. Vote 5-0.

Commissioner Vickers moved to accept the recommendation of no reasonable grounds that discrimination occurred on the basis of disability. The motion was seconded by Commissioner Besio. Vote 5-0.

### BUSINESS MEETING

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

#### EXECUTIVE DIRECTOR REPORT:

##### COVID-19 Response:

Staff continue to work remotely. Intakes have picked up and the HRC is seeing similar call rates as in previous years.

The HRC conducted its first virtual Townhall Meeting: *When Fear Turns to Hate: Addressing Racism and Xenophobia Amid COVID-19*, on May 6<sup>th</sup>. There were more than 70 plus attendees at the height of the meeting and survey results showed positive feedback. Plans for the next Townhall Meeting are underway and will focus on housing, moratoriums on evictions and foreclosures, fair housing laws, safety and wellness in residential facilities and homeless shelters.

Other town hall meeting topics include: debt 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 as a result of COVID-19.

#### The Budget:

ED Yang noted that the Governor has asked that all state departments plan a decreased FY2021 budget, potentially up to an 8-10% reduction. This amounts to a loss of \$59,000 in FY21. It appears that Departments will be permitted to retain their carryforward funds. As such, the HRC has approximately \$113,164.97 to offset this loss and to continue operations as normal.

At the last commission meeting, Commissioners asked if any of the carry forward could be transferred to the HRC's special litigation fund. Unfortunately, such a transfer would have to be approved by the Governor or Legislature as part of the budget cycle. ED Yang will submit a proposal accordingly. Commissioner Vickers asked if such a proposal might inadvertently result in the State re-appropriating those funds, to which ED Yang replied that her proposal would clarify the otherwise limited options for replenishing the fund (i.e. solely through attorney's fees). Commissioner Christie offered his expertise in navigating the legislative process for submitting the proposal in order to mitigate the risk of possible re-appropriation.

As previously reported, The HRC was awarded a \$5,000 Rapid Response Grant from the Nellie Mae Foundation to do COVID-19 related outreach. HUD was granted \$1.5 million dollars from the CARES Act to distribute to enforcement organizations such as the HRC. The application for this grant is underway and is entirely focused on COVID-19 related activities, as required. This grant, if awarded, will also offset the budget reductions, and provide reimbursement for COVID-19-related expenses such as technology required for remote work. In addition, the application will request funds for the VHRC to provide payments to individuals for virtually attending our fair housing and implicit bias trainings. ED Yang noted that rather than getting into the administrative process of verifying incomes, the VHRC will ask individuals to waive financial reimbursement if they're not experiencing financial hardship.

Commissioner Besio described recent efforts by VCIL to expand access to their trainings, particularly for populations with limited or no internet access. He noted it can be difficult to provide financial assistance for that access because it's an ongoing cost, as opposed to a one-time purchase of a phone or computer. Commissioner Christie mentioned Comcast Essentials as income-based internet service that has improved accessibility for lower income individuals throughout the state. Regarding payments for training attendees, he suggested adjusting it to an opt-in rather than opt-out system by asking participants whether they would require scholarships to attend.

Commissioner Ellis remarked that the not-for-profit world is slowly transitioning from not asking for support due to the pandemic to strategically asking for support from those who are able to afford it. She continued that the HRC shouldn't miss the opportunity to receive payment for trainings from individuals and organizations with the financial capability to pay, which would both subsidize the trainings for individuals who require assistance and generate income to support additional HRC trainings.

Commissioner Christie referenced the Vermont Partnership as an organization exemplifying how to change the delivery model of their services to take a more multi-faceted approach.

ED Yang described the pros and cons of conducting trainings online rather than in person. Commissioner Ellis encouraged HRC staff to use break-out groups during virtual trainings to allow for dialogue and to better approximate in-person learning conditions.

#### Outreach & Training:

- Fair housing trainings continue on the second Mondays of the month and are hosted by Staff Attorney Melissa Horwitz.
- ED Yang is conducting a virtual Deep Dive Implicit Bias training for the Vermont Bar Association on June 24, 2020 from 3-5 p.m.
- Staff Attorney Melissa Horwitz is partnering with the Champlain Valley Office of Economic Opportunity (CVOEO) on a data collection project specific to fair housing.
- ED Yang was the keynote speaker at the annual Global Issues Network (GIN) Conference hosted by Rutland High School on April 30, 2020. The virtual conference had over 400 attendees.
- ED Yang also provided an Implicit Bias training in the morning session of the GIN conference.

#### Taskforces and Committees:

ED Yang described the staff's ongoing commitment to various taskforces and committees; some of which have been more active than others during the pandemic.

- Campus Sexual Violence Legislative Taskforce – Burdyslaw

*ED Yang relayed a huge thank you to Staff Attorney Burdyslaw for her leadership and significant time commitment to this taskforce.*

Staff Attorney Burdyslaw described the members of the task force and the nature of their work, explaining that the task force came about as a result of a student survivor who advocated for school transcripts to be notated when someone has been found to have violated the student code of conduct. That aim did *not* end up being one of the task force's final recommendations, which suggested the creation of a group that would enable colleges to learn from each other, funding for colleges to create pilot programs for different ways to address violence, the use of restorative justice practices, and more upfront information for students to help them determine who or where to report complaints. She noted that the full report was delayed due to COVID-19 but was submitted to the legislature on May 8, 2020.

- Hazing, Harassment, Bullying Advisory Panel – Horwitz

*The HHB Panel resumes its quarterly meetings on June 1, 2020.*

- Ethnic and Social Standards Advisory Working Group – Garcés (Chair)

*The Act 1 Working Group continues to move forward in its charge to develop standards. It is scheduled to submit a workplan to the legislature. The next meeting is scheduled for May 26, 2020.*

- Governor's Workforce Equity and Diversity Council – Yang

*ED Yang attended the annual retreat for the Governor's Workforce Equity and Diversity Council on May 12, 2020. The second half of the retreat is scheduled for June 18, 2020. The Council continues to discuss future projects.*

- Fair and Impartial Policing – Yang

*ED Yang continues to work with state and community partners to improve the Fair and Impartial Policing Policy and the associated trainings. Meetings are every Friday or every other Friday.*

- Vermont Multilingual Communication Task Force – Garcés

*Policy Director Amanda Garcés is working with various partners to ensure that all COVID-19 information is translated. The taskforce meets twice a week and is considering a legislative push for a state law that will mandate translation of documents for emergencies such as this pandemic. Meetings are recorded and can be found here: <https://www.youtube.com/channel/UC3zjPpeFnXqvESr1y3d4DvQ/featured>.*

- Immigrant Relief Fund Coalition – Garcés

*The Coalition's work has been focused on getting relief for communities left out of the federal stimulus package. The Coalition is working closely with Legislators on a possible bill.*

- Farmworker Health & Service Providers – Garcés

*This taskforce is working towards health access for farm workers and refugees.*

- Refugee and Immigrant Service Providers Network – Yang and Garcés
- Thriving Communities Steering Committee – Horwitz and Garcés
- Affordable Housing Coalition – Horwitz
- Montpelier-Roxbury School District, Equity Committee – Garcés

Commissioner Besio made the point that with everything moving to video calls and conferences, the deaf and hard of hearing community sees the use of CART (communication access real-time translation) captioning as an essential component of video interactions.

ED Yang mentioned that with the potential HUD grant money, each of our upcoming webinar trainings could be closed-captioned.

## **POST-CASE UPDATES**

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

Commission Meeting Determination: January 25, 2018

Settlement Agreement Date: July 17, 2018

*Latest:* The status remains unchanged since the last commission meeting. 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:* The status remains unchanged since the last commission meeting. 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.

Larivee v. Anderson

Commission Meeting Determination: April 23, 2020

*Latest:* This matter is in negotiations.

Bradford v. Travelodge

Commission Meeting Determination: April 23, 2020

*Latest:* The matter is in negotiations.

**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. Centurion filed an Answer. The State requested a 60-day extension to file their Answer and waived their right to file any preliminary motions to dismiss. The HRC granted the request.

**2020 LEGISLATIVE SESSION**

The 2020 Legislative session has come to a stop on all bills unrelated to COVID-19. Director of Policy, Education, and Outreach Amanda Garcés described her recent work on the migrant relief fund, coordinating with other organizations like NOFA and Rural Vermont to push legislation that would provide financial relief to workers and individuals excluded by the CARES Act – including migrant farmworkers and individuals without social security numbers. In addition, she’s worked with the Senate Agriculture Committee and Senator Ruth Hardy to move the bill forward.

Amanda is also working with the Vermont Multilingual Coronavirus Task Force to coordinate the translation of press releases and other state materials related to the pandemic, as well as the interpretation of press conferences. This Task Force is advocating for legislation that would mandate the translation and interpretation of this information moving forward.

PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff)

HRC Case No. HV20-0018  
HUD Case No. 01-20-5220-8

HRC Case No. HV20-0016  
HUD Case No. 01-20-5482-8

HRC Case No. HV20-0019  
HUD Case No. 01-20-5423-8

**EXECUTIVE SESSION**

Commissioner Vickers made a motion to go into executive session at 1:00pm in order to discuss the annual evaluation of the VHRC Executive Director, per 1 V.S.A. § 313(a)(3). The motion was seconded by Commissioner Nagy. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 2:45pm.

NEXT MEETING June 25, 2020.

The meeting was adjourned at 2:45pm.

Dated at Brookfield, Vermont this 28th day of May 2020.

Respectfully submitted:

/s/ Bor Yang

Bor Yang

Executive Director