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VERMONT HUMAN RIGHTS COMMISSION
MINUTES
December 5, 2019

PRESENT: Commissioners: Kevin Christie, Chair, Nathan Besio, Dawn Ellis, Joan Nagy, and Donald Vickers (by telephone). Staff: Bor Yang, Executive Director; Nelson Campbell, Supervising Attorney; Cassandra Burdyslaw and Melissa Horwitz, Staff Attorney Investigators; Christopher Long, Vermont Law School Intern; John McKelvie, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:13 a.m.

BUSINESS MEETING

Executive Director Yang introduced the recently hired Director of Policy, Education & Outreach, Amanda Garcés. Ms. Garcés described her professional and educational background and each of the Commissioners introduced themselves.

EXECUTIVE SESSION

Commissioner Nagy made a motion to go into executive session to hear confidential cases at 9:35 a.m. The motion was seconded by Commissioner Ellis. Vote 5-0.

HRC Case No: HV19-0020

Commissioner Christie brought the VHRC out of executive session at 10:36 a.m.

Commissioner Besio moved to accept the recommendation of no reasonable grounds on the basis of race, color, and national origin. The motion was seconded by Commissioner Nagy. Vote 5-0.

Commissioner Nagy moved to accept the recommendation of no reasonable grounds on the basis of disability. The motion was seconded by Commissioner Besio. Vote 4-1. Commissioner Ellis opposed.

BUSINESS MEETING CONTINUED

MINUTES: Commissioner Nagy moved to accept the minutes of the October 24, 2019 meeting as written. The motion was seconded by Commissioner Ellis. Vote 4-0. Commissioner Besio abstained due to his absence from that meeting.

Commissioner Besio requested a brief overview of the ethics discussion that occurred during the October 24th meeting. Commissioners Nagy and Ellis described the presentation by Larry Novins and the role of the Ethics Commission. ED Yang recommended reviewing the Commissioner Roles and Responsibilities document.

EXECUTIVE DIRECTOR REPORT:

Budget: ED Yang noted that the FY21 Budget Bill meeting occurred on November 7, 2019 and she met with Commissioner Greshin and staff of the Department of Finance and Management. The HRC was operating under-budget for FY2020 due to some vacancy savings. The FY21 Budget Book has not yet been finalized but will be included in the next Executive Director Report.

Annual Report: HRC staff completed the FY19 Annual Report and shared a draft with Commissioners. ED Yang pointed out a number of changes compared to past reports including sections that describe the limitations of statistics in characterizing discrimination in Vermont, successes at the HRC throughout the previous year, and recommendations to the Legislature.

ED Yang detailed the impact of Act 127, the gender-neutral bathroom bill, and described how the HRC has thus far handled those complaints informally. Sponsors of the bill have indicated they may seek adjustments to the law in order to assess a minor fine for non-compliance and perhaps include financial support for an HRC outreach campaign.

Commissioner Ellis sought clarification about complaints resulting in administrative dismissals, particularly on the basis of complainant 'non-participation'. She reflected on whether those numbers should decrease as a result of the new staff position and questioned how HRC staff could analyze why those individuals become disconnected from the HRC investigative process.

Commissioner Vickers noted that while some complaints are dismissed, there are many other individuals with legitimate complaints of discrimination who are unaware of the HRC and never submit their complaints to our agency – another area where the new staff position could impact the efficacy of the organization.

ED Yang concluded the discussion by explaining in detail the various reasons that complaints are administratively dismissed (complainant non-participation, withdrawal without settlement, signed complaint not returned) and the reasoning behind why those circumstances may occur. She suggested an ongoing conversation among HRC staff to identify reasons for the disconnect and curtail future dismissals.

Outreach & Training:

ED Yang continues to work with the AG's office to conduct outreach as part of a series of community forums. In addition, ED Yang attended Stonewall 50: LGBTQIA & Civil Rights Symposium.

ED Yang also provided implicit bias training for supervisors and managers of the United States Citizenship and Immigration Services (USCIS). Other upcoming implicit bias trainings are scheduled for:

- 12/8 @ 11 a.m. for the Burlington Progressive Party
- 12/17 @ 5 p.m. for the Rutland Supervisory Union
- 1/13 @ 10 a.m. for the Public Utilities Commission
- 1/22 @ 6:30 p.m. for the League of Women Voters 2019-2020 Speaker Series

In January 2020, the HRC will begin conducting monthly fair housing trainings on the second Monday of each month at our Montpelier office. Staff Attorney Melissa Horwitz will be leading this effort.

ED Yang and ESA John McKelvie are developing a joint training together on implicit and explicit bias and bystander intervention.

Staff Attorney Cassandra Burdyslaw has been attending and working on the Campus Sexual Violence Legislative Taskforce.

Staff Attorney Melissa Horwitz has been attending and working on the Hazing, Harassment and Bullying Taskforce.

Director of Policy, Education & Outreach Amanda Garcés will be representing the HRC as the Chair of the Ethnic and Social Standards Advisory Working Group.

EXECUTIVE SESSION

Commissioner Nagy made a motion to go into executive session at 11:44 a.m. where premature general public knowledge of pending or probable civil litigation would clearly place the HRC at substantial disadvantage. The motion was seconded by Commissioner Ellis. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 11:54 a.m.

Commissioner Ellis made a motion to grant ED Yang the authority to initiate a lawsuit in HRC Case No. PA18-0011: Congress v. Vermont Department of Corrections & Centurion, LLC. Commissioner Vickers seconds. Vote 5-0.

BUSINESS MEETING CONTINUED

POST-CASE UPDATES:

McGurl v. Agency of Transportation: 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.

Weygant v. Deery: Mr. Deery violated the Fair Housing Act when he failed to accept public assistance. The Commissioners voted reasonable grounds. The matter is in negotiations.

Quiñones v. Chittenden Regional Correctional Facility & Department of Corrections: The Commissioners found that the State unlawfully denied Mr. Quiñones' right to take parental family leave when his wife suffered pregnancy-related complications. The matter is in negotiations.

LITIGATION:

"Oak" v. Town of Waterbury: ED Yang and Melissa Horwitz attended the court hearing on October 10, 2019 and are waiting for the Judge's decision on the competing motions. This matter remains unchanged since the last commission meeting.

MISCELLANEOUS:

Staff Attorney Burdyslaw described the Milk with Dignity campaign, which seeks to ensure respect for human rights in the supply chains of dairy companies and improve living and housing conditions on dairy farms. Commissioners expressed support for the efforts and intent of the campaign and engaged in a discussion on whether social media promotion of this or similar campaigns could result in conflicts of interest during future investigations or hearings. A formal decision was tabled until the January 23rd meeting.

LEGISLATION:

ED Yang brought up a number of bills that the HRC tracked last year; these primarily consisted of bills that were introduced but not brought up for consideration by their respective committees. Commissioners discussed their support or concern for aspects of each bill and made recommendations as to how the Executive Director and Director of Policy, Education & Outreach should approach each piece of legislation, if taken under consideration by a committee. The bills discussed by Commissioners included the following:

H.492 – An act relating to establishing a homeless bill of rights and prohibiting discrimination against people without homes

H.496 – An act relating to bias-motivated crimes and misconduct

S.132 – An act relating to hate crimes and bias incidents

H.476 – An act relating to a prohibition on the Department of Motor Vehicles sharing information regarding immigration status

H.381 – An act relating to racial impact statements

S.120 – An act relating to the Executive Director of Racial Equity

- H.305 – An act relating to requiring implicit bias training for State employees
- H.333 – An act relating to prohibiting discrimination based on an individual's criminal history
- H.284 – An act relating to data collection in the criminal justice system
- H.223 – An act relating to residential rental agreements for substance abuse recovery homes
- H.224 – An act relating to expediting evictions for owner-occupied rental properties
- H.182 – An act relating to the creation of the Corrections and Mental Health Study Committee
- H.185 – An act relating to transgender and gender nonconforming student access to gender-segregated school programs, activities, and facilities
- S.82 – An act relating to equal pay

PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff):

HRC Case No. H20-0001
HUD Case No. 01-19-3121-8

HRC Case No. HV20-0003
HUD Case No. 01-19-3684-8

NEXT MEETING January 23, 2020 at Community National Bank in Barre, Vermont.

The meeting was adjourned at 2:59 p.m.
Dated at Montpelier, Vermont this 5th day of December 2019.

Respectfully submitted:



Bor Yang
Executive Director