



Human Rights Commission
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VERMONT HUMAN RIGHTS COMMISSION
MINUTES
February 23, 2023

PRESENT: Commissioners: Kevin Christie, Chair, Joan Nagy, Nathan Besio, and Dawn Ellis, Chuck Kletecka (alternate Commissioner) Staff: Bor Yang, Executive Director; Big Hartman, Investigating Attorney; Daniel Flynnjac and Cassie Burdyshaw, Staff Attorneys; Amanda Garcés, Director of Policy, Education, and Outreach; Maia Hanron, Executive Staff Assistant (minutes).

Chair Christie called the meeting to order at 9:16 a.m.

BUSINESS MEETING

MINUTES:

Chair Christie brought up first agenda item of meeting minutes from 1.26.2023.

Commissioner Nagy said she has a couple of corrections/comments on the minutes in reference to whether the Commissioners intended to move forward with remote or in-person meetings. Commissioner Besio weighed in as well as ED Yang. Commissioner Nagy moved to approve the minutes.

No second motion occurred as Commissioner Ellis had several suggestions and corrections. Before all of the suggestions were heard, ED Yang suggested the conversation continue later as it was close to the starting time to hear the confidential case.

Commissioner Ellis recused herself from Executive Session at 9:26 a.m.

EXECUTIVE SESSION

Commissioner Besio made a motion to move into Executive Session to hear confidential cases at 9:26 a.m. The motion was seconded by Commissioner Nagy. Vote 5-0.

The Commission came out of Executive Session at 10:38am.

BUSINESS MEETING

In VHRC Case No. PA19-0015, Commissioner Nagy moved to find that there were reasonable grounds to believe that the Agency of Education discriminated against the Complainant on the

basis of his race and color in violation of the Vermont Fair Housing and Public Accommodations Act. The motion was seconded by Commissioner Besio. Vote 5-0.

Alternate Commissioner Kletecka left the Business Meeting at 10:43 a.m.

Commissioner Ellis rejoined the Business Meeting at 10:44 a.m.

Commissioner Ellis continued with her corrections and comments to the 1.26.23 meeting minutes. A discussion between Commissioners Ellis and Besio and Ed Yang occurred regarding the nature and extent of correcting meeting minutes to reflect intent, statements previously made, feelings, facts, etc.

Commissioner Besio asked if these changes needed to be voted on today. Chair Christie said the Commission could revisit the minutes next meeting.

ESA Hanron said she would get Commissioner Ellis' suggested changes and share them with the Commission ahead of the next Commission meeting.

Commissioner Nagy withdrew her original motion to approve minutes.

Chair Christie suggested we move onto the Executive Director's Report

EXECUTIVE DIRECTOR REPORT:

ED Yang reminded the Commission that future Commission meetings will be conducted remotely with the option for all parties, witnesses, staff and Commissioners to appear in-person.

ED Yang testified in House Appropriations and will be testifying in Senate Appropriations in the future. An omnibus housing bill in the Senate has added a full-time position to the HRC for litigation.

ED Yang mentioned the \$20,000 partnership grant from HUD for education and outreach, that Director of Policy, Education and Outreach Garcés and Staff Attorneys Hartman and Burdyshaw are working on. ED Yang requested updates from Director of Policy, Education and Outreach Garcés.

Director Garcés gave thanks to Staff Attorneys Hartman and Burdyshaw for their work to help support this grant. Attorney Burdyshaw has developed a Q&A. There will be a new page around housing resources, in 13 different languages. Extensive outreach is planned for this year. Director Garcés also thanked Attorney Hartman for their work in putting the website content together.

Director Garcés shared updates on Act 1 Working Group, the Hazing, Harassment, and Bullying Advisory Panel, and that she has been doing a lot of educational work with the Legislature.

Attorney Burdyshaw updated Commissioners on her work with the Vermont Criminal Justice Council.

Commissioner Ellis asked if it was possible to circulate media related to the VHRC around to the Commission as it would be helpful for policy related work at our level.

Attorney Hartman said they had no updates on their involvement with the Governor's Workforce on Equity and Diversity Council but that the Council is working to re-form committees and that they are involved in that process.

ED Yang addressed Commissioner Ellis' suggestion and said that we don't have anyone to monitor media and questioned how much of our time should be devoted to how we are perceived in the media.

Commissioner Besio said he understood both points. He commented that he does recall in the past, that the ED Reports did include articles related to the areas the Commission specialized in and that it might be helpful to include relative educational articles but understands that can take some time to coordinate.

ED Yang said Director of Education and Outreach would update Commissioners whenever she comes across interesting articles. Ed Yang continued with the ED Report review.

ED Yang updated the Commissioners on the priority bills: It is expected that several bills will be introduced in the House and Senate that will seek to prohibit "Don't Darken My Door" clauses from settlement agreements in discrimination claims, amend the "Severe or Pervasive" harassment standard in employment and places of public accommodations, and amend Vermont's Equal Pay laws to include the protected classes of race, national origin and disability.

ED Yang shared that there has been ongoing conversation around public dollars going to religious schools who discriminate against LGBTQ students. ED Yang stated that the HRC has been very clear that the public accommodations act covers any and all schools, but it has not taken a position on public funds because the issue is outside of our jurisdiction. ED Yang questioned the Commission whether or not they feel the VHRC should weigh in more heavily on the public funding piece?

Commissioner Besio said he felt it was disturbing what private schools are doing especially those who receive funding and felt the VHRC may want to weigh in more. Commissioner Nagy questioned if the purpose was to show we had jurisdiction or if the funding was a separate issue. Commissioner Nagy said she did not want to do anything that puts the VHRC's funding in jeopardy or that narrows our jurisdiction. Commissioner Ellis stated that she agrees with both Commissioners on this point and thinks that the VHRC as an agency, has the leadership role to lean in strongly for the protection of people's human rights.

ED Yang asked the Commission if their statements mean that the VHRC should take a stand on use of public funds?

Commissioner Ellis said that she takes a stand on the VHRC protecting the rights of LGBTQ students. As schools are places of Public Accommodation, all students should have access to any service.

ED Yang said that the public funds issue is much more complicated considering recent U.S. Supreme Court decisions but would continue to monitor the bills.

Director of Policy, Education and Outreach Garcés added that there are two bills moving through legislature right now. They are S66 in the Senate and H258 in the House that address funding for school choice.

Chair Christie stated that this particular topic is probably going to be the beltway for the Education Committees. It's a substantial bill and was trying to navigate this Supreme Court decision.

ED Yang stated she had some closed case updates. The Erickson v. Herman case has settled but is not signed so will present at next Commission Meeting. The Commission should move into Executive Session for an update on pending litigation involving the VHRC.

PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff)

Commissioners reviewed and approved of conciliation agreements in the following case: HRC Case No. HV23-0006

ED Yang suggested a motion be made to move into Executive Session to discuss pending and probable litigation involving the HRC as a party and resume Public Session at 1p.m. for the scheduled training.

EXECUTIVE SESSION:

Commissioner Nagy made a motion to move into Executive Session to discuss pending and probable litigation at 11:45 a.m. The motion was seconded by Commissioner Besio. Vote 5-0.

Commissioner Ellis recused herself at 11:45 a.m.

Executive Session ended at 11:53 a.m.

BUSINESS MEETING:

Commissioner Ellis rejoined the Commission Meeting at 1:04pm

Public Session Started at 1:04 p.m.

ED presented a training to all Commissioners and staff present on the VHRC's statutes. At 2:42 p.m. the consensus of the group was to continue training at the next Commission Meeting on the laws that the VHRC enforces, and legal theories.

NEXT MEETING Thursday, March 23, 2023

The meeting was adjourned at 3:08 p.m.

Dated at Montpelier, Vermont this 24th day of February 2023.

Respectfully submitted:

/s/ Bor Yang

Bor Yang
Executive Director