



**Human Rights Commission**  
12 Baldwin Street  
Montpelier, VT 05633-6301  
[hrc.vermont.gov](http://hrc.vermont.gov)

[phone] 802-828-2480  
[fax] 802-828-2481  
[tdd] 877-294-9200  
[toll free] 1-800-416-2010

---

**VERMONT HUMAN RIGHTS COMMISSION**  
**MINUTES**  
**June 22, 2023**

PRESENT: Commissioners: Kevin Christie, Chair, Joan Nagy, Nathan Besio, Dawn Ellis and Bruce Wilson. Alternate Commissioner Mary Marzec-Gerrior. Staff: Bor Yang, Executive Director; Cassie Burdyslaw, Daniel Flynnjac, and Big Hartman (11:14am-1:53pm) Staff Attorneys; Zeal Patel, Legal Intern; Maia Hanron, Executive Staff Assistant (minutes).

Chair Christie called the meeting to order at 9:14 a.m.

**BUSINESS MEETING**

MINUTES:

Commissioner Nagy moved to accept the minutes of the 4/27/23 meeting as written. The motion was seconded by Commissioner Besio. Commissioner Ellis said she wanted to discuss the minutes.

Commissioner Mary Marzec-Gerrior joined the meeting in-person at 9:20am.

Commissioner Ellis said she has reviewed the minutes to see how they best align with her lived experience. She said they are structural and feels they are an incomplete snapshot. She feels there is a structural problem and that they portray a perspective different than the experience of those who were there.

Chair Christie acknowledged Commissioner Ellis's comments and posed the question on how we might do this differently but said we should move on with approving the minutes.

Chair Christie returned to the motion to accept the minutes of 4/27/23 and requested a vote from those who were present. Vote 4-1. Opposing vote from Commissioner Ellis.

Chair Christie moved onto the 5/25/23 meeting minutes. Commissioner Nagy moved to accept the minutes as written. Commissioner Besio seconded. Vote 4-1. Opposing vote from Commissioner Ellis.

Commissioner Ellis stated again that she is finding a structural flaw in the way we document our dynamic meeting.

## EXECUTIVE DIRECTOR REPORT:

ED Yang shared an update that the ED search is underway. Commissioners will be working with former Chair Mary Marzec-Gerrior.

ED Yang is working on end-of-fiscal year reports, the annual report, the ED manual, and finishing up litigation and other administrative projects.

ED Yang shared that the end-of-year reports for HUD are underway. ED Yang is meeting with HUD to discuss closures and grant parameters for the upcoming year. ED Yang shared the challenges of transferring the HUD grant to an Interim ED or a Commissioner, upon her departure. She emphasized that time is of the essence in filling the ED position.

ED Yang shared that HUD also requires 3 attendees to their annual leadership conference in Denver, Colorado, including a Commissioner, the new Executive Director, and a staff member. ED Yang asked if any Commissioners would be interested, and Commissioner Wilson volunteered to attend. Staff Attorney Burdyslaw also confirmed her attendance.

Director of Policy, Education, and Outreach Garcés and Staff Attorneys Hartman and Burdyslaw continue to work on the \$20,000 partnership grants from HUD for education and outreach.

ED Yang gave praise for the wonderful AAPI event that our Director of Policy, Education, and Outreach Amanda Garcés, and the Office of Racial Equity put on, which included a wonderful video series and dinner.

ED Yang shared an update on the Language Access External Advisory Committee for the VT Judiciary and said she feels it's a good time for the HRC to step away from this committee.

Attorney Burdyslaw gave an update on the Vermont Criminal Justice Council. The Council voted recently to permanently revoke the certification of an officer due to on-going misconduct.

ED Yang shared an update on the Stone v. St. Johnsbury case. A lawsuit has been filed in Washington County Court and Langrock, Sperry, & Wool will be filing the response to this motion soon.

ED Yang then gave an update that S.103 has passed in the senate unanimously and is on its way to the Governor. S. 103 prohibits "Don't Darken My Door" clauses in settlement agreements; amends the "Severe or Pervasive" harassment standard in employment and places of public accommodations; and amends Vermont's Equal Pay laws to include the protected classes of race, national origin, and disability. She stated what a great victory this is for human rights and thanked the constituents involved in making this happen.

Commissioner Ellis asked to revisit some previous questions she had about the bill, mainly around what guardrails are in place to make sure that it is not misused. ED Yang asked Commissioner Ellis to provide clarity. Commissioner Ellis did not have any specific examples. ED Yang provided a summary of discussions in the respective committees and shared the

specific language in the bill that would clarify that petty slights and trivial inconveniences would not rise to the level of harassment.

Commissioner Ellis asked whether there were examples of statutes that identified a legal bar that would not require judicial interpretation. ED Yang said, all law is subject to interpretation. Even in criminal law where it should be absolutely clear, lawyers and judges argue the meaning of every comma, period and word. This was the purpose of the three branches of government.

Commissioner Ellis said she believed criminal statutes are more clearly drafted and thinks civil rights laws could be better drafted to prevent judicial interpretation and discretion.

Chair Christie stated that we need to move into Executive Session to discuss confidential cases.

Commissioner Besio asked to clarify about the budget since it has been vetoed by the Governor. Chair Christie confirmed that our HRC budget has passed and our position for the litigator has been secured.

### **EXECUTIVE SESSION**

Commissioner Marzec-Gerrior made a motion to go into Executive Session to hear confidential cases at 9:48am. Commissioner Nagy Seconded. Vote 5-0. Commissioner Besio recused himself at 9:49am.

Commissioner Besio rejoined Executive Session at 11:19am.

Commissioner Marzec-Gerrior left Executive Session at 11:19am.

The Commission ended Executive Session at 12:11pm and took a break for lunch.

Executive Session resumed at 1:00pm.

### **PUBLIC SESSION:**

Public Session resumed at 1:26pm.

Commissioner Marzec-Gerrior rejoined Public Session at 1:26pm.

Chair Christie called for a motion on HRC Case No: HV22-0001.

Commissioner Marzec-Gerrior made a motion that in HRC Case No: HV22-0001, that on the first recommendation, no reasonable grounds were found in violation of the Vermont Fair Housing Act. Commissioner Nagy seconded. Vote 4-0. Commissioner Ellis abstained from voting.

Commissioner Marzec-Gerrior made a motion that in HRC Case No: HV22-0001, that on the second recommendation, reasonable grounds were found in violation of the Vermont Fair Housing Act. Commission Nagy seconded. Vote 4-0. Commissioner Ellis abstained from voting.

Commissioner Nagy made a motion that in HRC Case No: E21-0008, that on the first recommendation, no reasonable grounds were found to believe that the Respondents discriminated against the Complainant, on the basis of any legally protected category. Commissioner Besio seconded the motion.

Commissioner Ellis stated that she wanted to breakdown the recommendation based on protected categories. ED Yang asked for clarification.

Commissioner Besio said that breaking down the recommendations would not affect his vote on the case. Commissioner Nagy agreed.

Chair Christie noted we would need to have an agreement to rescind the original motion and accept a new motion, and vote on the new motion. He asked if the maker of the motion wants to suspend their motion. Commissioner Nagy said she would like to leave her motion in place. Chair Christie stated that we did have a motion on the floor and needed to vote on the existing motion.

Chair Christie asked for the vote in favor of no reasonable grounds for the first recommendation of E21-0008. Vote 4-0. Commissioner Ellis abstained.

Commissioner Nagy made a motion that in HRC Case No: E21-0008, that on the second recommendation, no reasonable grounds were found to believe that the Respondents retaliated against the Complainant. Commissioner Besio seconded the motion. Vote 4-0. Commissioner Ellis abstained.

#### PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff)

Commissioners reviewed and approved of conciliation agreements in the following cases: HRC Case No. HV23-0011, HV23-0014

Commissioner Ellis abstained her approval of these PDCAs at this time.

Attorney Hartman asked what the process is if the PDCA is not signed by all Commissioners.

Commissioner Ellis stated that pre-covid, the paper version of the PDCA would be passed around for Commissioners to review and sign.

ED Yang stated there is usually a basis for abstention. As far as she could remember, there has never been a time when a Commissioner heard a case and then abstained from voting, nor reviewed a PDCA and not approved or rejected the agreement. Abstaining without making a

record would create confusion and lack transparency for the public. Nevertheless, ED Yang clarified that approval by the majority would be sufficient.

Chair Christie stated that Attorney Hartman can go ahead and proceed with the majority of the signatures. He asked for any other actions that needed to be reviewed in Public Session.

Commissioner Marzec-Gerrior gave an update on the Executive Director search. She stated that we have gotten some response but not as much as we had hoped and that the next step would be to move on with those candidates we have that are qualified, as suggested by Commissioner Ellis, and that the search could remain open until a finalist emerged.

Commissioner Marzec-Gerrior said the process will be to look at the materials and give a rating. There will be a second round of interviews where more creative questions can be asked and that staff will have input, then references will be checked, and then they will proceed with the hiring recommendations and hiring process. The rest of the process should be discussed in Executive Session.

Chair Christie asked if anything additional needed to be addressed in Public Session.

Commissioner Nagy made a motion to move into Executive Session at 1:53pm to hear confidential cases and discuss personnel matters (ED hiring).

Commissioner Ellis recused herself from Executive Session at 2:18pm.

Commissioner Ellis rejoined Executive Session at 2:28pm.

Staff Attorneys Burdyshaw, Flynnjac, Executive Staff Assistant, Hanron, and Legal Intern Patel all left Executive Session at 2:28pm.

ED Yang left Executive Session at 2:45pm.

Commissioners came out of Executive Session at 3:22pm.

## **PUBLIC SESSION**

Commissioner Nagy made a motion to adjourn the meeting. Dawn Ellis seconded the motion. Vote 4-0.

## **NEXT MEETING Thursday, July 27, 2023.**

The meeting was adjourned at 3:24.

Dated at Montpelier, Vermont this 22nd day of June 2022.

Respectfully submitted:

/s/ Bor Yang

Bor Yang  
Executive Director