



VT Human Rights Commission
14-16 Baldwin Street
Montpelier, VT 05633-6301
<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

October 22, 2020

PRESENT:

Commissioners: Kevin Christie, Chair, Donald Vickers, Dawn Ellis, Joan Nagy. Staff: Bor Yang, Executive Director; Nelson Campbell, Supervising Attorney; Melissa Horwitz and Cassandra Burdyslaw, Staff Attorney/Investigators; Amanda Garcés, Director of Policy, Education, and Outreach; India Schoenherr, Vermont Law School Intern; John McKelvie, Executive Staff Assistant (minutes).

Commissioner Nate Besio absent.

Commissioner Christie called the meeting to order at 9:10am.

BUSINESS MEETING

MINUTES: Commissioner Vickers moved to accept the minutes of the September 24, 2020 meeting as written. The motion was seconded by Commissioner Nagy. Vote 4-0.

EXECUTIVE DIRECTOR REPORT:

UPDATES & ACTIVITIES

COVID-19:

Executive Director Yang reported that HRC staff plan to work remotely through the remainder of the calendar year, as required. This remains unchanged from the last Commission meeting. Her understanding is that the Agency of Administration will issue further guidance in November.

ED Yang and Commissioners briefly discussed the advantages and disadvantages of working remotely. ED Yang noted the difficulty in assessing the efficacy of remote work due to the simultaneous complexities of dealing with the pandemic.

Commissioner Ellis encouraged staff to monitor and record what works and what doesn't work, so when decisions are eventually made regarding office or remote work, there are contemporaneous notes that can be reviewed. She pointed out that one's perspective near the end of the pandemic may be different than in the midst of it.

The Budget:

ED Yang provided the surprising but welcome news that the HRC's budget for FY2021 was not reduced per Act 154 (the Budget Bill). The HRC's budget is: \$711,629. Personal services account for 90% of the budget (\$632,351); and Operating expenses account for the remaining 10% (\$79,278). The HRC's primary source of funds come from the General fund, \$637,188 and Federal funds, \$74,441.

Commissioner Christie commended ED Yang for her compelling budget testimony before the Legislature, and for engaging in work that is visible to and valued by the public.

ED Yang described the challenge of developing a budget so far in advance when many factors change in the course of a year or two. Despite the fact that the HRC does not have vacancy savings to cover projected increases in salaries and benefits – as it has in years past – there will be enough carryforward funds to handle those increases in the coming year.

She provided details that the HRC's current carryforward amount is \$76,800 (\$109,310.44 carry forward on July 1, 2020 minus \$32,510.44 which was reverted back to state's General Funds). These carryforward funds will be used to send staff to trainings and to supplement outreach and educational programs. Additionally, some carryforward funds will be reserved to offset salaries and benefits that increased in FY2020. This means that all increases to salaries and benefits between June 1, 2020 – June 30, 2021 must come out of the pay act or our budget. Since the HRC budget is at maximum capacity, it must come out of carryforward funds.

ED Yang brought up the president's recent executive order (EO 13950) which prohibits certain government contractors from providing any trainings on diversity and inclusion that suggest people of a certain race or gender are "inherently racist, sexist, or oppressive, whether consciously or unconsciously." ED Yang is awaiting further guidance from HUD, which is the only source of federal funding to the HRC, and also noted that the EO would not apply to any of the HRC's existing grants as it only pertains to contracts entered into on or after November 21, 2020.

Outreach & Training:

ED Yang briefly described some of the recent and ongoing work by the Director of Policy, Education and Outreach, Amanda Garcés, who has been working hard to organize, facilitate and deliver some dynamic educational programs to Vermonters around equity, such as:

- Empowering families, teachers, schools, and communities to create an inclusive environment free of discrimination and fear during COVID-19 with Bor Yang, Joyce Lee, and An Na. October 9, 2020.
- Alternatives to Policing in Vermont Schools Part 2: How to Organize for Safer Schools in Your Community. A joint program with ACLU, Vermont Legal Aid, Outright, Rights and Democracy and VT Coalition for Ethnic and Social Equity in Schools. October 15, 2020.

- Bystander Intervention Training: Learning tools to effectively intervene. A shared training and presentation with the Peace and Justice Center and Central Vermont Showing Up for Racial Justice. October 21, 2020.
- The HRC's Civil Rights Conference: To promote dialogue and understanding of the United States' history of discrimination and its critical role in the disparities we see today in housing and other areas and exploring a way forward. November 17-19, 2020.

Taskforces and Committees:

ED Yang reminded Commissioners of the various taskforces and committees that HRC staff serve on, including:

- The Governor's Racial Equity Taskforce (RETF) – Yang
 - The RETF issued its first report and recommendations to the Governor on September 2, 2020.
 - The Taskforce is working on gathering information and developing its recommendations to the Governor for the second report which is focused on hate crimes, bias incidents, and freedom of speech.
- The Language Access External Advisory Committee for the Vermont Judiciary – Yang
- The Training Council's Fair and Impartial Policing Committee – Garcés
- The New England-wide project to design a framework to support the diversification of the educator workforce – Campbell
- Hazing, Harassment, Bullying Advisory Panel – Horwitz
- Ethnic and Social Standards Advisory Working Group – Garcés (Chair)
- Governor's Workforce Equity and Diversity Council – Yang
- The AGO's Fair and Impartial Policing Committee on Language under FIPP – Yang
- Vermont Multilingual Communication Task Force – Garcés
- Immigrant Relief Fund Coalition – Garcés
- Farmworker Health & Service Providers – Garcés
- 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

ED Yang and Commissioners discussed the idea of Commissioners serving on taskforces and advisory committees and whether that would influence the perception of impartiality and fairness essential to the HRC. Commissioner Ellis suggested developing or refining internal policies to provide guidance to Commissioners. ED Yang agreed to work on such a policy with Commissioner Ellis, an early draft of which may already exist.

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 HRC, DOJ and UVMC entered into a new, clean settlement agreement to streamline the reporting process and incorporate fines for missed deadlines. The hospital has submitted its latest report to the HRC and DOJ for review.

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: The matter is in negotiations.

Bradford v. Quality Inn

Commission Meeting Determination: September 24, 2020.

Latest: The matter is in negotiations.

Sall v. Chittenden State's Attorney's Office

Commission Meeting Determination: June 25, 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: The HRC was served with interrogatories and is working with DRVT to provide a response.

2021 LEGISLATIVE SESSION

ED Yang described a handful of bills that the HRC would like to move forward in 2021, including S.83, an act relating to prohibiting agreements that prevent an employee from working for the employer following the settlement of a discrimination claim.

She also noted that the second report created by the Governor's Racial Equity Taskforce may suggest an increase in staffing at the HRC, and that a simultaneous request for funding through the Legislature may be advisable.

Commissioner Christie suggested that HRC supplement the annual report with an addendum detailing areas where the HRC has grown or needs to grow, and how additional funding would be used. Commissioner Nagy pointed out that an open-ended request by the task force may be too vague, and that a request directly from the HRC should be as specific as possible.

Commissioner Ellis mused on whether the nature of remote work would allow the HRC to seek prospective staff further away from Montpelier and expand the geographic reach and perspective of the HRC's work.

PRE-DETERMINATION CONCILIATION AGREEMENTS:

HRC Case No. PA20-0007

EXECUTIVE SESSION:

At 10:49am, Commissioner Nagy made a motion to go into executive session to discuss a confidential legal matter where premature general public knowledge would clearly place the HRC or a person involved at a substantial disadvantage. The motion was seconded by Commissioner Ellis. Vote 4-0.

Commissioner Christie brought the HRC out of executive session at 11:47am.

NEXT MEETING December 3, 2020.

The meeting was adjourned at 11:47am.

Dated at Brookfield, Vermont this 22nd day of October 2020.

Respectfully submitted:

/s/ Bor Yang

Bor Yang

Executive Director