



**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

**April 28, 2022**

PRESENT: Commissioners: Kevin Christie, Chair, Nathan Besio, Dawn Ellis, Bruce Wilson, and Don Vickers, Alternate. Staff: Bor Yang, Executive Director; Cassandra Burdyslaw, Staff Attorney; Amanda Garcés, Director of Policy, Education, and Outreach; John McKelvie, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:07 a.m.

### **BUSINESS MEETING**

Commissioner Christie introduced Bruce Wilson, the HRC's newest-appointed Commissioner. Commissioners and staff all introduced themselves.

### MINUTES

Following a brief discussion, Commissioners tabled the approval of the March 24, 2022, meeting minutes.

### EXECUTIVE DIRECTOR'S REPORT

Executive Director Yang provided her report to Commissioners, which included updates on the following topics:

### COVID-19 & MISCELLANEOUS

HRC staff will soon have a meeting to discuss their remote work plan. Commissioners previously tabled the discussion of a return to in-person or hybrid meetings until the May meeting.

### BUDGET

ED Yang testified in the House Committee on Appropriations. ED Yang requested funding to hire another staff attorney investigator but the Committee declined this request. She has not heard from Senate Appropriations yet.

### HIRING

The HRC's hiring process for a new staff attorney is underway. Commissioner Ellis asked about the size of the applicant pool. ESA McKelvie stated there were approximately 14 applicants.

### HUD GRANT

As previously mentioned, the HRC executed a contract with Juniper Creative Arts to design and implement a mural focused on fair housing in the City of Burlington. A community paint day is forthcoming and HRC will keep the Commissioners posted.

### OUTREACH & TRAINING

ED Yang continues to provide the monthly Fair Housing trainings. Since the last ED Report, the following trainings and outreach events were held:

- 3/21/22 – *Race and the Legal Profession* for the Attorney General’s Office and SOV attorneys. ED Yang
- 4/1/22 – *Race and the Legal Profession* for the Defender General’s Office. ED Yang

This year, the HRC’s Civil Rights Conference was held over several weeks with multiple sessions, all focused on *Education Equity*. This effort was led by Director of Policy, Education and Outreach Garcés and included the following:

- 4/4/22 – Bullying, Harassment and Hazing, Know Your Rights, and the School’s Responsibility Workshop
- 4/6/22 – Supporting Educators of Color in Vermont
- 4/6/22 – Vermont Students Anti-Racism Network
- 4/7/22 – Police out of school Toolkit Launch: How to win a campaign to increase school safety in your community.
- 4/12/22 – Restorative Justice or Transformative Justice
- 4/13/22 – LGBTQIA+ inclusion in Vermont schools
- 4/25/22 – A Q&A with Judith A. Heumann, an internationally-known advocate for disability rights, followed by a panel of Vermont disability rights organizations and scholars.

Commissioner Ellis asked about the number of attendees for the Civil Rights Conference panels. ED Yang explained that, to her memory, there were approximately 10-25 attendees per session, and perhaps 60-70 for Judith Heumann’s session. ED Yang noted that the conference may have competed with various other panels celebrating Fair Housing month, several of which ED Yang attended or participated in.

### TASKFORCES AND COMMITTEES

ED Yang noted there were minimal updates to provide about the various taskforces and committees on which HRC staff serve. The group most active over the last several months is:

- The Act 1 Ethnic and Social Standards Advisory Working Group - Garcés (Chair)  
Director of Policy, Education and Outreach Garcés, as the Chair of the Working Group, has been working hard to lead the group in an extensive revision of the Education Quality Standards; a comprehensive manual of rules to ensure that all students in Vermont receive the same educational opportunities. The proposed EQS is to be submitted to the State Board of Education for adoption. Director of Policy, Education and Outreach Garcés and the vice-chair represented the recommendations to the State Board.

### POLICY

ED Yang detailed the staff activity at the Legislature since the last ED report, and provided updates on the following bills:

- **H.320** – an act relating to prohibiting agreements that prevent an employee from working for the employer following the settlement of a discrimination claim.

ED Yang explained that this is the “don’t darken my door” bill. It was passed in the House, and is currently in the Senate Committee on Economic Development, Housing and General Affairs.

Commissioner Ellis asked whether any statistics were provided during testimony on this bill. ED Yang shared that it's very difficult to collect this type of data statewide, but that the acts prohibited by this bill are known to be a routine practice. Commissioner Ellis noted that eliminating someone's ability to work for the state, Vermont's largest employer, has a significant impact on their ability to find employment in the future.

- **H.329** – an act relating to amending the prohibitions against discrimination. This bill that seeks to correct the “severe or pervasive” legal standard for harassment cases.

ED Yang explained that this bill did not make cross-over due to last-minute opposition by various school-related associations. However, there may be consensus to move parts of the bill forward. The provisions related to extending the statute of limitations for discrimination claims is being added to H.729, a miscellaneous judiciary bill; The housing provisions of H.329 has been added to S.226, a safe and affordable housing bill; The employment provisions of H.329 is expected to be added to H.320.

- **H.96** – an act relating to creating the Truth and Reconciliation Commission Development Taskforce.

This bill identified the HRC or its designee to serve on the selection panel and call the first meeting to order. ED Yang testified on this bill in the Senate Committee on Government Operations and respectfully asked to be removed from the bill. The Committee was responsive to this request and made the amendment. Commissioner Christie explained that, if the bill makes it across the finish line, the Judiciary will be named instead. Commissioner Ellis noted that it is important to make tough choices but sometimes we need to take on the opportunity to build the resources for these types of responsibilities.

- **S.140** – an act relating to prohibiting civil arrests at courthouses.

ED Yang explained that this bill passed in the Senate and was referred to the House Committee on Judiciary, but she was not certain about its current status.

- **S.219** – an act relating to ensuring compliance with the U.S. and Vermont Constitutions in the use of public funds for tuition and in the dual enrollment program.

According to ED Yang, the purpose of the bill in part was to ensure that schools receiving public funds certify that they are in compliance with the anti-discrimination laws of the state. This bill has passed in the Senate and was referred to House Committee on Education. ED Yang's testimony was focused specifically on the breadth of the public accommodations act and arguing that the statute is quite clear that independent schools are covered under the act.

Commissioner Ellis mentioned that the conversation in the larger US is about students with disabilities being accommodated. ED Yang noted that that did come up, but it wasn't the heart and soul of the conversation, and there's a 2<sup>nd</sup> Circuit court decision that ties hands around disability discrimination in private schools.

- **H.551** – an act relating to prohibiting racially and restrictive covenants in deeds.

This is a bill that the HRC followed but did not testify on as it was not deemed to be controversial. The initial draft of the bill presented concerns for real estate stakeholders as it could delay real estate transactions. Another concern was removing the historical significance of these records. The current version of the bill is not controversial. The HRC continues to follow

the bill but will not testify unless asked by Senate Judiciary. At the request of Commissioner Ellis, ED Yang explained in detail the nature of bill and the existing case law.

- **H.148** – an act relating to environmental justice in Vermont.

This bill proposes to establish an environmental justice policy for the State of Vermont and require State agencies to incorporate environmental justice into their work. It would establish the Advisory Council on Environmental Justice within the Agency of Natural Resources to advise the State on environmental justice issues. It also would require the creation of an environmental justice mapping tool. ED Yang testified generally in support of the bill. ED Yang expressed excitement to see how this overlaps with the HRC's mission and how we can collaborate with agencies and organizations going forward. Commissioner Besio asked for a deeper explanation of how this could overlap with the HRC's work and mission and Commissioner Christie provided several examples, such as the placement of a town dump next to a low-income or disadvantaged community. Commissioner Ellis noted that it was interesting that the bill is moving into the macro-environment and encouraged us to focus on micro-environments as well; the water, air, food, that people encounter in their small environments.

#### POST-CASE UPDATES

ED Yang referred Commissioners to the Executive Director's Report for an overview of cases that are being monitored for compliance, and those that are in negotiations following a determination of reasonable grounds. Those cases include the following:

ED Yang confirmed that the remaining updates related to litigation and should occur in executive session.

#### HRC RETREAT

ED Yang asked Commissioners to confirm whether or not they were available on July 14<sup>th</sup> for a retreat attended by staff and commissioners. Commissioners Wilson, Besio, and Christie confirmed availability.

#### **EXECUTIVE SESSION**

Commissioner Ellis recused herself from the case scheduled for 11:00am with the intention of rejoining the meeting afterwards. She left at 10:26am.

Staff and Commissioners took a break from 10:26am to 10:40am.

Commissioner Vickers, acting as an alternate Commissioner, joined the meeting at 10:45am.

Commissioner Vickers made a motion to go into executive session to hear a confidential case at 10:49am. The motion was seconded by Commissioner Besio. Vote 3-0 (Christie, Besio, Vickers). Commissioner Wilson rejoined from the break at 10:55am.

Commissioner Christie brought the VHRC out of executive session at 1:34pm.

#### **BUSINESS MEETING CONTINUED**

HRC Case No: PA21-0012

Commissioner Vickers moved to find no reasonable grounds to believe that discrimination occurred. The motion was seconded by Commissioner Besio. Vote 2-2 (Vickers and Besio in favor, Christie and Wilson opposed)

Commissioner Vickers moved to re-hear the case with five commissioners at the next Commission meeting on May 26, 2022. The motion was seconded by Commissioner Besio. Vote 4-0.

Commissioner Vickers left the meeting at 1:39pm. Commissioners and staff took a break from 1:39pm to 2:00pm. Commissioner Ellis rejoined the meeting at 2:00pm.

Commissioners briefly discussed which Microsoft Teams meeting link to use when moving into executive session.

### **EXECUTIVE SESSION**

Commissioner Besio made a motion at 2:15pm to go into executive session to discuss a confidential case and to discuss pending civil litigation, to which the public body is or may be a party, pursuant to 1 V.S.A. §313(a)(1)(E). The motion was seconded by Commissioner Ellis. Vote 4-0.

Commissioner Christie brought the VHRC out of executive session at 3:15 p.m.

### **BUSINESS MEETING CONTINUED**

#### MINUTES

At 3:16pm, Commissioner Ellis moved to accept the March 24, 2022, meeting minutes with the following amendments:

- Insert the following sentence at the end of the 2<sup>nd</sup> paragraph on the top of page 3:  
“Commissioner Ellis recommended using our conference as a place to remember her by recognizing upcoming leadership in Vermont.”
- Remove the final paragraph on the bottom of page 3, and insert the following sentence:  
“The Commissioners had some discussions about communication of the votes with the public.”

The motion was seconded by Commissioner Besio. Vote 4-0.

Commissioner Ellis also suggested that the minutes should reflect whether Commissioners participate in the meeting in-person or remote, in order to capture the information and potential effects.

### **NEXT MEETING May 26, 2022.**

The meeting was adjourned at 3:21 p.m.

Dated at Montpelier, Vermont this 28th day of April, 2022.

Respectfully submitted:

/s/ Bor Yang

Bor Yang  
Executive Director