



**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

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## VERMONT HUMAN RIGHTS COMMISSION

### MINUTES

**June 23, 2022**

**PRESENT:** Commissioners: Kevin Christie, Chair, Nathan Besio, Bruce Wilson, Dawn Ellis (present from 9:35am-10:41am, 12:50pm-2:25pm, and from 4:21pm to adjournment), Don Vickers (present from 10:38am-12:34pm, and 2:25pm to 4:29pm), Former Commissioner Mary Marzec-Gerrior (present to hear the confidential cases as an alternate for Commissioner Joan Nagy).

**Staff:** Bor Yang, Executive Director; Cassandra Burdyshaw and Big Hartman, Staff Attorneys; John McKelvie, Executive Assistant (minutes); Ariel Murphy, Legal Intern.

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

### **BUSINESS MEETING**

#### EXECUTIVE DIRECTOR'S REPORT

Executive Director Yang provided a quick overview of her report to Commissioners in advance of the scheduled confidential hearings.

She explained there were no new updates regarding the HRC's approach to remote or hybrid work schedules, but that the HRC will continue to conduct commission meetings in a hybrid manner until January 2023, consistent with Act 78.

She noted that the HRC's budget reflects an increase, per the Governor's recommendation.

As ED Yang reported during the May meeting, the HRC offered the vacant staff attorney position to an individual. But they accepted a competing job offer. With several excellent candidates available, the HRC selected Daniel Flynn, who has experience as an attorney in a private firm and as a Case Manager with the Vermont Superior Court. Daniel will be starting on Monday, June 27<sup>th</sup>.

ED Yang reported nothing new regarding the HRC's grant with HUD.

She gave Commissioners a brief summary of outreach activities conducted by HRC staff, and noted that there were no new updates about the taskforces and committees on which she serves.

She explained that Director of Policy, Education, and Outreach Garcés, who was not present at the meeting, has been working hard on getting ready for a public meeting of the State Board of Education that will address the work of the Ethnic and Social Equity Standards Advisory Working Group created by Act 1.

ED Yang reviewed the policy successes of the legislative session; in particular, the great news that S.226 passed, which corrected the severe and pervasive standard for harassment in housing. Also, H.729 was enacted, which is an act relating to miscellaneous judiciary procedures that extends the statute of limitations for all discrimination claims to six years. Additionally, H.96 - an act relating to creating the Truth and Reconciliation Commission, and S.140 - an act relating to prohibiting civil arrests at courthouses, were both enacted. She remarked that all of these were big successes and that significant work went into changing the severe and pervasive standard and the statute of limitations, and the HRC should be proud. She noted that Commissioner Christie was responsible for introducing H.329, which didn't pass on its own but contained many of the provisions that were split among these other bills.

Regarding post-case updates, ED Yang opted not to review cases currently under monitoring, but updated Commissioners on the status of these post-determination cases:

- HRC Case No: PA20-0016 - This case is currently in negotiations. The Complainant may file her own case, and Commissioners will have time in executive session to discuss whether the HRC will file as well.
- HRC Case No: HV21-0003 - This case is currently in negotiations.
- HRC Case No: PA20-0009 - ED Yang reported that this case recently settled and she will present the PDCA to Commissioners later in the meeting.
- HRC Case No: PA20-0018 - Langrock will represent the HRC in this matter and the complaint is still in progress.
- HRC Case No: HV22-0004 - This case is in negotiations and hopefully close to an agreement that can be presented in August. If the agreement fails by mid-July then the HRC will file a lawsuit. More will be discussed in executive session.

As for cases currently in litigation, ED Yang noted that discussions about those cases would occur in a later executive session.

ED Yang noted that the only other items to discuss were her evaluation as an Executive Director and the upcoming HRC retreat. She explained that due to a couple factors, the HRC's retreat would remain on the schedule for July 14<sup>th</sup>. Staff Attorney Investigator Hartman will conduct a training on open meeting and public records law. ED Yang will review statutes and rules related to the HRC, guidance around ethics, and the roles and responsibilities of Commissioners. The morning will revolve around the trainings, and the afternoon is open for staff and Commissioners to relax. ED Yang left it to Commissioner Christie to firm up commitments from Commissioners, and ESA McKelvie will send out the specific address and timing to Commissioners via email. Commissioner Christie asked that a section of the agenda be reserved for strategic planning.

ED Yang reiterated her kudos to Commissioner Christie for his work on changing the legal standard for the statute of limitations on discrimination claims, which she noted would have a huge impact on the rights of complainants in the state.

End of ED report at 9:33am.

### **EXECUTIVE SESSION**

Commissioner Besio made a motion to go into executive session to hear a confidential case at 9:34am. The motion was seconded by Commissioner Marzec-Gerrior. Vote 4-0. (Commissioners Christie, Besio, Wilson, and Marzec-Gerrior in favor; Commissioner Ellis absent for vote).

Commissioner Ellis present as of 9:35am.

Commissioner Christie brought the VHRC out of executive session at 10:38am.

Commissioner Don Vickers joined the meeting at 10:38am as an alternate for Commissioner Ellis in the second case.

### **HRC Case No: HV21-0010**

Commissioner Marzec-Gerrior moved to find reasonable grounds to believe that discrimination occurred on the basis of statements made against the receipt of public assistance. The motion was seconded by Commissioner Ellis. Vote 5-0 (Commissioners Christie, Besio, Ellis, Wilson, Marzec-Gerrior in favor).

Commissioner Ellis recused herself from the second scheduled case (HRC Case No: PA21-0008) and left the meeting at 10:41am.

Commissioner Marzec-Gerrior made a motion to go into executive session to hear a confidential case at 10:42am. The motion was seconded by Commissioner Wilson. Vote 5-0. (Commissioners Christie, Besio, Wilson, Marzec-Gerrior, and Vickers in favor).

Commissioner Christie brought the VHRC out of executive session at 12:28pm.

### **HRC Case No: PA21-0008**

Commissioner Vickers moved to find reasonable grounds to believe that discrimination occurred on the basis of disability. The motion was seconded by Commissioner Wilson. Vote 4-1 (Commissioners Christie, Wilson, Marzec-Gerrior, Vickers in favor; Commissioner Besio against).

Commissioners took a break for lunch from 12:34pm-12:50pm. Commissioner Vickers left the meeting with the intent to rejoin for the fourth case at 2:30pm.

Commissioner Ellis rejoined the meeting at 12:50pm.

Commissioner Besio made a motion to go into executive session to hear confidential cases at 12:59pm. The motion was seconded by Commissioner Marzec-Gerrior. Vote 5-0. (Commissioners Christie, Besio, Ellis, Marzec-Gerrior, and Wilson in favor).

In executive session, Commissioner Ellis recused herself from the fourth scheduled case (HRC Case No: PA21-0012) and left the meeting at 2:25pm.

Commissioner Vickers joined the meeting at 2:25pm as an alternate for Commissioner Ellis.

Commissioner Christie brought the VHRC out of executive session at 4:15 pm.

### **HRC Case No: PA21-0012**

Commissioner Vickers moved to find no reasonable grounds to believe that discrimination occurred on the basis of race, color, and national origin. The motion was seconded by Commissioner Mary Marzec-Gerrior. Vote 3-2. (Commissioners Christie, Vickers, Marzec-Gerrior in favor; Commissioners Besio and Wilson against).

Commissioner Ellis rejoined the meeting at 4:21pm

Commissioners discussed whether to postpone ED Yang's evaluation until July or August due to the limited time remaining in the day and Commissioner Nagy's absence. Commissioners agreed to postpone until the Commission retreat on July 14<sup>th</sup>.

Commissioner Vickers brought up the fact that Commissioners spend considerable time in preparation for meetings and the meetings themselves can last up to and over eight hours; in order for Commissions like this to attract a cross-section of Vermonters and to compensate them fairly for their time, a \$50 per diem is not reasonable compensation for that commitment.

Commissioner Christie discussed how this is being considered to some extent at the state government level but it is an important consideration.

Commissioner Vickers left the meeting at 4:29pm.

Commissioner Marzec-Gerrior made a motion to go into executive session to discuss confidential case PA20-0013 at 4:30pm. The motion was seconded by Commissioner Ellis. Vote 5-0. (Commissioners Christie, Ellis, Besio, Marzec-Gerrior, and Wilson in favor).

Commissioner Christie brought the VHRC out of executive session at 5:21pm.

### **HRC Case No: PA20-0013**

Commissioner Marzec-Gerrior moved to find reasonable grounds to believe that discrimination occurred on the basis of disability. The motion was seconded by Commissioner Wilson. Vote 4-1. (Commissioners Wilson, Marzec-Gerrior, Ellis, Christie in favor; Commissioner Besio against)

Commissioner Marzec-Gerrior left the meeting at 5:26pm.

### **BUSINESS MEETING CONTINUED**

#### **PRE-DETERMINATION CONCILIATION AGREEMENTS**

Commissioners reviewed and approved of conciliation agreements in the following cases:

HRC Case No: PA21-0011

HRC Case No: PA21-0017

Commissioners also reviewed a settlement agreement in HRC Case No: PA20-0009 but lacked a quorum of active Commissioners to approve it due to Commissioner Nagy's absence and Commissioner Ellis' prior recusal. ED Yang directed staff to share the agreement via email instead.

Commissioner Ellis moved to table the approval of minutes from the May 26<sup>th</sup> Commission meeting until the next meeting. The motion was seconded by Commissioner Wilson. Vote 4-0 (Commissioners Christie, Besio, Ellis, and Wilson in favor)

**NEXT MEETING July 14, 2022 (Commission Retreat) and August 25, 2022 (Commission Meeting)**

The meeting was adjourned at 5:35pm.

Dated at Montpelier, Vermont this 23<sup>rd</sup> day of June, 2022.

Respectfully submitted:

/s/ Bor Yang

Bor Yang  
Executive Director