



**VT Human Rights Commission**  
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## VERMONT HUMAN RIGHTS COMMISSION

### MINUTES

**September 23, 2021**

**PRESENT IN PERSON:** Commissioners: Kevin Christie, Chair, Nathan Besio, Dawn Ellis, and Charles Kletecka, Alternate. Staff: Bor Yang, Executive Director; Cassandra Burdyslaw, Staff Attorney; Amanda Garcés, Director of Policy, Education, and Outreach; John McKelvie, Executive Staff Assistant (minutes).

**PRESENT REMOTELY:** Commissioner Don Vickers; Melissa Horwitz and Abigail Hartman, Staff Attorneys.

Commissioner Christie called the meeting to order at 9:15 a.m.

### **BUSINESS MEETING**

#### GENERAL DISCUSSION:

Executive Director Yang led a discussion around how future Commission meetings would be held. She reviewed HRC Rule #24 which, in short, specifies that Commissioners are expected to appear in person at regularly scheduled meetings but for good cause, any Commissioner may appear by phone or video. Rule #24 permits the Chair of the Commission to determine if good cause exists.

Commissioners discussed the nature of Rule #24, the intent and the value of holding meetings in person versus the importance of ensuring health and safety for all participants. Commissioners went on to discuss whether the decision to meet remotely should be left up to individual participants and Commissioners on a case by case basis.

Commissioner Vickers made a motion that, due to the pandemic, Commissioners and staff meet virtually for the remainder of the year and revisit the question in December. The motion was seconded by Commissioner Besio. The motion was postponed until after the executive session.

### **EXECUTIVE SESSION**

Commissioner Ellis made a motion to go into executive session to hear confidential cases at 10:00 a.m. The motion was seconded by Commissioner Besio. Vote 5-0.

Staff Attorney Horwitz left the executive session at 11:41 a.m., prior to the start of case no. HRC Case No: PA20-0017.

Commissioner Christie brought the VHRC out of executive session at 1:01 p.m.

Commissioners and staff took an hour-long break for lunch.

Commissioner Ellis made a motion to go into executive session to discuss confidential cases at 1:58 p.m. The motion was seconded by Commissioner Kletecka. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 3:27 p.m.

Commissioner Besio moved to accept the recommendation of reasonable grounds to believe discrimination occurred in HRC Case No: PA20-0017. The motion was seconded by Commissioner Ellis. Vote 4-1. (Commissioners Christie, Besio, Ellis, and Kletecka in favor. Commissioner Vickers opposed.)

Commissioner Vickers moved to accept the recommendation of no reasonable grounds that discrimination occurred in HRC Case No: HV20-0026. The motion was seconded by Commissioner Besio. Vote 4-1. (Commissioners Christie, Vickers, Besio, and Kletecka in favor. Commissioner Ellis opposed.)

Staff Attorney Horwitz returned to the meeting at 3:29 p.m.

Commissioner Ellis asked that the record of vote totals include the names of all Commissioners and their votes, rather than just listing those that opposed the vote.

Commissioner Kletecka left the meeting around 3:34 p.m.

## **BUSINESS MEETING CONTINUED**

### POST-DETERMINATION CONCILIATION AGREEMENTS

ED Yang shared details of a post-determination conciliation agreement reached by parties in HRC Case No. PA19-0018. ED Yang sought approval of the Commissioners and permission to sign on their behalf. Commissioners approved and permitted the Executive Director and/or Executive Staff Assistant to sign the fully-executed post-determination conciliation agreement once it was returned by the parties.

### MINUTES:

Commissioner Ellis requested an amendment to the August 26, 2021 meeting minutes. On page two, she asked that the statement, “Commissioner Ellis concurred and encouraged the remote work plan’s exploration of new and alternative ways to reach Vermonters” to be amended as follows: “Commissioner Ellis concurred and encouraged the remote work plan’s exploration of new and alternative ways to reach the people in Vermont and include them and make the programs and services of HRC more accessible.”

Commissioner Ellis moved to accept the minutes of the August 26, 2021 meeting as amended. The motion was seconded by Commissioner Vickers. Vote 5-0.

### EXECUTIVE DIRECTOR REPORT:

Executive Director Yang introduced the newest staff attorney investigator, Abigail Hartman, and discussed their experience in representing employees and employers in Vermont, including numerous complaints of discrimination and harassment in the workplace.

ED Yang explained that the state plans to sell 14-16 Baldwin St., the HRC's current office space. ED Yang met with Buildings and General Services representatives to discuss the HRC's anticipated move in the coming months. The tentative plan is for HRC Staff to permanently move to 12 Baldwin St., the building adjacent to its current location.

ED Yang and Commissioners briefly discussed the use of vacancy savings to purchase essential office furniture as well as technology that will better accommodate virtual or hybrid meetings.

Commissioners revisited the postponed motion made by Commissioner Vickers earlier in the morning, that, due to the pandemic, good cause existed for all Commissioners and staff to meet virtually for the remainder of the year and revisit the question in December. The motion was seconded by Commissioner Besio. Vote 4-0.

ED Yang shared that the HRC's HUD grant was renewed, and that the HRC also received approval for a HUD partnership grant that will be used to commission a mural in the City of Burlington that promotes fair housing and target members of the BIPOC and/or LGBTQ communities or highlight COVID-19 related housing discrimination. Commissioner Ellis recommended a conversation with Vermont Arts Council before proceeding.

ED Yang and Director of Policy, Education and Outreach Garcés are continuing to plan the Civil Rights Conference: *Equity in Education*. Due to difficulty scheduling a keynote speaker and coordinating with extremely busy schools, the HRC has not committed to specific dates for the conference.

ED Yang briefly reviewed task forces and committees attended by HRC staff, including the following:

- The Governor's Racial Equity Task Force – Yang
- Vermont Justice Reinvestment on Domestic Violence Response Systems Executive Working Group – Yang
- The Language Access External Advisory Committee for the Vermont Judiciary – Yang
- The Training Council's Fair and Impartial Policing Committee – Garcés
- Diversifying the Educator Workforce Committee – Garcés
- Hazing, Harassment, Bullying Advisory Panel – Horwitz/ Garcés
- Ethnic and Social Standards Advisory Working Group – Garcés (Chair)
- Governor's Workforce Equity and Diversity Council – Burdyshaw
- Vermont Criminal Justice Council – Burdyshaw
- Vermont Multilingual Communication Task Force – Garcés
- Refugee and Immigrant Service Providers Network – Garcés & Yang
- Thriving Communities Steering Committee – Horwitz & Garcés

- Affordable Housing Coalition – Horwitz
- The School Resource Officer Working Group – Garcés
- Champlain Valley Office of Economic Opportunity Housing Research Project – Horwitz & Yang.

POST-CASE UPDATES:

ED Yang provided updates to Commissioners about cases in which they had previously made a reasonable grounds determination:

***Open for Monitoring***

Hay v. University of Vermont Medical Center

Commission Meeting Determination: May 25, 2017

Settlement Agreement Date: December 7, 2017

*Latest:* As previously reported, the HRC, DOJ and UVMC entered into a new, clean settlement agreement to streamline the reporting process and incorporate fines for missed deadlines. The HRC is awaiting the next report.

Larivee v. Anderson

Commission Meeting Determination: April 23, 2020

Settlement Agreement Date: November 28, 2020

*Latest:* The matter has been settled. It remains open for monitoring only. Respondents have more than a year to provide payment to Complainant.

Sall v. Chittenden State’s Attorney’s Office (State of VT)

Commission Meeting Determination: June 25, 2020

Settlement Agreement Date: December 18, 2020

*Latest:* The HRC and CSAO reached an agreement without Mr. Sall. That PDCA was approved and signed by the Commissioners at the January 2021 meeting. The case is closed at the EEOC. A Right to Sue letter was issued to Mr. Sall for his Title VII claims. The case remains open at the HRC for monitoring.

Cabral–Hume o/b/o A.H. v. Michaud Properties, LLC and Burke Vacation Rentals

Commission Meeting Determination: March 25, 2021

*Latest:* The parties went to mediation and reached an agreement. A post–determination conciliation agreement was signed and approved by the Commissioners at the last meeting. The matter is open for monitoring.

***Pre–Litigation Cases***

Clemmons v. State of Vermont (Vermont State Police)

Commission Meeting Determination: March 25, 2021

*Latest:* The matter is in negotiations.

Cornelius/French v. Cedar Ridge LLC (Socinski)

Commission Meeting Determination: April 22, 2021

*Latest:* The matter is in negotiations. Both parties have been difficult to contact recently.

Jacobs v. Town of Chester

Commission Meeting Determination: May 27, 2021

*Latest:* The matter went to mediation and reached a tentative agreement that has to be approved by the Chester Selectboard and then HRC Commissioners.

***Litigation***

Congress v. Department of Corrections (DOC) and Centurion.

Commission Meeting Determination: April 18, 2019

Statute of Limitations Expires: December 31, 2019

Settlement Agreement Date: TBD

*Latest:* A pending settlement agreement is circulating with regards to the HRC and Department of Corrections. The matter continues in superior court as to Centurion of VT, LLC. Centurion has filed a Motion for Summary Judgment. Langrock & Sperry is representing the HRC in the matter including the Responsive Motion.

Bailey v. Marijo's Properties

Commission Meeting Determination: January 28, 2020.

*Latest:* The case has been filed in Chittenden Superior Court by Langrock & Sperry on behalf of the HRC.

Sanchez et. al. v. Polak

Commission Meeting Determination: January 28, 2020

*Latest:* The case has been filed in Washington Superior Court by Langrock & Sperry on behalf of the HRC.

ED Yang concluded by noting that the work of Langrock & Sperry on behalf of the HRC in the three lawsuits has relieved some of the pressure off the ED position and the lawyers have been communicative and effective.

**NEXT MEETING October 28, 2021.**

The meeting was adjourned at 4:04 p.m.

Dated at Montpelier, Vermont this 23rd day of September, 2021.

Respectfully submitted:

/s/ Bor Yang

Bor Yang

Executive Director