

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
COMMISSION ON HUMAN RIGHTS**



**OFFICIAL COMMISSION MEETING (DRAFT)
March 11, 2020**

One Judiciary Square, 441 Fourth Street, NW, Room 1117S

ATTENDEES

Commissioners

Earl D. Fowlkes, Jr., Chairperson
Motoko Aizawa, Secretary
Adam E. Maier
Anika Simpson
Karen Mulhauser
Timothy Thomas

Teri Janine Quinn
Mark Herzog (by phone)
Eleanor Collison (by phone)
John Robinson (by phone)
Wynter Allen (by phone)

Office of Human Rights Staff

Michelle Garcia, Interim Director
Hnin Khaing, General Counsel
Thomas Deal, Attorney Advisor
Charles Abbott, Attorney Advisor

Commission on Human Rights Staff

Erika Pierson, Chief ALJ

Mayor's Office of Talent and Appointments

Steve Walker, Director

Public

Mónica Palacio, former OHR Director
Judge J.P. Howard, former COHR ALJ
Janet Parker, Executive Director, Medical Whistleblower Advocacy Network

MEETING

I. SWEARING-IN OF NEWLY APPOINTED COMMISSIONERS

a. Steve Walker, Director, Mayor's Office of Talent and Appointments (MOTA)

- i. Mr. Walker swore in Teri Quinn, newly appointed Commissioner and Commissioners Aizawa, Mulhauser, and Thomas, who were re-appointed.
- ii. Mr. Walker shared the news that Chairperson Fowlkes has resigned and this meeting would be his last. MOTA is actively searching for a new

Chairperson. The Mayor will appoint a new chair by the next Commission meeting.

- iii. Mr. Walker encouraged commissioners to use the D.C. government email when communicating.
- iv. Mr. Walker reminded everyone about political activities under the D.C. Hatch Act and that Commissioners are subject to the Act.
- v. Mr. Walker also stated that there are some ethics trainings for newly appointed Commissioners in the months of March and April: March 25, April 4, and May 2. The dates will be circulated by email.
- vi. Mr. Walker presented Chairman Fowlkes with a Proclamation from the Mayor thanking Chairman Fowlkes for his service.

II. CALL TO ORDER

- a. Chairperson Fowlkes called the Commission's official meeting to order at 6:30 p.m.
- b. Chairperson Fowlkes introduced Interim Director Michelle Garcia.
- c. Director Garcia provided a very brief biography. She is currently the Director of Office of Victims Services and Justice Grants and was requested by the Mayor to serve as the Interim Director for OHR. In the interim, Ms. Garcia is running both agencies.

III. ROLL CALL

- a. Commissioner Aizawa conducted the roll call.
- b. A total of 10 commissioners appeared. Six were physically present and four via telecommunication. A quorum was present.

IV. ADOPTION OF THE AGENDA

The agenda was adopted.

V. ADOPTION OF THE MINUTES

The January 8, 2020, meeting minutes were adopted by acclamation.

VI. REPORT OF THE DIRECTOR, OFFICE OF HUMAN RIGHTS

- a. Interim Director of OHR Michelle Garcia reported on agency news.
 - i. Trainings.

1. Ethics Trainings;
 2. Review of Hatch Act requirements for Commissioners and staff.
- ii. Executive/Operations:
1. As was discussed in the recent performance oversight hearing, OHR is overloaded, has backlogs, and needs more staff. To address these issues, OHR is bringing on 7-8 contractors, making systems changes including a new case management system, enhancing equipment capability, and a reorganization of staff. Phase I of the reorganization will take place on March 16, 2020 with two out of three teams going live.
 2. Interim Director Garcia will continue to direct both OHR and OVSJG for the foreseeable future.
 3. The Street Harassment Prevention Report will be completed at the end of the month.
- b. Chairperson Fowlkes recommended formation of a Committee composed of 2-3 Commissioners and 2-3 OHR staff to have frank conversations to clarify the role of the Commission and to help relieve the burden of the Office, which does a lot.

VII. REPORT OF THE CHIEF ADMINISTRATIVE LAW JUDGE

- a. Chief Administrative Law Judge (CALJ) Pierson circulated a written report.
- b. Case Management System. Chief Judge Pierson is auditing and following up on efforts to implement the Case Management System (CMS) for the Commission's cases, which had reached Phase I testing before her tenure as CALJ. She is working to get the system into Phase 2 testing to fix numerous glitches and hopes to go live by this summer. Parties will be able to file directly in the CMS and Commissioners will be able to view the case for Tribunals through the CMS.
- c. Staffing Updates.
 - i. A summer law clerk has been hired, to start June 2020.
 - ii. Interviews for the one-year Georgetown Fellowship position are underway. The Fellow will begin July 2020.
 - iii. The ALJ position was posted for 15 days and closed on February 28, 2020. Interviews will begin, with target start date by May 2020. A third ALJ position cannot be filled until next fiscal year.

- d. Open Meetings Act. CALJ Pierson noted that Commission meetings had not been in full compliance with the Open Meetings Act. She stated meeting notices need to be published in the D.C. Register and posted and meeting minutes made available no later than seven days after the meeting. CALJ has been in contact with the Office of the Secretary and the Open Meetings Office for credentials to post in the D.C. Register and on the Open Government website. CALJ Pierson suggested that the Commission consider moving the meeting locations to another room in Judiciary Square that has the capability of recording meetings which are required by the Open Meetings Act and will negate the need for detailed minutes. Judge Pierson will look into the availability of other rooms and report back at the next Commission meeting.
- e. Publication of Commission Decisions.
 - i. The Commission will make Final Decisions and Orders publicly available in view of the D.C. Administrative Procedures Act.
 - ii. Chief Judge Pierson has contacted Lexis and Westlaw to get the decisions published.
 - iii. There was discussion of setting up a process to tell the parties final decisions will be public and inform them of their option to be remove identifying privacy information and identify parties by initials or anonymous names.
 - 1. Commissioner Herzog questioned privacy concerns regarding names of parties being disclosed. CALJ Pierson noted that the Commission hearings are public hearings and that are subject to FOIA and therefore, there is no guaranteed right to confidentiality, but steps can be taken to redact certain information.
 - 2. OHR's General Counsel, Hnin Khaing, recommended that the Commission await advice from counsel from OGC on this matter before deciding how to proceed.
 - iv. The Commission resolved to post draft meeting minutes within seven days of each meeting.
- f. Administrative Updates. New forms have been created for Settlement Agreements, Application for Reconsideration, Certificate of Service, and certain motions and appeals, in the interest of accessibility.

VIII. OLD BUSINESS

- a. Review of COHR Case Inventory and Case Assignments: The Commission reviewed the case inventory, with updated information on case status.

- i. One criminal background check case is ready for a Tribunal;
 - ii. Another criminal background check case will be ready for a Tribunal within one week.
- b. Discussion of assigning Commissioners to Tribunals in the absence of a Chair ensued. CALJ Pierson will continue to email all Commissioners when a Tribunal is needed. CALJ Pierson will assign the Tribunals in a manner that allows the maximum amount of participation.
 - i. Commissioner Collinson reported that she works for a political party and will be unavailable for Tribunals as of August.
 - ii. Commissioner Robinson reported that he is not able to serve on any Tribunals involving a university or hospital.

IX. NEW BUSINESS

- a. Commission Personnel.
 - i. Farewell to Chairperson Earl Fowlkes.
 - ii. Introduction of new Commissioner Teri Quinn. Ms. Quinn is an attorney and has a host of public service experience including being an ANC Commissioner and being on several task forces. She resides in Ward 5.
 - iii. Mr. Muhammed is still listed on the OHR website as a commissioner and needs to be removed.
- b. Election of Vice Chair.
 - i. Commissioner Aizawa was voted Vice Chair by acclamation.
 - ii. Commissioner Collinson was voted Secretary by acclamation.
- c. November Meeting. The Commission's November meeting is rescheduled to November 18, 2020 due to the second Wednesday falling on Veteran's Day.
- d. Former OHR Director Mónica Palacio returned to formally say farewell. She will continue to be a supporter for human rights. Several commissioners commended the former director for her contributions to the success of OHR.

X. ANNOUNCEMENTS

- a. Judge J.P. Howard, formerly was an ALJ at the Commission on Human Rights from 2014-2018, and is currently an ALJ with the D.C. Office of Administrative Hearings. Commissioner Fowlkes announced that Judge Howard is a candidate for the for the D.C. Court of Appeals and requested the Commission write a letter of recommendation to the Judicial Nominations Committee. Judge Howard introduced himself and his background. At the request of Commissioner Herzog, an executive closed session ensued to discuss the request.

- b. Coronavirus (COVID-19). During the meeting, the Office of the Mayor declared a state of emergency due to the spread of coronavirus (COVID-19). The Commissioners discussed emerging issues in furtherance of the Office.

XI. Training for Commissioners. OHR General Counsel Hnin Khaing along with her team members Thomas Deal and Charles Abbott, and Chief Judge Pierson presented on the laws OHR enforces and the process.

XII. ADJOURNMENT

- a. The Commission's March 2020 public meeting adjourned at 8:30pm.