

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



OFFICIAL COMMISSION MEETING

November 14, 2018
One Judiciary Square, 441 Fourth Street, NW, Room 1117S

ATTENDEES

Commissioners:

Earl D. Fowlkes, Jr., Chairman
Eleanor Collinson
Alberto Figueroa-Garcia
Mark Herzog
Clifton Lewis

Adam Maier
Karen Mulhauser
Gunther Sanabria
Anika Simpson
Timothy Thomas

Office of Human Rights Staff:

Alta Ray, Deputy Director
Hnin Khaing, General Counsel

Commission on Human Rights Staff:

David C. Simmons, Chief ALJ
Dianne S. Harris, ALJ
Toya Carmichael, ALJ
Laura Higbee, Law Clerk

Members of the Public:

J.P. Howard, ALJ, DC Office of Administrative Hearings
Michael Sindram

MEETING

I. CALL TO ORDER

Chairman Fowlkes called the Commission's Official Meeting to order at 6:30 pm.

II. ROLL CALL

Chief Judge Simmons conducted the roll call. A total of 8 commissioners were present, constituting a quorum. Subsequently, two additional commissioners arrived and participated in the meeting.

III. ADOPTION OF THE AGENDA

Chief Judge Simmons amended the agenda by removing tribunal assignments from New Business. The amended proposed agenda was adopted by acclamation.

IV. ADOPTION OF THE MINUTES

Commissioner Mulhauser moved to adopt the September 12, 2018 meeting minutes, and Commissioner Maier seconded the motion. The minutes were adopted by acclamation.

V. REPORT OF THE DIRECTOR OF OHR

Alta Ray, OHR's new deputy director, gave the report. Deputy Director Ray highlighted the following:

- The Street Harassment Prevention Act went into effect October 1, 2018. OHR is currently interviewing for the program analyst position.
- In FY18, 48% of OHR cases were resolved by mediation, amounting to approximately \$2.9 million in settlements.
- There are currently three potential laws before the DC City Council that pertain to OHR:
 - The Employment Protections for Victims of Domestic Violence, Sexual Offenses, and Stalking Amendment Act would amend the DC Human Rights Act to include being a victim of domestic violence, a sexual offense, or stalking as a protected trait under employment. The Act would forbid employers from disclosing their employees' status.
 - The Tipped Wage Workers Fairness Act, which repealed Initiative 77, requires OHR to train employers who have tipped workers about sexual harassment. In addition, employers must provide a list of their sexual harassment policies and annual reports to OHR.
 - The Language Access for Education Amendment Act passed its first reading yesterday, November 13.
- In September 2018, OHR implemented new enforcement guidance in three areas:
 - Being denied employment because of pregnancy, childbirth, or other related conditions, including breastfeeding
 - Understanding race and national origin under the DCHRA
 - Understanding selected topics under the DCFMLA

Chairman Fowlkes asked how the FY18 case statistics compared to FY17. General Counsel Hnin Khaing said that FY17 had 585 cases, which was comparable to FY18. She said she would follow up with additional statistics.

One commissioner suggested that OHR routinely report comparison data so that staff and commissioners could see trends, spikes, etc. more readily.

Another commissioner asked about the budgetary aspect of the new laws. Deputy Director Ray said that OHR hoped that the laws would include provisions for funding, but that OHR was considering the need to increase its budget in order to provide for more employees and resources to accomplish its goals.

Another commissioner asked about how agency budgets are determined and how enforcement guidance was circulated. Regarding the first question, Deputy Director Ray said that OHR uses past similar amendments and their budget increases to estimate what new amendments will cost. Regarding the second question, General Counsel Khaing said that OHR sends a blast email to its staff and those persons listed on its Constant Contact account whenever new enforcement guidance is finalized. She added that she would make sure commissioners are included on that list in the future.

VI. REPORT OF CALJ

Chief Administrative Law Judge David C. Simmons presented the report of the Chief ALJ.

- Chief Judge Simmons introduced Toya Carmichael, the newest ALJ, to the commissioners.
- Since the start of FY19, the Commission has received one new CBX case and one recertified FCRSA case. In addition, the Commission has closed one Office case. These numbers are comparable to the start of other fiscal years.
- Commissioners Collinson, Herzog, Robinson, and Sanabria are seeking reappointment. Their terms expire December 31, 2018. A City Council round table hearing has been scheduled to consider their reappointments. This hearing, however, may not occur before the end of 2018.
- Current law clerk Laura Higbee and former law clerks Veda Rasheed and Shani Brown passed their respective bar exams on the first try.
- Jonathan Iyob has been working as a legal intern with the Commission this semester. He is considering applying to law school next year. Chief Judge Simmons is looking for a spring law clerk and has already identified a solid candidate.
- Director Palacio is working on securing funds for a full-time law clerk for the Commission. This position will prevent the need to retrain new clerks every year or semester.

Chairman Fowlkes requested an update on the Commission's Case Management System (CMS). Chief Judge Simmons said that training on the new system will be finished in the next 30 days. Judge Carmichael is familiar with several different systems and will oversee the implementation. She also will work with OHR's CMS committee as both the Office and the Commission want their systems to be able to communicate with one another.

VII. OLD BUSINESS

Neil Alexander Humanitarian Award Committee Report

The Neil Alexander Award Committee is comprised of Chairman Fowlkes and Commissioners

Herzog and Robinson. The Committee has selected a winner of the Neil Alexander Award: Paul M. Smith, Esq. The Committee chose him for his work to combat voter suppression, which has been on the rise around the country, and his historic work on landmark cases before the Supreme Court. Mr. Smith is currently the vice president of litigation strategy at Campaign Legal Center, a voting rights organization, and is also the current president of the Board of Directors of the DC Bar Foundation. He was formerly a managing attorney at Jenner & Block, where he did considerable pro bono civil rights work.

The nominees who were not chosen for this year's award will be carried over for reconsideration next year.

Human Rights Gala Planning Committee Report

Judge Harris invited everyone to this year's Gala, which will be on Tuesday, December 11, from 5 to 8 pm at Sidley Austin LLP. An electronic save the date was sent out on Wednesday to persons on the Commission's Gala mailing list. Judge Harris expressed the appreciation of the Committee to Commissioner Herzog, who works at Sidley, for offering his firm's space. Advanced registration is highly encouraged. Guests who do register in advance will be on a list facilitating easy entry into the reception. Guests who do not register in advance will have to go through security and will have to show a photo ID. The RSVP link is in the electronic save the date. In addition, commissioners are encouraged to invite friends and to help with registration/greeting at the event.

Youth Human Rights Ambassador Committee Report

Chief Judge Simmons provided a wrap-up of this year's Youth Human Rights Ambassador Program. This year, twelve classes at ten schools participated. Several volunteers visited these classes, including ALJs and commissioners. The capstone mock trial was held on November 14th. Chairman Fowlkes and Commissioners Sanabria, Mulhauser, Maier, and Simpson commented on how impressed they were with the students and how much they enjoyed helping out.

It was asked whether Chairman Fowlkes could submit an op-ed about the success of the program. It was noted that the Office of the Mayor would have to approve any op-ed piece. It was suggested that, as an alternative, the Street Law program may want to submit an op-ed piece.

VIII. NEW BUSINESS

Chairman Fowlkes reported that Commissioner Figueroa-Garcia's term will be ending December 31, and this would be his last meeting. He will be missed, and the entire Commission commended him on his service to the Commission.

Chairman Fowlkes also reported that Commissioner Robinson is undergoing physical rehabilitation after a major surgery. The entire Commission wishes him well for his recovery.

IX. COMMUNITY COMMENTS

Michael Sindram gave community comments.

X. ANNOUNCEMENTS

Commissioner Mulhauser invited everyone to the American Friends Service Committee event commemorating the 10th anniversary of DC's status as a human rights city. The event will take place December 14, 2018 from 6-8 pm at the ONE DC Black Workers & Wellness Center.

Commissioner Mulhauser also invited everyone to the United Nations Association of the National Capital Area's celebration of the 70th Anniversary of the Universal Declaration of Human Rights. The event will be December 6 from 6 to 8 pm at the National Education Association. A reception will begin at 5:15 pm. Commissioner Mulhauser will be receiving an award at the event. The Commission congratulated her on this achievement.

ALJ JP Howard announced that Chief Judge Simmons has now been with the Commission for ten years. Last Friday, current and former law clerks gathered to surprise him and to present him with a photo mosaic.

XI. ADJOURNMENT

Commissioner Herzog moved to adjourn, and Commissioner Mulhauser seconded. The Commission's September 2018 public meeting adjourned at 7:30 pm.

REVIEWED AND TENTATIVELY APPROVED BY A MAJORITY OF THE COMMISSION ON HUMAN RIGHTS, PENDING FINAL ADOPTION AT THE NEXT OFFICIAL MEETING OF THE COMMISSION.