

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



OFFICIAL COMMISSION MEETING

September 11, 2019
One Judiciary Square, 441 Fourth Street, NW, Room 1117S

ATTENDEES

Commissioners

Earl D. Fowlkes, Jr., Chairman
Motoko Aizawa, Secretary
Wynter Allen
Eleanor Collinson

Mark Herzog (by phone)
Adam Maier
Karen Mulhauser

Office of Human Rights Staff

Monica Palacio, Director

Commission on Human Rights Staff

Toya Carmichael, ALJ
Laura Higbee, Law Clerk

MEETING

I. CALL TO ORDER

Chairman Fowlkes called the Commission's Official Meeting to order at 6:35 pm.

II. ROLL CALL

Secretary Aizawa conducted the roll call. At the beginning of the meeting, only six commissioners were present, which did not constitute a quorum. However, Commissioner Herzog joined via telephone, and with his participation, a quorum was present.

III. ADOPTION OF THE AGENDA

Commissioner Mulhauser moved to adopt the agenda, and Adam Maier seconded. The agenda was adopted by acclimation.

IV. ADOPTION OF THE MINUTES

- The May 2019 minutes were resubmitted for adoption because there was not a quorum present at the July 2019 meeting. Commissioner Mulhauser moved to adopt the May 2019 minutes, and Commissioner Maier seconded. The minutes were adopted with mention of a few remaining typographical errors. Ms. Higbee will correct them prior to submitting them for publication on the Commission website.
- Regarding the July 2019 minutes, Commissioner Aizawa moved to adopt them, and Commissioner Maier seconded. The minutes were adopted with six ayes and one abstention.

V. REPORT OF THE DIRECTOR OF OHR

OHR Director Monica Palacio gave the report, highlighting the following:

- Personnel
 - o Director Palacio applauded Judge Carmichael, who has worked diligently to update the Commission docket and keep cases moving.
 - o Interviews for the Chief Administrative Law Judge position will take place this week and next week.
 - o The Administrative Law Judge position will be posted online soon.
 - o Since the July Commission meeting, OHR has hired two new Investigation Unit employees: Bianca Bell, Investigator, and Meghan Burns, Program Analyst.
- OHR Organization
 - o OHR's staff has doubled since 2013 and has outgrown the current office space. Therefore, OHR's non-enforcement programs, *e.g.*, Language Access, Youth Bullying Prevention, and Community Outreach, will relocate to 655 15th Street NW. All enforcement units, *e.g.*, Intake, Investigation, and Mediation, will remain at 441 4th Street NW. The relocation should be final in spring 2020.
- FY19 Case Statistics
 - o OHR has approximately 681 pending cases.
 - o OHR has resolved 196 cases through mediation with over \$2.3 million in settlements; and
 - o OHR has certified seven cases to the Commission.
 - o One Commissioner asked whether OHR had a target settlement amount for each year and where the funds go once mediation is final. OHR does not have a target or quota for mediation payments. In a case with no fine imposed on the respondent, the entire settlement amount goes to the complainant. If a fine is imposed, half of the amount goes to the complainant, and the other half goes into the D.C. Treasury.
- The Employment Protections for Victims of Domestic Violence, Sexual Offenses, and Stalking Amendment Act of 2018, B22-0014, goes into effect on October 1, 2019. It

protects victims of these crimes (“DVSOS”) as well as victims’ family members from employment discrimination. OHR is finalizing fact sheets for both employees and employers.

- No Street Harassment DC
 - On August 26, 2019, OHR and the Advisory Committee on Street Harassment launched a public information campaign with five ads located in bus shelters, at bikeshares, and inside buses. The campaign runs through September 29, 2019.
 - On September 3, 2019, OHR and the Advisory Committee on Street Harassment launched a public survey focused on determining the prevalence of street harassment in the District and understanding the experiences of individuals who have been subject to such harassment. 800 participants will represent the greater DC population, and 800 will represent specific populations more vulnerable to street harassment. In addition, there will be ten focus groups composed of members of these specific populations. The survey is accessible via QR Code, located on the ads and online. Stephanie Franklin, OHR’s Director of Communications and Community Engagement, can share the survey link.
 - Chairman Fowlkes added that the Mayor’s Office of LGBTQ Affairs also has or had a similarly themed campaign within the District.

- The next and last Human Rights Liaison Workshop of FY19 will be September 18, 2019 from 9:30 am to 4:30 pm at 441 4th Street NW. This training helps government employees, case workers, and community advocates better understand discrimination and how to identify it when working with clients. Commissioners may attend if they have not done so and may invite others to attend.

- OHR has two outreach opportunities coming up: The Congress Heights Day Parade and Festival, September 14, 2019 from 9:00 am to 3:00 pm; and the H Street Festival, September 21, 2019, from noon to 7:00 pm. Commissioners are welcome to join OHR staff. Please email Ajan Brown, Community Engagement Specialist, at Ajan.Brown@dc.gov if interested.

- The Attorney General Civil Rights Enforcement Clarification Amendment Act of 2019, B23-0073
 - OHR met with most of the D.C. councilmembers in August and September to update them on OHR’s growth and to discuss the bill.
 - Director Palacio met with Attorney General Racine seeking clarity on how his office would go about enforcing civil rights laws vis-à-vis OHR’s own enforcement. For example, employers have been sued by the Attorney General’s Office after successfully completing mediation with OHR. There will be a hearing on this Act, but it has not yet been scheduled.
 - Chairman Fowlkes expressed concern that having multiple civil rights enforcement entities may cause confusion among District residents.
 - One commissioner asked if the Commission, or individual commissioners, could get involved. Director Palacio advised that commissioners should wait until the public hearing phase. If commissioners would like to testify, or if they know someone who may want to testify, they may reach out at that time.

- Another commissioner commented that the Attorney General is already pursuing housing discrimination cases on behalf of District residents, particularly those who are homeless.

VI. REPORT OF CHAIRMAN OF THE COMMISSION ON HUMAN RIGHTS

Chairman Earl Fowlkes gave the report of the Chairman of the Commission on Human Rights:

- Chairman Fowlkes echoed Director Palacio's appreciation of Judge Carmichael's work at the Commission.
- The remainder of the Chairman's Report pertained to the Rules Committee, which is discussed below under "New Business."

VII. OLD BUSINESS

Review of COHR Case Inventory and Commission Case Assignments

The Commission reviewed the current case docket:

- ALJ Carmichael currently has nine active Commission cases and has closed four Commission cases in FY19. Half of the nine active cases are likely to have a hearing between now and the end of calendar year 2019. Judge Carmichael will be issuing her first on-the-merits decision at the end of this month.
- ALJ Carmichael has closed five Criminal Background Checks Act ("CBX") in FY19. There are no pending CBX cases.
- One Commissioner asked about the status of the *Robinson* case and its potential resolution. Judge Carmichael responded that she was not familiar with the case but that she would look into it.
- Ms. Higbee, the Commission's Law Clerk, will be leaving at the end of the month. The Commission will hire 1-2 paralegals to work until all three ALJ positions are filled. At that time, the ALJs will select a new law clerk/fellow together.

VIII. NEW BUSINESS

Commissioner Vacancies

- There are currently two Commissioner vacancies. Chairman Fowlkes will contact the Mayor's Office of Talent and Appointments to initiate the appointment and confirmation process. Ideally, the new commissioners will represent wards that are not currently represented: Wards 2 and 7.
 - One commissioner asked if individual commissioners may recommend nominees. Chairman Fowlkes responded that recommendations are welcome.

Rules Committee Discussion

- Commissioner Herzog is the new Rules Committee Chair. The other members are Commissioners Aizawa, Allen, Collinson, Maier, and Muhammad.
- Director Palacio urged the Committee members to share comments with her in the next two weeks so that the approval process for the changes could begin.
- Commissioner Collinson shared that she had found several duplicative sections within the rules being considered and wondered if the language should be amended to be more comprehensible to non-attorneys. Director Palacio suggested the members compile their comments/proposed changes into one document. Attorney Herzog agreed to review Commissioner Collinson's suggestions. She will send them to him by Sunday, September 15.

Neil Alexander Award Nominations

- Currently, the only Award nominees are those who were considered last year but did not win; they are automatically considered the following year. Ms. Higbee will email the commissioners again to encourage additional nominations. The new submission deadline is Monday, September 30, 2019. The Nominations Committee will schedule a meeting soon after to choose the winner.
- Regarding the gala, Chairman Fowlkes and Commissioner Mulhauser suggested that OHR and the United Nations Association for the National Capital Area ("UNANCA") co-host an event. UNANCA has a celebration scheduled for December 10, 2019, the anniversary of the Universal Declaration of Human Rights. Commissioner Mulhauser, an active UNANCA member, will propose the idea to the Association's leadership.
- Director Palacio expressed interest in having the Award winner speak at a luncheon prior to the gala at Sidley Austin, which hosted last year's gala. Commissioner Herzog, who works at Sidley, agreed and said he would coordinate with Sidley's events staff to ensure space.

Street Law

- ALJ Carmichael shared that she had contacted Charisma Howell, Director of the Street Law Program at Georgetown Law, to confirm the Commission's interest in continuing with the program. Director Howell has not yet responded, but Judge Carmichael assured everyone there is still time to confirm participation: Street Law activities begin in earnest in October.

IX. COMMUNITY COMMENTS

There were no community comments.

X. ANNOUNCEMENTS

Commissioner Mulhauser made two announcements:

- The United Nations Human Rights Council requires periodic review of the human rights records of all UN member states. The United States will be reviewed in spring 2020. However, various civil society groups, including United Nations Association chapters around the country, are permitted to submit “shadow reports” with their thoughts. Commissioner Mulhauser mentioned two entities in particular: the American Friends Service Committee (“AFSC”) and the University of the District of Columbia’s School of Law (“UDC Law”). The AFSC’s report will emphasize the prevalence of homelessness and the need for DC voting rights. UDC Law’s report, which will be completed by the Legislation Clinic, will concentrate on gender equity. Shadow reports are due October 3, 2019, and there will be press documenting the submissions. Commissioner Mulhauser will send copies of the final reports to the commissioners. Finally, UDC Law’s Clinic will begin working on a follow-up to the shadow report.
- D.C. Councilman Charles Allen recently sent a letter to the city administrator about including gender data in agency performance reports, which are due at the end of every fiscal year. This data will help UDC Law’s Legislation Clinic prepare a more robust follow-up report.
- Commissioner Allen asked if OHR had received any complaints involving disability discrimination and medicinal marijuana. Director Palacio responded she did not recall seeing any.

XI. ADJOURNMENT

Chairman Fowlkes, moved to adjourn, and Commissioner Collinson seconded. The Commission’s July 2019 public meeting adjourned at 7:25 pm.