

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



OFFICIAL COMMISSION MEETING

July 11, 2018
One Judiciary Square, 441 Fourth Street, NW, Room 1117S

ATTENDEES

Commissioners:

Commissioner Muhammad, Vice Chairperson	Commissioner Maier
Commissioner Aizawa, Secretary	Commissioner Mulhauser
Commissioner Allen	Commissioner Robinson
Commissioner Collinson	Commissioner Thomas
Commissioner Figueroa Garcia	Commissioner Ward
Commissioner Herzog	
Commissioner Lewis	

Office of Human Rights Staff:

Mónica Palacio, Director
Hnin Khaing, Deputy Director
Ben Orlebeke, OHR Law Clerk

Commission on Human Rights Staff:

David C. Simmons, Chief ALJ
Danny Gick, Law Clerk
Kwabena Owusu-Koduah, Law Clerk

Members of the Public:

J.P. Howard, ALJ, D.C. Office of Administrative Hearings
Rebecca Goldfrank, Families First Director, Children's Law Center

MEETING

I. CALL TO ORDER

Vice-Chairperson Muhammad called the Commission's Official Meeting to order at 6:30pm.

II. ROLL CALL

Commissioner Aizawa conducted the roll call. A total of 12 Commissioners were present, constituting a quorum.

III. ADOPTION OF THE AGENDA

Vice-Chairperson Muhammad asked for a vote to adopt the agenda. It was adopted by acclamation.

IV. ADOPTION OF THE MINUTES

Commissioner Thomas moved to adopt, and Commissioner Maier seconded the motion. The May 9, 2018 Meeting Minutes were adopted by acclamation.

V. REPORT OF THE DIRECTOR OF OHR

Mónica Palacio, Director of the Office of Human Rights, gave the report of the Director. Director Palacio highlighted points of the written Director's Report provided to the Commission, including:

- Introduction of new OHR employees and interns, including:
 - Mr. Ben Orlebeke, a second-year law student at the Georgetown University Law Center. Ben is working as a summer law clerk to Deputy Director Hnin Khaing. His work concerns legislative updates.
 - Ms. Nycole Morton, who was recently hired as the Intake Program Manager. Ms. Morton joined OHR from the Office of the Attorney General; she brings over 17 years of legal experience to OHR.
- Implementation of the Street Harassment Prevention Act of 2017, including the OHR's Street Harassment Task Force;
- A review of numbers and production
 - 600 pending cases on the docket;
 - 168 cases resolved this year thus far through mediation (resulting in \$2.82 million in settlements); and
 - 12 cases certified to the Commission.
- OHR's Listening Lab, which will be held for Ward 7 on July 26, 2018 at 6:30pm at the Dream Center. The Listening Lab is a forum in which grass roots leaders and community members convene to discuss community issues as they relate to bias and civil rights.
 - A pilot Listening Lab was held for Ward 1 on May 16, 2018.
- OHR's Returning Citizens Initiatives, for which a report is forthcoming;
- OHR's Second Transgender Resume Testing Project, for which testing will commence;
- OHR's Language Access Report for FY2017, which was published on July 11, 2018
- Legislative updates, including the newly introduced Sexual Misconduct Sunshine Act of 2018. This bill would prohibit non-disclosure of sexual misconduct, sexual harassment, and HRA violations in settlement agreements, unless specifically requested by the plaintiff.

Commissioners were very interested in the Listening Lab series and requested that OHR reach out to the Commission whenever such an event is scheduled to be held in their respective Wards

of residence.

VI. REPORT OF CALJ

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

- In FY2018, twelve (12) cases have been certified to the Commission. Additionally, in FY2018, the following types of cases were also received:
 - One (1) Office case;
 - Four (4) CBX cases; and
 - One (1) FCRSA case.
- The Commission's docket currently has:
 - Sixteen (16) Commission Cases, of which three (3) are new cases;
 - Seven (7) Office Cases, of which one (1) is new;
 - Two (2) CBX cases, of which one (1) is new; and
 - Zero (0) FCRSA cases
- To date, the Commission has closed:
 - Fourteen (14) Commission cases;
 - Two (2) additional cases are pending before tribunals;
 - Four (4) Office cases
 - One (1) additional case is pending with Office;
 - Three (3) CBX cases; and
 - Two (2) FCRSA cases.
- The Chief Judge asked the Commissioners to note the items in their packets regarding meetings and Commissioner contact information. Additionally, the Chief Judge called the Commissioners' attention to the list of Commission Tribunals for FY2017 and FY2018. The Chief Judge requested that Commissioners contact him if any of the tribunals listed were incorrect.

Commissioner Herzog cautioned Commissioners against use of personal emails for official Commission communications, as such communications may be subject to FOIA requests. The Chief Judge stated that he would follow up with the OCTO in the effort to provide government emails to Commissioners.

- The Chief Judge provided an update concerning the Commission's search for a new Administrative Law Judge ("ALJ"). The Chief Judge stated that, in accordance with the Commission's discussion of inclusivity at the May 2018 Commission Meeting, the ALJ position was advertised through the D.C. Department of Human Resources. The Commission is set to begin screening interviews in the coming weeks.

Commission Robinson voiced the Commission's concern about the salary of the ALJ. Director Palacio stated that there were various issues that impacted this matter and that she would provide further information at the next Commission Meeting.

- The Chief Judge introduced the Commission’s new summer law clerk, Mr. Kwabena Owusu-Koduah. Mr. Owusu-Koduah is a graduate of Towson University, where he majored in Criminal Justice and minored in Psychology. He is currently a rising second-year law student at the University of the District of Columbia’s David A. Clarke School of Law, where he is a Member at Large of BLSA and a Member of the Student Bar Association.
- The Chief Judge also noted that the July 2018 Commission Meeting is the last meeting of Mr. Danny Gick, the Commission’s Law Fellow. The Chief Judge recognized Mr. Gick formally for his service to the Commission. Vice-Chair Muhammad granted Mr. Gick the floor, who thanked the Commission for the opportunity to serve as the 2017-2018 Law Fellow. Mr. Gick stated how grateful he has been for this experience and how much he has learned since he began working in October 2017. The Chief Judge reminded the Commissioners that Ms. Laura Higbee has been selected as the 2018-2019 Law Fellow and that the Commission is looking forward to working with her in the coming months.

VII. OLD BUSINESS

45th Anniversary of Street Law

The Chief Judge stated that on June 26, 2018, the 45th Anniversary of the Georgetown University Law Center Street Law Program was celebrated and its Founder and Director, Professor Richard Roe, was honored. Director Palacio, who was one of Professor Roe’s students when she was a student at Georgetown Law, stated that her experience in Professor Roe’s clinical program was transformative and changed the course of her career. The Chief Judge stated that Professor Roe will continue working as an Adjunct Professor at Georgetown Law, but Professor Charisma Howell will take over as the Director of the Street Law Program.

VIII. NEW BUSINESS

Masterpiece Cake Shop

The Chief Judge facilitated a discussion on the recent Supreme Court decision of *Masterpiece Cakeshop v. Colorado Civil Rights Commission*. He emphasized the importance of impartial consideration of matters pending before tribunals, as the inflammatory statements on the part of the Colorado Civil Rights Commissioners were a driving factor in the Court’s 7-2 decision against the Commission. Commissioner Ward emphasized that some of Justice Kennedy’s dicta was very favorable to nondiscrimination laws.

Red Hen Restaurant

The Chief Judge also facilitated a discussion concerning the Red Hen Restaurant, which was recently in the news after refusing to serve Sarah Huckabee Sanders, Press Secretary for President Trump. Several Commissioners noted that the D.C. Human Rights Act was quoted in reference to the incident and inquired as to the role of the Commission in providing an interpretation of the Human Rights Act in anticipation of similar incidents that may occur in the future. The Chief Judge emphasized that, although the Commission cannot decide a case in the abstract, the D.C. Human Rights Act, which protects against discrimination based on political

affiliation, is a remedial statute that is construed very broadly, and that all the protected traits under the Act are prominently displayed on the OHR's website. The Chief Judge also discussed OHR's public engagement campaigns, including its public education campaign on the gender-neutral bathroom policy.

Commission Committees

The Chief Judge discussed the Commission's Committees. He said that he will provide a brief synopsis of the responsibilities of each Committee to all Commissioners. The following Commissioners are currently sitting on the Commission's several Committees as follows:

- ***Committee on Human Rights Ambassadors/Mock Trial Capstone***
 - Vice-Chairperson Muhammad;
 - Commissioner Aizawa;
 - Commissioner Maier; and
 - Commissioner Collinson.

- ***Committee on the December Awards Gala***
 - Commissioner Aizawa;
 - Commissioner Collinson;
 - Commissioner Allen;
 - Commissioner Mulhauser; and
 - Judge Harris.

- ***Committee on the Neil Alexander Award***
 - Chairperson Fowlkes;
 - Commissioner Herzog;
 - Commissioner Robinson; and
 - Chief Judge Simmons.

- ***Committee on Rules***
 - Vice-Chairperson Muhammad;
 - Commissioner Ward;
 - Commissioner Aizawa; and
 - Chief Judge Simmons.

The Chief Judge said that the Committee on Rules has approved changes to Chapters 3 and 4 of the Commission's Procedural Rules, found at Title 4 of the D.C. Municipal Regulations. The Rules Committee needs to consider potential changes to Chapter 2 and potential regulations for the newly enacted Acts under the Commission's purview.

IX. COMMUNITY COMMENTS

No community comments were provided.

X. ANNOUNCEMENTS

No announcements were given.

XI. ADJOURNMENT

Commissioner Robinson moved to adjourn, and Commissioner Aizawa seconded. The Commission's July 2018 public meeting adjourned at approximately 7:38pm.

Adopted at the September 12, 2018 Commission meeting.