



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
COMMISSION ON HUMAN RIGHTS  
BI-MONTHLY PUBLIC MEETING

OFFICIAL COMMISSION MEETING MINUTES [ADOPTED]  
September 14, 2022, at 6:30pm  
*Via Zoom*

**ATENDEES:**

Commissioners

Motoko Aizawa, Chair  
Karen Mulhauser, Secretary  
Wynter Allen  
Robert Baldwin, III  
Charlotte Clymer  
Eleanor Collinson  
Lauren Lowery  
Teri Janine Quinn  
Stuart Anderson  
Maria E. Burnett

Office of Human Rights Staff

Hnin Khaing, Interim Director  
Andrea Goplerud, General Counsel  
Dr. Mia Carey, Training Specialist  
Tyler Cargill, Training Specialist  
Maya Vizvary, Interim Supervisor

Commission on Human Rights Staff

Erika Pierson, Chief Administrative Law Judge  
Brandes Ash, Administrative Law Judge  
Rose Hayden, Law Clerk

**ABSENT:**

Adam Maier  
Anika Simpson

- I. CALL TO ORDER – Commissioner Aizawa, Chair
  - Chair Aizawa called the meeting to order at 6:32 p.m.
- II. ROLL CALL – Commissioner Mulhauser, Secretary

- A quorum was established.

### III. ADOPTION OF THE AGENDA

- The agenda was adopted as circulated.

### IV. ADOPTION OF THE MINUTES: July 13, 2022, Meeting

- The minutes of the July 13, 2022 meeting of the Commission was adopted as circulated.

### V. FAREWELL TO COMMISSIONER BRIAN GRIFFEY



- Chair Aizawa and Director Khaing thanked him for stepping up to the position of Vice Chair and for his service—we are sad to lose him!
- Mr. Griffey moved to Geneva and is working for The Office of the High Commissioner of Human Rights (United Nations) in the Groups and Accountability Section
- The organization promotes human rights that overlap a lot with protected traits protected by the DC COHR
- Links shared:  
[ohchr.org/en/press-releases/2022/08/united-states-un-expert-warns-lgbt-rights-being-eroded-urges-stronger](https://www.ohchr.org/en/press-releases/2022/08/united-states-un-expert-warns-lgbt-rights-being-eroded-urges-stronger)  
<https://spinternet.ohchr.org/ViewAllCountryMandates.aspx?Type=TM>  
<https://www.ohchr.org/en/special-procedures/ie-sexual-orientation-and-gender-identity/annual-thematic-reports>

### VI. INTRODUCTION OF LAW CLERK ROSE HAYDEN – Erika Pierson

- Supporting the Hearing Unit
- Georgetown Law Fellow

### VII. INTRODUCTION OF NEW COMMISSIONERS

- Stuart Anderson
  - Personal mission is to learn and listen to see where this Commission has been, what its vision is and then figure out how to move that mission forward
- Robert Baldwin, III
  - Background with labor and employment law
  - In the last few years in private practice, mainly in plaintiff side employment discrimination cases
  - Refining skillset and donating what he knows to service of the community
- Charlotte Clymer
  - Writer and activists, served in military for 6 years

- Background in LGBTQ rights, disability rights, veteran's rights
- Looking forward to working in a regulatory commission

#### VIII. REPORT OF OFFICE OF HUMAN RIGHTS: Interim Director Hnin Khaing, 7:00 PM

- Director Khaing congratulates the new Commissioners and announces new promotion
  - Maya Vizvary promoted to Interim Supervisor
    - Been with OHR for 3.5 years
- Director Khaing gives updates on the Gala
  - Tentatively scheduled for December 8, but having some difficulty finding spaces for this date, so also looking at December 6 and 7
  - Excited to get an early start
  - Appointed Dr. Mia Carey and Tyler Cargill of OHR to help navigate through the planning process
    - Order supplies
    - Get food waivers done
  - Dr. Mia Carey shares she is putting together a New Human Rights timeline and human rights booklet talking about protected traits and DC as a human rights city, to be given out at the gala and future community events
  - Hope to tie in 45<sup>th</sup> anniversary of the Human Rights Act at the gala
- Andrea Goplerud, General Counsel for OHR asks that Commissioners reach out and let her know how she can help!

#### IX. REPORT OF THE CHIEF ADMINISTRATIVE LAW JUDGE & COMMISSION CASE INVENTORY: Erika Pierson

- Operational Updates
  - Look at proposed dates for new Commissioners training, probably will be done in two sessions, probably in the evening (Judge Pierson will reach out to schedule the training)
  - Three vacancies on the Commission and three Commissioners whose terms are up in December 2022
  - Review handout of rotation schedule for Commissioners' participation in tribunals
  - Griffey will need to be replaced on a tribunal for a case that has a large record
    - Commissioner Baldwin III volunteered to fill this role
- Publication of Commission Decisions
  - An idea: Publishing decisions in the DC Register?
    - Office of Employee Appeals. Public Employee Relations Board, etc. publish their decisions in the DC Register
    - This would also make the decisions searchable (look for key words, for example)
    - Concern: decisions can be long, but it is published electronically now so that should not be a huge concern
- Cases Appealed and New Precedent
  - Cases on Appeal: Both decided last month—both Memorandum Opinion and Judgment (unpublished decisions)

- *Gdula v. Catholic University of America* (Final Order December 20, 2019).
    - An issue in the case was OHR Rule 408 (Rule on Representation that was changed with Emergency Rulemaking)
    - Not addressed in the decision (not sure why)
      - Perhaps because the argument is moot because OHR changed the law
    - Remanded—ALJ Carmichael had granted summary judgment
      - Too many facts in dispute, so the case should go to hearing
    - Now back to the Commission, trying to encourage parties to mediate, but if they do not then we will hold a hearing
    - ALJ Pierson; Tribunal: Aizawa, Collinson, Simpson
  - *Gibson-Jackson v. Transit Employees Federal Credit Union (TEFCU)* (Final Decision July 2019).
    - Affirmed, agreed with ALJ without getting into the substance of the facts
    - The credibility findings of the ALJ (both employer and Complainant had equally credible testimony), therefore plaintiff didn't meet their burden—decision affirmed
    - Interesting issue: Complainant appealed ALJ's denial of sanctions (asked for sanctions for employer not turning over documents)
      - Under OHR Rules that the Commission has the authority to
        - Arbitrary, capricious, or contrary to the law
- New Precedent
- *Chambers v. District of Columbia*, 35 F.4th 870 (D.C. Cir. 2022).
    - Involved denial of a voluntary transfer
    - Reversing 20 years of precedent the Federal Circuit Court for the District of Columbia held that adverse employment actions, which is part of a prima facie case, does not have to result in tangible or economic harm to be actionable under Title VII.
      - This is huge—it will open the door for many complainants
    - Expect other Circuits to follow suit
- Key Performance Indicators (KPI)
- Data reported to City Administrator on quarterly basis
  - Always asked about cases pending more than 15 months
    - Where did this measure come from? We don't know...
  - Now have an opportunity to change the KPIs
    - Need to justify it

- Review handout with a timeline for an average case from the time that it is certified to the time that a final decision is issued
    - That is about 15 months if there are no continuances or delays
    - 15 months is likely an unrealistic measure, so need to talk with City Administrator's Office
    - 20-22 months is more reasonable
  - Chair Aizawa wanted to ask Director Khaing if the comparative study could shed light on the 15-month timeline
    - GC Goplerud said she would look into it and get back to us tomorrow, but thinks that it is unlikely as the clock usually ends at the Letter of Determination
- Cases
  - Review the case list
    - Currently working to wrap up lingering cases
  - 10 new cases certified the same day
  - It would be difficult to get all of these done on a 150-day timeline
- Question from Chair Aizawa
  - Welcome Judge Ash back from maternity leave
    - About publication of the cases, should there be a discussion or decision on that now? Support a formal publication of decisions in the DC Register—wants precedents to build up.
    - Any downsides?
    - Discussion might be helpful
- Response from Chief Judge Pierson
  - The cases are already redacted, and it would be a simple process to upload them into the system (not too much extra work) and no other large downsides
  - Chief Judge Pierson already has the authority to upload to the DC Register
- Commissioner Mulhauser agrees that it should be public and supports putting in the Register
- Commissioner Collinson asked if there would be a potential downside to publishing them based on Commissioner's Baldwin's experience as a plaintiff side attorney
- Commissioner Baldwin, III did not see any downside and has not been before OHR, but has worked as a plaintiff side attorney
- Chair Aizawa wonders if this would make a practical difference—undertaking an archival project, knowing what the cases are and hopefully get them published. Goal is to get plaintiffs to use the cases, build precedent and further support our protected traits. This might depend on the data (even anecdotal)
- Andrea Goplerud gave tangential perspective from OHR side, both respondents and complainants come to OHR without counsel (*pro se*) and might not understand to go to commission website and know that they are there. If things are published in DC Register, the decisions will be Google-able and appear on search engines. This could assist both complainants and respondents with their own cases. Full support.
- Chief Judge Pierson confirmed that decisions would be published on both the website and the DC Register
- Commission is overwhelmingly in support of publishing in DC Register

X. REPORT OF THE CHAIR OF THE COMMISSION: Motoko Aizawa, 7:35 PM

- Chair Aizawa, Director Khaing and Dr. Carey were asked to speak at a conference on July 20 & 21<sup>st</sup> --Committee on the Elimination of Racial Discrimination (CERD) at Howard University
  - o Forum to listen to different human rights organizations in terms of coping and dealing with racial discrimination
  - o Official process of consultation for CERD convention, process to speak with US State Dept Representatives who will be meeting in Geneva, how they will deal with implementation in the United States
  - o Director Khaing spoke about what the Commission is doing in this regard
  - o An interesting process about how what you do locally can be directed toward Geneva
  - o We are being invited to these events, these can have an impact and input in Geneva

XI. NEW BUSINESS

- Notice of Nominations for Vice Chair – Because Vice Chair Brian Griffey is resigning from the Commission, there is an opening and Chair Aizawa said the nominations, including self-nominations, should be submitted for a vote at the November Commission meeting. Nominations can be emailed to Chair Aizawa.

XII. OLD BUSINESS

- Update on Human Rights Awards Gala: December 6, 7 or 8, 2022, at MLK Library (new awards and request for nominations) – There will be three awards this year. Commissioner Aizawa reported and indicated she would like someone to take over as Chair for the Awards Committee
  - o Cornelius R. “Neil” Alexander Humanitarian Award and Emerging Human Rights Leader Award are both for individuals
  - o Open for discussion on the creation of a third award (Community Award)
    - Look to handout for the criteria describing the three awards
  - o Commissioner Mulhauser supports it
  - o Commissioner Anderson also supports it
    - No objections
    - Motion carried and the three criteria are approved
  - o Theme of the Gala: crossroads of gender and human rights
    - Gender expression and identity, reproductive rights
  - o Community engagement is important
    - Please email Rose Hayden ([rose.hayden@dc.gov](mailto:rose.hayden@dc.gov)) with any organizations or individuals who might nominate a D.C. community member or a D.C. organization for the awards
  - o DC Government Agencies will not be eligible for the awards (even though they do excellent work) but individuals, and members of community organizations are eligible

- Collaboratives ( even if they receive funding from the D.C. government) are also eligible
- Commissioner Mulhauser's understanding is the same
- Commissioner Lowery—how do nominees need to relate to the theme?
  - Chair Aizawa responds nominations for individuals and organizations should be in line with the event theme

### XIII. COMMITTEE REPORTS

- Outreach Committee (Commissioner Mulhauser)
  - Fortunate to have two new members
    - Commissioners Anderson and Baldwin, III
  - Set up to be able to support OHR in doing outreach to DC community so that more people are aware of the 21 traits and how to file a discrimination complaint
  - Have not done very much since formed earlier this year, but decided to help the Commission this year by doing outreach to find nominees for the 2022 Human Rights Awards
  - Looking forward to scheduling a meeting soon
  - Meet with OHR staff to get the kind of training they need to reach out to various aspects of the community (public libraries, ANCs)
    - Want to work together
- Rules Committee (Commissioner Aizawa)
  - ✓ Final Rule 408 published in D.C. Register (Erika Pierson)
    - Conflict on the books for a long time between DCHRA and OHR rules regarding representation
      - Rule finally changed through emergency and proposed rulemaking
      - After the comment period expired, final rulemaking published in the Register and now it is law.
  - ✓ Emergency & Proposed Rule 401 published in D.C. Register
    - Had the same error as Rule 408
    - Done with the comment period, OJC getting ready to publish the final rule

### XIV. ANNOUNCEMENTS

Human Rights liaison training: **Thursday, September 29, 2022 - 10 am - 2 pm**

- Listening Labs
  - In August, was it cancelled?

- GC Goplerud will look into it

XV. ADJOURNMENT OF MEETING, 7:57 PM

**NEXT MEETING: NOVEMBER 9, 2022**

*This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).*