

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF HUMAN RIGHTS**



Fiscal Years 2023-2024 Performance Oversight Hearing

Testimony of
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Director

**Before the
Committee on Public Works and Operations
Council of the District of Columbia
The Honorable Brianne Nadeau, Chairperson**

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Good afternoon, Chairperson Nadeau, Committee members, and staff of the Committee on Public Works and Operations. I am Hnin Khaing, Director of the District of Columbia's Office of Human Rights (OHR). Thank you for inviting me to discuss the activities and accomplishments of OHR in Fiscal Year 2023 and Fiscal Year 2024, to date.

Overview of OHR and Laws Enforced by OHR

OHR is the District's quasi-judicial agency that works to eradicate discrimination, increase equal opportunity, and protect the human rights of individuals in employment, housing, education, public accommodation, and government services. We do this by enforcing local and federal civil rights laws through a cost-free legal process to those who believe they have experienced discrimination, and taking proactive measures through education and community engagement. Our enforcement process is a two-part process, in which we begin with an investigation, and if the investigation record supports a probable cause to believe discrimination may have occurred, we certify the case for an evidentiary hearing where both parties are afforded the opportunity to present witnesses and submit evidence. In private sector cases, our lawyers prosecute the cases alongside complainants.

As of this moment, OHR enforces approximately 23 anti-discrimination and compliance laws. The newest laws in FY23 and 24 include: (1) the Sexual Harassment Data Collection Act, (2) the Domestic Worker Employment Rights Amendment Act, (3) the Human Rights Enhancement Amendment Act, and (4) the Eviction Record Sealing and Fairness in Renting Act.

Other laws include: (1) the D.C. Family and Medical Leave Act, (2) the D.C. Parental Leave Act, (3) parts of the Universal Paid Leave Amendment Act, (4) the Unemployed Anti-Discrimination Act, (5) the Fair Credit in Employment Act, (6) the Protecting Pregnant Workers Fairness Act, (7) the Employment Protections for Victims of Domestic Violence, Sexual

Offenses, Stalking Amendment Act, (8) the Fair Criminal Record Screening Amendment Act, also known as “Ban the Box;” (9) the Fair Criminal Record Screening for Housing Act, (10) Tipped Wage Workers Fairness Act, (11) the Racial Equity Achieves Results Act, (12) the Care for LGBTQ Seniors and Seniors with HIV Amendment Act, (13) the Youth Bullying Prevention Act, and (14) the D.C. Language Access Act.

Of course, OHR was established by and enforces the Human Rights Act. Over the last decade, the HRA has significantly evolved and now covers 23 protected traits across our four enforcement areas, making the District one of the most progressive jurisdictions in the nation and we are proud to have this honor. In FY23, the Act was further expanded to include a broadened definition of harassment, explicit addition of contractors, and this year, removal of domestic workers from exclusion of the Act’s coverage. As we speak, there is pending legislation revising the HRA.

In addition to these local laws, OHR works with our federal counterparts to enforce: (1) Title VII of the Civil Rights Act of 1964, (2) Title VIII of the Civil Rights Act, (3) the Age Discrimination in Employment Act, (4) the Americans with Disabilities Act, and (5) the new federal Pregnant Workers Fairness Act.

With these numerous laws on the books, OHR’s proactive arm works thoughtfully and diligently to educate the community. We use a tailored approach to this statutory mandate. For example, in addition to our regular training programs for the public and District agencies, which we offer several times a year in-person and hybrid, we hold office hours at community libraries, partner with sister agencies and community organizations to table at events, and produce written factsheets and guidance documents. Additionally, we work to publish reports, such as the agency’s Annual Report, the Language Access Report and the Youth Bullying Prevention Biennial Report.

New in FY23, we worked with the Office of Racial Equity to develop and produce training and guidance materials for advancing racial equity in District government and in FY24, we are publishing the Sexual Harassment Data Collection Report.

Key Achievements in Fiscal Years 2023-2024 to Date

I will now turn to OHR's key achievements, starting with our operational developments and the impact of those developments in our enforcement work, then continue to programmatic accomplishments and community engagement efforts.

a. Operations

As stated in last year's testimony, in FY23, one of our priorities was to invest in our people, which meant expanding our recruiting and hiring efforts and establishing retention tools. And, I am proud to report, we accomplished these goals. OHR filled 17 vacancies, including four hard-to-fill senior leadership positions. Also, in efforts to promote and retain qualified employees, OHR provided career growth opportunities for its existing staff by promoting six employees to higher-level positions. OHR also expanded its recruitment network and outreach to District residents by attending seven local career fairs, including those east of the river. Finally, for the first time in OHR's recent history, the agency held a staff retreat that included an employee recognition component.

In FY24 to date, OHR currently has five vacancies, which represents a vacancy rate of 7%. This is the lowest vacancy rate that OHR has experienced in the past few years. OHR is currently on track to fill all of its existing vacancies by the end of the fiscal year, if not sooner.

In FY23, OHR modified its organizational structure to include an additional tier of management. This new tier of senior managers is designed to oversee the different units within the agency and are as follows: Chief Administrative Officer, Senior Advisor to the Director,

Associate Director for Enforcement, Associate Director for Communication and Equity Programs, and the General Counsel. These changes helped the agency gain more oversight and provide much needed support to its growing staff and meeting deliverables.

Another priority OHR set out in FY23 was to retain an IT Specialist and a Data Specialist, which I am proud to share we were able to do with the support of our Mayor and Deputy Mayor. The IT Specialist started in September and the Data Analyst soon followed in December. These individuals have already had an impact on the agency's operations, including a smoother new employee onboarding process, technology fixes and updates, progress on our case management system improvement initiative and data preparation for various reports.

b. Education and Special Equity Programs

Turning to our education programs, in FY23, OHR saw a significant surge in community engagement, with a 36% increase in educational and outreach activities, reaching a total of 80 such activities across the District. Prioritizing in-person interaction, we hosted two engaging Listening Labs where we discussed disability and employment and source of income discrimination. Open houses in January and April served as proactive introductions to OHR and its resources for wider communities, further bolstered by our participation in diverse community festivals and heritage panels. This emphasis on face-to-face interaction resonated with the community, fostering deeper connections, and understanding. I also held quarterly meetings with our community partners to update them about the various agency developments as well as to address any concerns they may have in interacting with the agency.

Our public education focused on updates to the D.C. Human Rights Act, curating public awareness campaigns, such as, launching a weekly social media series called "Protected Trait Tuesday" that explained the changes in simple terms. OHR also improved training materials with

clear explanations and examples, and teamed up with housing organizations to offer in-depth sessions on a new protection against discrimination based on where you live. These efforts didn't stop there – OHR continued training human rights experts, government employees, and others, getting high satisfaction ratings from participants. Thanks to these efforts, many more people now understand their rights and responsibilities under the updated law.

As in years past, in December, OHR's communication team worked diligently to successfully coordinate the Human Rights Awards Ceremony with our Commission on Human Rights. Thanks to the Commission Chair and OHR's staff, the event garnered over 100 attendees, and honored the District's human rights champions advancing disability rights, including a youth awardee.

OHR's Creating Safer Spaces Program also celebrated significant achievements in FY23. The Care for Seniors training program, focusing on new rights and legal protections for LGBTQ+ and HIV+ seniors, successfully trained 25 trainers through four Train-the-Trainer sessions. These trainers then reached approximately 70 Long-Term Care Facilities, impacting 432 staff members by the end of FY23.

Similarly, the Sexual Harassment Prevention Program certified 153 trainers in the tipped wage industry, reaching 394 businesses and training over 12,788 individuals. Collaborative efforts with business partners, a working group, online and community presence, media posts, and reminders fueled the program's success. Notably, over 514 businesses submitted sexual harassment policies, with 333 (65%) approved, ensuring proper reporting mechanisms.

The Language Access Program (LAP) made significant strides in FY23-24, enhancing accessibility for Limited English Proficiency (LEP) and Non-English Proficiency (NEP) residents. Thirteen covered entities implemented multilingual phone trees, bridging language

gaps and ensuring critical information is accessible by phone. Additionally, field testing and signage audits ensured compliance with multilingual signage across D.C. government agencies, creating a more inclusive environment. Technical support for machine translation software was provided to agencies, and a Language Access Database Dashboard was launched to offer a visually intuitive overview of compliance metrics, empowering agencies to implement targeted strategies. To celebrate the 20th anniversary of the Language Access Act, a panel discussion will be held in April, reflecting on the progress, and discussing future strategies for linguistic inclusivity. This milestone celebration underscores the program's effectiveness in serving LEP/NEP individuals and its positive impact on D.C. communities.

OHR's Youth Bullying Prevention Program also saw significant progress in FY23. School engagement soared, with data collection response rates rising from 76% to 88% and annual staff training reaching 64% of schools, up from 52%. This commitment translated into increased training and outreach, with 14 sessions for schools/grantees, five parent sessions, and nine youth events delivered. Technical assistance efforts also ramped up, with informational meetings held and 45 non-compliant schools contacted individually. Additionally, 72 bullying prevention policies were approved for D.C. youth-serving grantees. These achievements demonstrate the program's dedication to fostering a safer learning environment for all District youth.

c. Enforcement Work

I will now transition to discussing OHR's enforcement work. OHR's Enforcement Unit, along with our Alternative Dispute Resolution unit, is now overseen by the newly created Associated Director for Enforcement. These teams are supported by attorney-advisors from OHR's Office of the General Counsel, and the hearings are held by our Administrative Law Judges, or ALJs.

In FY23, OHR received 132 more cases in FY23 totaling **1,222** initial complaints, processed approximately **900** cases at intake, docketed **295** charges of discrimination, and issued dispositive decisions in **376** cases. OHR also sought to complete investigations in 50% of our aged inventory, and I am proud to report, we were able to meet this goal. OHR's mandatory mediation program conducted **283** mediations and resolved **120** cases, resulting in approximately \$611,840 in settlement payments to complainants. Through the hearing process, our ALJs closed a total of **13** cases and resolved cases that resulted in a total of \$673,950 in recovery for complainants, making the agency's combined total in recovery \$1,285,790.

Significantly, OHR attorneys spent extensive time before the D.C. Commission on Human Rights pursuing cases in the public interest. While OHR does not represent complainants, we are authorized, in our pursuit of the public interest, to seek make-whole remedies for victims of discrimination. In FY23, OGC attorneys entered their appearance in 20 matters, and participated in three merits hearings, including one where complete relief was awarded for the public interest and Respondent was ordered to pay over \$50,000 in relief to the Complainant. Our agency attorneys worked to secure 13 compliance agreements from respondents (the most ever in OHR's history), which resulted in these respondents being subjected to multi-year monitoring, requiring them to provide trainings, and post policies that reflect D.C. laws. In a major victory, OHR was able to get a major national retail store to change its employment application nationwide to remove questions regarding criminal background. These 13 cases where a VCA was entered also resulted in private settlements that resulted in \$436,550 of relief for complainants. OHR's work continues in this area, as just in January 2024 alone, we are on track to obtain three more VCAs that have also resulted in an additional \$210,000 in relief for complainants.

Additionally, despite being short-staffed due to a personnel transition and extended absences, over the course of FY23, OHR's legal team reviewed 120 Letters of Determination for legal sufficiency and drafted more than 200 core work documents. As a result, the agency issued 22 decisions on Motions for Reconsideration, 31 Administrative Dismissals, 48 decisions on Motions to Dismiss, and 78 decisions on Motions to Reopen.

Further, OHR worked diligently on improving internal agency processes and procedures in FY23, and implemented several office memoranda, including the process for contacting represented parties, establishing procedures for unresponsive complainants, and procedures for handling bankruptcy of respondents. Additionally, in FY23, OHR has worked to bring more clarity to the public about the investigation process. One of these measures includes the development of a notification form that is provided to potential complainants in employment cases regarding the election of remedy rule outlined in D.C. Code § 2-1403.16(a). The notification form is prominently posted on OHR's website next to the employment intake questionnaire and is also individually provided to complainants on three separate occasions: with the initial scheduling notice, with the draft charge for complainants' signature, and with the investigator introduction email if the case fails mediation and goes to investigation. The notification form has also been translated into Spanish.

Fiscal Year 2024 Priorities

In looking ahead, OHR's priorities in FY24 are similar to FY23 and are as follows: (1) continued effort in case processing improvements and related public information; (2) continued effort in the case management system and IT system investment; (3) continued investment in people (recruiting, hiring, and retention); (4) improved informational sharing; and (5) a new home for OHR.

With regard to case processing, OHR continues to refine and add to its effort to improve timelines. These efforts include dedicating specific teams with specific goals to close cases in our three categories of cases: (a) older cases, (b) existing cases, and (c) new cases. While OHR was not able to get our fact-finding conferences off the ground in FY23, we were able to consult with agencies in NY, Massachusetts, and Maryland, and with the newly onboarded Associate Director, we are poised to begin implementation of this procedure in FY24. Additionally, OHR is working on implementing early resolution mechanisms for certain cases and will be piloting this initiative in housing cases. With respect to our goal of launching a fully working case management system, I am again proud to report the onboarding of our contractor IT Specialist and Data Analyst. These individuals have hit the ground running, and we expect to have a fully operational case management system by Quarter 4 of this fiscal year as well as improved data sharing on our website.

Following on the heels of our success in improving employee retention and recruiting efforts, OHR will continue to support our people with external as well as internal trainings, professional developments, and team building opportunities.

Finally, as OHR's work continues to evolve and expand, our agency is focused on not only educating the public on what we do, but also how the agency is doing in its many areas of responsibility. These efforts will be supported by our new IT Specialist and Data Analyst. And, to house our growing agency, we continue to work closely with the Department of General Services to locate additional space.

Conclusion

In closing, I would like to thank my team at OHR. OHR is only successful because of the hard work of its dedicated team and the commitment and leadership of our managers.

I would also like to thank the Mayor, Deputy Mayor, you, Chairperson Nadeau, and the Council for always being champions for human rights in the District. I appreciate the opportunity to share our accomplishments and plans for continuous improvement. This concludes my testimony, and I am available to answer any questions you may have.