



Maine Human Rights Commission

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COMMISSION MEETING MINUTES - ZOOM -

July 19, 2021

Commissioner Deborah Whitworth chaired the meeting and called it to order at 8:31 AM. Also present were Commissioners Jefferson Ashby, Edward David, Jill Duson and Julie O'Brien.

AGENDA

Commissioner Ashby moved, seconded by Commissioner David, to adopt the Agenda and Consent Agenda to accept the Investigator's recommended decision in each of the cases listed on the Consent Agenda (see listing on page 3). 4 in favor | 0 opposed (Duson temporarily absent).

MINUTES

Commissioner Ashby moved, seconded by Commissioner David, to adopt the June 14, 2021 Commission Meeting Minutes. 5 in favor | 0 opposed.

ADMINISTRATION

Monthly reports: Executive Director Sneirson discussed reporting on the following Commission activities:

- Personnel: The personnel report was presented and placed in the file. The Commission welcomed Chelsey Krechmer to the Commission in early July, when she filled a vacant Secretary Associate Legal II position.
- Compliance: There are 14 reasonable-grounds cases in active conciliation, and since the last meeting there has been one successful conciliation and have been five unsuccessful conciliations. Commissioner Duson moved, seconded by Commissioner David, to approve the Conciliation Agreement in the reasonable-grounds case Elbarbary v. The Penobscot Company (E20-0150). 5 in favor | 0 opposed.
- New Charges: 71 new complaints filed in June.
- Administrative Dismissals: 15 administrative dismissals issued in June.
- There were 16 predetermination settlement agreements totaling \$457,000 in benefits to complainants.

Quarterly reports:

- Training & Education: Commission staff attended/participated in 12 training or education sessions from April through June 2021, plus multiple legislative hearings.
- Financial Reports: Will be emailed after the meeting.
- Pending Inventory: 732 cases pending at the end of June.
- Resolutions: 39 predetermination settlements.

NEW BUSINESS

Legislative Update.

The Legislature's review and approval of the Biennial Budget has resulted in an approval of baseline funding for the Commission for 2021-22 and 2022-2023. Several of the Commission's requests for increases in general funds were funded by the legislature, including a long-approved reclassification of the MHRC Investigator positions. Additionally, the vacant paralegal position that was reduced to half-time during the curtailment, and proposed to be reduced

permanently in the biennium, has reverted to full time due to the Commission receiving additional general funds for much needed technology operating expenditure increases.

A bill signed by the Governor, LD 32, amended the Freedom of Access Act to require in-person public proceedings for state agency functions like the Commission meetings except in certain circumstances, and requires adoption of policies regarding remote participation in public proceedings. The Commission will return to in-person proceedings for its next meeting on August 23, with meetings to occur at the Commission's building at 19 Union Street in Augusta, in the newly-allocated 3rd Floor Conference room space.

Executive Director Sneirson moved the remaining new business to be reviewed after hearing the cases on the agenda.

At 8:49 AM Commissioner Whitworth began the case hearing agenda.

CASES VOTED ON

E19-0323*: Linda Small (Augusta) v. G.O.G. Enterprises, LLC dba Subway Restaurants (Augusta). Attorney Kristen Aiello restated the position of the Complainant. Nathan Galuch restated the position of the Respondent. Investigator Milo Gitchos reviewed his report and recommendations. Commissioner David moved, seconded by Commissioner Ashby to find no reasonable grounds to believe that G.O.G. Enterprises, LLC dba Subway Restaurant discriminated against Linda Small based on disability by failing to hire her. 4 in favor | 1 opposed (Whitworth opposed). Commissioner Ashby moved, seconded by Commissioner David, to find **reasonable grounds** to believe that G.O.G. Enterprises, LLC dba Subway Restaurant discriminated against Linda Small based on disability by making an unlawful inquiry. 5 in favor | 0 opposed.

E19-0425BC (as to recommended findings ##3, 4 and 5): Michelle MacDonald (Hampden) v. Ms. Breanne Pelletier (Brewer), Mr. Paul Wellman (Brewer), and Brewer School Department/Brewer High School (Brewer). Attorney Daniel McCue restated the position of the Complainant. Attorney Michael Buescher restated the position of the Respondents. Investigator Jane O'Reilly reviewed her report and recommendations #3-5. Commissioner David moved, seconded by Commissioner Ashby, to find no reasonable grounds to believe that Paul Wellman and/or Breanna Pelletier discriminated against Complainant Michelle MacDonald because of association on the basis of sexual orientation and/or gender identity and expression, and no reasonable grounds to believe that Paul Wellman and/or Breanna Pelletier retaliated against Michelle MacDonald for engaging in WPA- and MHRA-protected activity. 5 in favor | 0 opposed. Commissioner Ashby moved, seconded by Commissioner O'Brien, to find no reasonable grounds to believe that Brewer School Department/Brewer High School, Paul Wellman and/or Breanna Pelletier discriminated against Complainant Michelle MacDonald interfered with Michelle MacDonald for engaging in the exercise or enjoyment of the rights granted by MHRA. 4 in favor | 1 opposed (Duson opposed).

H21-0039AB: Andrea Sienna Dode (Bath) v. Pine Hill Association (Bath) and Michelle Bellino (Scarborough). The Complainant was not present. Commissioner Ashby moved, seconded by Commissioner O'Brien, to find no reasonable grounds to believe that Pine Hill Association and/or Michelle Bellino discriminated against Andrea Sienna Dode on the basis of disability or retaliated against her for engaging in MHRA-protected activity. 5 in favor | 0 opposed.

At 10:18 Commissioners took a 5 minute recess.

NEW BUSINESS CONT.

Commissioner Ashby, seconded by Commissioner Duson, to adopt the 2022 proposed meeting schedule.

Legislative Update, continued.

An agency bill that the Commission had introduced, LD 1688, was a replay of a bill approved two years ago to update the MHRA but which died for procedural reasons. Notable changes in the MHRA from LD 1688 include: expanding “familial status” protection to cover people caring for dependent adults as well as children, and adding familial status as a protected class for employment as well; adding age as a protected class in public accommodations; and updating protected classes in education to be consistent with other areas of jurisdiction. . Additionally, we have learned that LD 1294 has gone into effect without the Governor’s signature and adds protection in employment and housing for victims of domestic violence who have obtained permanent protection-from-abuse orders. The Commission will be issuing revised guidance and inquiry guides in the upcoming months on these and other changes.

EXECUTIVE SESSION

At 10:37 AM, Commissioner O’Brien moved, seconded by Commissioner Whitworth, to go into executive session to discuss pending or contemplated litigation and the Commission’s legal rights and duties with Commission Counsel pursuant 1 M.R.S. §405(6)(E). 5 in favor | 0 opposed.

At approximately 11:32 PM, Commissioner Ashby moved, seconded by Commissioner David, to come out of Executive Session. 5 in favor | 0 opposed.

At approximately 11:33 PM the meeting was adjourned.

CONSENT AGENDA

The consent agenda is a listing of cases scheduled on the Commission’s meeting agenda in which there was no written disagreement to the Investigator’s recommendation. Commissioners considered these cases without oral argument by the parties.

E19-0313:	Robert Brinkley (Bangor) v. University of Maine (Orono)	NRG
E19-0425A:	(as to recommendations #1 and #2)*: Michelle MacDonald (Hampden) v. Brewer School Department; Brewer High School (Brewer)	RG
E20-0168:	Nicholas Strout (Poland) v. RSU 16 (Poland)	NRG
ED/PA20-0110:	Mary Presti obo Daughter, a minor (Vassalboro) v. Vassalboro School Department (Vassalboro)	NRG
H/E21-0124:	Nichole Leroux (Dover Foxcroft) v. Alfaslopes Farm (Charleston)	NRG
H/PA21-0056AB:	Mercy Edwin (Hooksett, NH) v. Maine Housing Authority (Augusta) and Community Concepts, Inc. (Lewiston)	NRG

*** Indicates a case in which a "reasonable grounds" finding was recommended**

CASES TABLED

H20-0085ABC*: Robin Jannelle (Augusta) v. Mae E. Simmons (South China), Dennis Simmons (South China), Augusta Housing Authority (Augusta), Danielle Thibodeau (Augusta), Logan McNeill (Augusta), Tatiana Nirza (Augusta), Norma Duperre (Augusta), Eileen Williams (Augusta), MaKenzie Hewins (Augusta), John Wilcox (Augusta), and Amanda Olson, Executive Director (Augusta)