



# HAWAI'I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 • PHONE: 586-8636 • FAX: 586-8655 • TDD: 568-8692

## MINUTES

Hawai'i Civil Rights Commission Office  
via MS TEAMS  
April 9, 2021  
2:00 p.m.

Present: Liann Ebesugawa, William Puette, Jon Matsuoka, and Joan Lewis, (joined meeting late), Commissioners; Robin Wurtzel, Bill Hoshijo, and Marcus Kawatachi, Staff.

Chair Liann Ebesugawa called the meeting to order.

### **Approval of Minutes**

The Commissioners reviewed the draft minutes of the March 5, 2021, meeting. The minutes were approved as presented.

### **Executive Director's Report**

Deputy Executive Director (DED) Marcus Kawatachi presented a FY 2021 HCRC Mediation Program year-to-date summary.

### **Summary & Details (7/1/20 through 4/9/21)**

Referrals	18+0= 18
Dispositions:	19+1= 20
Settlements:	7+0= 7
Non-agreements:	12+1= 13
Settlement Rate:	35%

Dual-filed (EEOC/HCRC and HUD/HCRC) settlements:	6
State-only settlements:	1
Employment cases settled:	4
Housing cases settled:	3

### **Primary Bases for Complaints Settled in Mediation**

Disability	5
Age	2

### **Dispositions by Mediation Center**

Mediation Center of the Pacific	3/9	(settlement rate 33.3%)
Mediation Services of Maui		
Private Mediators		
Ku‘ikahi Mediation Services (Hilo)	1/2	(settlement rate 50%)
West Hawaii Mediation Center		
Kauai Economic Opportunity, Inc.		
Hawai‘i Civil Rights Commission	3/9	(settlement rate 33.3%)

<b>OVERALL</b>	<b>7/20</b>	<b>(settlement rate 35%)</b>
----------------	-------------	------------------------------

Chair Ebesugawa asked whether, and DED Kawatachi confirmed that, the data reflected little change, that there was program activity during the period without resolutions.

DED Kawatachi presented a data and production report showing caseload data through April 9, 2021.

As of April 9, 2021, the written report showed 336 open cases, an increase of 5 cases from the number reported as of March 4, 2021.

Of the 336 open investigation cases, 2 (0.6%) were filed in 2017, 41 (12.2%) in 2018, 103 (30.6%) in 2019, 144 (42.9%) in 2020, and 46 (13.7%) in 2021.

DED Kawatachi reported a breakdown of the status of the open cases by type of case and investigation stage.

	2017	2018	2019	2020	2021	Total
Housing Cases	0	1	10	25	8	44
Response Monitoring	1	7	30	71	30	139
Mediation	0	0	7	26	7	40
Pending Assignment	0	15	43	16	1	75
Active Investigation	1	18	13	6	0	38
<b>TOTAL</b>	<b>2</b>	<b>41</b>	<b>103</b>	<b>144</b>	<b>46</b>	<b>336</b>

The report indicated no new subpoena enforcement litigation.

DED Kawatachi reported on case aging, with continuing concern over the increasing number of older cases in the caseload, resulting from investigator staffing issues, with 3 of 8 permanent investigator positions vacant and frozen.

**Case Aging** (Last report – 3/4/21)

18.2 % of all cases are 2 years or older (14/8%)

11.9 % of all cases are over 18 months, but less than 2 years old (15.4 %)

24.1 % of all cases are over 12 months, but less than 18 months old (23.9%)

21.7 % of all cases are over 6 months but less than 12 months (24.5 %)

24.1 % of all cases are 6 months or less (21.5 %)

Commissioner Jon Matsuoka asked what the ramifications were of the increase in the number of aging cases two years or older.

DED Kawatachi explained that the ideal target was to have 5% or fewer cases 2 years or older, because older cases are harder to investigate.

Chief Counsel (CC) Robin Wurtzel added that cases, including older cases, may be affected by respondent business closures caused by the pandemic emergency, leaving no available relief.

The report also covered the year-to-date data for the past five fiscal years:

Category	7/1/16 – 4/9/17	7/1/17 – 4/9/18	7/1/18 – 4/9/19	7/1/19 – 4/9/20	7/1/20 – 4/9/21
PCQ Received	482	456	505	428	352
Intake Decision	494	424	397	484	317
Complaint Filed	273	225	231	236	144
Investigation Closed	363	199	223	169	172
Notice of Cause	12	27	12	9	7
Enforcement Closure	11	26	13	4	7

### **Chief Counsel's Report**

Chief Counsel (CC) Robin Wurtzel reported on litigation in *Van Putten v. City and County of Honolulu, and State of Hawai'i, Hawai'i Civil Rights Commission, and William Hoshijo, in his Official Capacity as Executive Director*; Civil No. 21-0000006. In a civil action framed as agency appeal from a notice of dismissal and right to sue, the Respondent City and County of Honolulu was dismissed from the case. The HCRC motion to dismiss was denied and a motion for reconsideration was pending.

CC Wurtzel reported no change on *Morning Hill Foods, LLC dba Mana Bu's v. The Hawaii Civil Rights Commission*, Civil No. CAAP-18-0000573, filed in the ICA 1/19/18.

CC Wurtzel reported that staff had received a request from an individual plaintiff-appellant for the HCRC to submit an amicus brief in the Ninth Circuit Court of Appeals. HCRC participation as amicus requires Commission approval. CC Wurtzel reviewed the U.S. District Court order that was being appealed, dismissing the complaint on summary judgment. Noting that the complaint raised five causes of action and no state law issues, CC Wurtzel said that the order on appeal was fact-specific and would not affect other (individual and HCRC) cases. The request for an HCRC amicus brief was not recommended, and no action or further discussion followed.

## **2021 Legislation**

The Commissioners reviewed 2021 Legislative Summary 3.

CC Wurtzel presented Legislative Summary 3, but her discussion focused on 7 bills (on 6 topics) which were still alive in the legislative process.

1.	SB 538, HD 1	Relating to HCRC
2.	HB 125, HD 2, SD 1	Uniform Privacy Act
3.	HB 381, HD 2, SD 1 SB 280, HD 1	Fair Housing reasonable accommodation – animal bill
4.	SB 1034, SD 1, HD 1	Sunshine Law Boards and interactive technology
5.	SB 873, SD 1, HD 1	Contested cases may use interactive technology
6.	SB 939, HSD 1	Juneteenth (recognition, not state holiday)

These 7 bills were expected to move to the originating body on Second Crossover and go to conference.

Bills that died included bills that would have provided for:

- Recognition of American Sign Language (ASL) as a distinct language
- Protection in employment for registered qualifying medical cannabis patients
- Civil liability for discriminatory reporting to a law enforcement officer
- Hawaiian language use on State letterheads

CC Wurtzel and Executive Director (ED) Bill Hoshijo asked the Commissioners to review **SCR 66, SD1, “CONDEMNING AND DENOUNCING ALL FORMS OF ANTI-ASIAN SENTIMENT AND ALL ACTS OF RACISM, XENOPHOBIA, INTOLERANCE, DISCRIMINATION, HATE CRIME, AND HATE SPEECH AGAINST ASIAN AMERICANS AND ASIAN INDIVIDUALS IN THE UNITED STATES AND REQUESTING THE HAWAII CIVIL RIGHTS COMMISSION TO ANALYZE AND REPORT ON ANTI-ASIAN SENTIMENT AND ACTS IN THE STATE.”**

**Staff recommendation:** Noting that in the wake of the recent horrific mass shooting in Georgia, the Chair had submitted substantive comments-only on the resolution to date, staff recommended that the HCRC support SCR 66.

**Staff also recommended** that the HCRC support **HCR 154, “CONDEMNING ALL FORMS OF ANTI-ASIAN SENTIMENT AS RELATED TO COVID-19 AND URGING**

**GREATER INVESTMENT IN FEDERAL, STATE, AND LOCAL RESOURCES TO DEVELOP AND SUPPORT COMMUNITY-WIDE SOLUTIONS.”**

**HCRC Position: Support both SCR 66 and HCR 154.**

The Commissioners reviewed **HCR 121, “REQUESTING THE GOVERNOR TO CONVENE A WORKING GROUP TO DEVELOP RECOMMENDATIONS FOR EFFECTIVE COMMUNICATIONS WITH LIMITED ENGLISH PROFICIENT PERSONS AND PERSONS WITH DISABILITIES BEFORE, DURING, AND AFTER EMERGENCIES AND NATURAL DISASTERS.”**

**Staff recommendation:** Noting that that effective emergency communication with LEP persons has been an issue of concern dating back to the false missile alert in 2018, and that HCR 121 includes the HCRC as a working group participant, staff recommended that the HCRC support HCR 121.

**HCRC Position: Support HCR 121.**

CC Wurtzel reported that GM 713, for confirmation of Dr. William Puette to the HCRC for a term to expire on June 30, 2025, had been heard by the Senate Committee on Judiciary, which recommended approval by the Senate.

**FB 2021-2023 Budget.**

ED Hoshijo reported that the House Budget, HB 200, HD1, budget worksheets show that the House restored the positions targeted for cuts in the Executive Budget.

**Unfinished Business**

There was no unfinished business.

**New Business**

There was no new business.

**Announcements**

ED Hoshijo announced that Chair Ebesugawa was a panelist on the April 1, 2021, Insights on PBS Hawai‘i show, “What #stopasianhate Means in Hawai‘i.” The show is streaming on PBS Hawai‘i.

**Next meeting.**

The next meeting of the Commission was scheduled for May 21, 2021.

**Adjournment**

**Draft minutes submitted and posted by William D. Hoshijo, Executive Director.**

**Approved by Commission as corrected on May 21, 2021.**