



HAWAI‘I CIVIL RIGHTS COMMISSION

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MINUTES

Hawai‘i Civil Rights Commission Office
via MS TEAMS
June 22, 2022
11:00 a.m.

Present: Liann Ebesugawa, Joan Lewis, William Puette, and Jon Matsuoka,
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 May 25, 2022, meeting.

The minutes were approved as circulated and submitted.

Executive Director’s Report

Deputy Executive Director (DED) Marcus Kawatachi presented an FY 2022 HCRC Mediation Program year-to-date summary, noting that the state fiscal year would end on June 30, 2022.

Summary & Details (7/1/21 through 6/21/22)

Referrals 36

Dispositions: 35

Settlements: 19

Non-agreements: 16

Settlement Rate: 54.3%

Dual-filed (EEOC/HCRC and HUD/HCRC) settlements: 13 (HUD or EEOC dual-filed)

State-only settlements: 6

Employment cases settled:	11
Housing cases settled:	8

Primary Bases for Complaints Settled in Mediation

Arrest & Court Record	5
Disability	4
Retaliation	3
Familial Status	2
Race	2
Sex	2 (including 1 based on pregnancy)
Age	1

DED Kawatachi again noted that the protected basis with the highest number of mediation settlements was Arrest & Court Record. A&CR is a state-only protected basis, and the strong state law provides an incentive for respondents to settle in mediation.

Dispositions by Mediation Center

Mediation Center of the Pacific	7/9	(settlement rate 77.8%)
Mediation Services of Maui	2/4	(settlement rate 50%)
Private Mediators		
Ku‘ikahi Mediation Services (Hilo)	1/2	(settlement rate 50%)
West Hawaii Mediation Center	1/3	(settlement rate 33.3%)
Kauai Economic Opportunity, Inc.		
Hawai‘i Civil Rights Commission	8/17	(settlement rate 47.1%)

OVERALL 19/35 (settlement rate 54.3%)

DED Kawatachi presented a data and production report showing caseload data through June 21, 2022.

As of June 21, 2022, the written report showed 319 open cases, an increase of 1 case from the number reported as of May 23, 2022.

Of the 319 open investigation cases, 1 (0.3%) was filed in 2017, 19 (6.0%) in 2018, 54 (16.9%) in 2019, 64 (20.1%) in 2020, 99 (31.0%) in 2021, and 82 (25.7%) in 2022.

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

	2017	2018	2019	2020	2021	2022	Total
Housing Cases	0	0	2	10	16	17	45
Response Monitoring	0	2	17	33	55	62	169
Mediation	0	0	3	9	12	1	25
Pending Assignment	0	9	28	7	5	2	51
Active Investigation	1	8	4	5	11	9	29
TOTAL	1	19	54	64	99	82	319

The report indicated no new subpoena enforcement litigation.

Case Aging (Last report – 5/23/22)

32.9 % of all cases are 2 years or older (30.2 %)

10.3 % of all cases are over 18 months, but less than 2 years old (12.9 %)

10.7 % of all cases are over 12 months, but less than 18 months old (11.9 %)

17.9 % of all cases are over 6 months but less than 12 months (18.2 %)

28.2 % of all cases are 6 months or less (26.7 %)

DED Kawatachi noted concern in aging of oldest cases 2 years or older, and noted that with restoration of investigation capacity more focus would be on oldest cases going forward.

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

Category	7/1/17 – 6/21/18	7/1/18 – 6/21/19	7/1/19 – 6/21/20	7/1/20 – 6/21/21	7/1/21 – 6/21/22
PCQ Received	567	635	504	457	472
Intake Decision	543	490	619	411	455
Complaint Filed	274	291	273	220	185
Investigation Closed	251	252	201	214	238
Notice of Cause	27	12	9	10	17
Enforcement Closure	30	13	7	12	8

Chief Counsel’s Report

Chief Counsel (CC) Robin Wurtzel reported no change on *Morning Hill Foods, LLC dba Mana Bu’s v. The Hawaii Civil Rights Commission*, Civil No. 18-100034-01 KKH, pending in the ICA.

2022 Legislation

CC Wurtzel reported that Governor Ige signed two bills into law on June 17, 2022, as part of a package advancing the rights of the LGBTQ community.

RELATING TO INSURANCE

HB 2405, HD2, SD2, CD1

Prohibits health insurers, mutual benefit societies, and health maintenance organizations from applying categorical cosmetic or blanket exclusions to gender affirming treatments or procedures when determined to be medically necessary pursuant to applicable law and specifies a process for appealing a claim denied on the basis of medical necessity. Requires those entities to provide applicants and insured persons with clear information about the coverage of gender transition services, including the process for appealing a claim denied on the basis of medical necessity. The bill passed both houses as a CD1.

Status: Enacted as Act 39.

RELATING TO THE HAWAII STATE LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER, PLUS COMMISSION

SB 2670, SD2, HD2, CD1

Establishes the Hawaii state lesbian, gay, bisexual, transgender, queer, plus commission. The bill passed both houses as a CD1.

Status: Enacted as Act 41.

Next meeting.

The next meeting of the Commission was scheduled for July 27, 2022, at 11:00 a.m.

Announcements

Executive Director Bill Hoshijo announced that the Honolulu Pride Parade was scheduled for October 15, 2022. Depending on interest and post-pandemic health and safety protocols, the HCRC staff hoped to have a contingent participate in the parade.

Closed Executive Session

The Commissioners voted to go into Closed Executive Session, to discuss a personnel matter pursuant to HRS § 92-5(a)(2).

The Commissioners came out of Closed Executive Session.

Adjournment

Draft minutes circulated by William D. Hoshijo, Executive Director.

Approved by Commission, as circulated, on July 27, 2022.