



# HAWAI‘I CIVIL RIGHTS COMMISSION

## KOMIKINA PONO KĪWILA O HAWAI‘I

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 Zoom  
April 18, 2023  
2:00 p.m.

Present: Liann Ebesugawa, Joan Lewis, William Puette, Jon Matsuoka, and Arsima Muller, Commissioners; Robin Wurtzel, Marcus Kawatachi, and Heather McVay, Staff.

Chair Liann Ebesugawa called the meeting to order.

#### **Approval of Minutes**

The Commissioners reviewed the draft minutes of the March 21, 2023 meeting.

Those minutes were approved as circulated.

#### **Executive Director’s Report**

Executive Director (ED) Marcus Kawatachi presented an FY 2023 HCRC Mediation Program year-to-date summary.

#### **Summary & Details (7/1/22 through 4/18/23)**

Referrals 18

Dispositions: 17

Settlements: 10

Non-agreements: 7

Settlement Rate: 58.8%

Dual-filed (EEOC/HCRC and HUD/HCRC) settlements: 8

State-only settlements: 2

Employment cases settled: 3

Housing cases settled:

7

**Primary Bases for Complaints Settled in Mediation**

Disability	6
Familial Status	2
Religion	1
Retaliation	1

**Dispositions by Mediation Center**

Mediation Center of the Pacific	2/3	(settlement rate 66.7%)
Mediation Services of Maui		
Private Mediators	1/1	(settlement rate 100%)
Ku‘ikahi Mediation Services (Hilo)		
West Hawaii Mediation Center	1/1	(settlement rate 100%)
Kauai Economic Opportunity, Inc.		
Hawai‘i Civil Rights Commission	6/12	(settlement rate 50%)
<b>OVERALL</b>	<b>10/17</b>	<b>(settlement rate 58.8%)</b>

ED Kawatachi also presented a data and production report showing caseload data through April 18, 2023.

As of April 18, 2023, the written report showed 338 open cases, an increase of 17 cases from the number reported as of March 20, 2023.

Of the 338 open investigation cases, 1 (0.3%) was filed in 2017, 12 (3.6%) in 2018, 34 (10.1%) in 2019, 46 (13.6%) in 2020, 60 (17.8%) in 2021, 124 (36.7%) in 2022, and 61 (18.0%) in 2023.

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

	2017	2018	2019	2020	2021	2022	2023	Total
Housing Cases	0	0	2	5	8	25	18	58

Response Monitoring	0	2	13	29	39	85	39	207
Mediation	0	0	3	7	11	10	2	33
Pending Assignment	0	5	14	3	1	2	1	26
Active Investigation	1	5	2	2	1	2	1	14
<b>TOTAL</b>	<b>1</b>	<b>12</b>	<b>34</b>	<b>46</b>	<b>60</b>	<b>124</b>	<b>61</b>	<b>338</b>

The report indicated no new subpoena enforcement litigation.

### **Case Aging**

31.1 % of all cases are 2 years or older

9.5 % of all cases are over 18 months, but less than 2 years old

13.6 % of all cases are over 12 months, but less than 18 months old

18.0 % of all cases are over 6 months but less than 12 months

27.8 % of all cases are 6 months or less

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

<b>Category</b>	<b>7/1/18 – 4/18/19</b>	<b>7/1/19 – 4/18/20</b>	<b>7/1/20 – 4/18/21</b>	<b>7/1/21 – 4/18/22</b>	<b>7/1/22 – 4/18/23</b>
PCQ Received	517	429	361	395	422
Intake Decision	409	488	322	374	432
Complaint Filed	239	237	170	161	148

Investigation Closed	224	169	173	207	148
Notice of Cause	11	9	7	14	9
Enforcement Closure	13	4	11	9	3

**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.

CC Wurtzel reported that no cases had been docketed for hearing since the last report.

CC Wurtzel reported that Commissioners Matsuoka and Muller had both applied for a second term as HCRC Commissioners. The Committee on Judiciary has scheduled a hearing on April 20 for confirmation on Commissioner Muller’s current term. This confirmation would allow Commissioner Muller to serve her current term and remain as a holdover. A governor’s message on Commissioner Matsuoka’s confirmation should be forthcoming.

**2023 Legislation**

The Commissioners reviewed 2023 Legislative Summary 4. CC Wurtzel reviewed the status of bills and resolutions that the HCRC has been tracking. Bills that pass are transmitted or enrolled to the Governor for signature, veto, or enactment without signature.

**RELATING TO HEALTH CARE**

SB 1, SD2

Authorizes licensed physician assistants to perform certain abortions. Declares a law of another state that authorizes a person to bring a civil action against a person who: terminates or seeks to terminate a pregnancy; performs or induces the termination of a pregnancy; knowingly engages in conduct that aids or abets the performance or inducement of the termination of a pregnancy; or attempts or intends to engage in the conduct, as contrary to the public policy of this State and shall not be enforceable in any court of the State and shall not afford any basis for the granting if legal or equitable relief by any court of the State. Prohibits the State from engaging in certain actions with regard to civil and criminal actions from another state.

Status: Signed into law on 3/22/23 as Act 2

## **RELATING TO EMPLOYMENT EARNINGS**

SB 1057, SD2, HD2

Requires job listings to include an hourly rate or salary range and is a significant step forward in equal pay.

Status: Going to conference

## **RELATING TO BACKGROUND CHECKS**

HB 777, HD2, SD2

Authorizes the Department of Human Services to conduct national criminal background checks for current and prospective employees; volunteers; contractors; and contractors' employees, agents, and volunteers, who are in positions that require close proximity to certain minors, young adults, or vulnerable adults.

Status: Going to conference

## **RELATING TO MARRIAGE**

HB 485, HD3, SD2

Provides for the replacement of certificates of marriage for individuals who have changed their gender, sex, and, if applicable, name.

Status: Going to conference

## **RELATING TO AMERICAN SIGN LANGUAGE**

HB 834, HD1, SD1

Recognizes American Sign Language as a fully developed, autonomous, natural language with its own grammar, syntax, vocabulary, and cultural heritage.

Status: Going to conference

## **RELATING TO EMPLOYEE BENEFITS**

HB 1409, HD2, SD1

Extends the family leave period for up to 8 weeks for employees who are unable to perform their employment duties due to the birth of a child who is required to stay in a neonatal intensive care unit. Requires the Civil Rights Commission to amend its rules to include neonatal care as a related medical condition wherever the phrase "pregnancy, childbirth, or other related condition" or any similar phrase is used.

Recommendation: Earlier version of this bill referred to Department of Health rules, but at the WAM hearing on March 31, 2023 the mandate for rule amendment to cover leave for neonatal care was changed to HCRC. The HCRC Enforcement section currently interprets the rules to include neonatal care as a related medical condition. This mandate would codify that. The measure is going to conference committee. If passed, HCRC will comply with the measure.

Status: Going to conference

## **RESOLUTIONS**

### **ENCOURAGING THE FACILITATION OF A PATH TO CITIZENSHIP FOR IMMIGRANTS FROM PARTIES TO THE COMPACTS OF FREE ASSOCIATION**

SCR 102 and its companions encourage the facilitation of a path to citizenship for immigrants from parties to the Compacts of Free Association.

Status: Going to Senate

### **Next meeting**

The next meeting of the Commission was scheduled for May 16, 2023, at 2:00 p.m.

### **Closed Executive Session**

There being no objection, the Commissioners went into Closed Executive Session, to discuss a personnel matter pursuant to HRS §§ 92-4 and 92-5(a)(2).

The Commissioners came out of Closed Executive Session.

### **Adjournment**

**Draft minutes circulated by Marcus L. Kawatachi, Executive Director.  
Approved by Commission, as circulated, on May 16, 2023.**