



HAWAI‘I CIVIL RIGHTS COMMISSION

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MINUTES

Hawai‘i Civil Rights Commission Office

via Zoom

May 2, 2024

2:00 p.m.

Present: Chair Liann Ebesugawa, Commissioner Joan Lewis, Commissioner William Puette, Commissioner Jon Matsuoka, Commissioner Arsima Muller

Staff: Chief Counsel Constance Yonashiro, Deputy Executive Director Heather McVay, Adjudications Secretary Sandy Yoshimura. Executive Director Marcus Kawatachi was excused.

Chair Ebesugawa called the meeting to order.

Approval of Minutes

The Commissioners reviewed the draft minutes for the meeting on March 28, 2024. Those minutes were approved as circulated.

Deputy Executive Director’s Report

Deputy Executive Director (DED) McVay presented the FY 2024 HCRC Mediation Program year-to-date summary:

Two cases were successfully mediated raising the overall settlement rate to 42.9%:

Summary & Details (7/1/23 through 4/24/24)

Referrals	32
Dispositions:	21
Settlements:	9
Non-agreements:	12
Settlement Rate:	42.9%

Dual-filed (EEOC/HCRC and HUD/HCRC) settlements: 7

State-only settlements: 2

Employment cases settled: 4

Housing cases settled: 5

Dispositions by Mediation Center

Mediation Center of the Pacific	3/4	(settlement rate 75%)
Mediation Services of Maui		
Private Mediators	1/2	(settlement rate 50%)
Ku'ikahi Mediation Services (Hilo)	0/1	(settlement rate 0%)
West Hawaii Mediation Center		
Kauai Economic Opportunity, Inc.		
Hawai'i Civil Rights Commission	5/14	(settlement rate 35.7%)
OVERALL	9/21	(settlement rate 42.9%)

DED McVay also presented a data and production report showing caseload data through April 24, 2024, and noted that the number of PCQ's received is the highest in the last five years. Also, the number of investigations closed, and enforcement closures are high due to a set of seven related cases that were closed at the enforcement level.

As of April 24, 2024, the written report showed 364 open cases, decrease of 3 cases from the number reported as of March 28, 2024.

Of the 364 open investigation cases, 1 (0.3%) was filed in 2017, 4 (1.1%) in 2018, 17 (4.7%) in 2019, 22 (6.0%) in 2020, 44 (12.1%) in 2021, 73 (20.1%) in 2022, 139 (38.2%) in 2023, and 64 (17.6%) in 2024.

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

	2017	2018	2019	2020	2021	2022	2023	2024	Total
Housing Cases	0	0	1	1	4	14	50	19	89
Response Monitoring	0	0	7	12	26	43	42	31	161
Mediation	0	0	3	6	9	7	17	7	49
Pending Assignment	0	0	1	1	2	4	12	2	22
Active Investigation	1	4	5	2	3	5	18	5	43
TOTAL	1	4	17	22	44	73	139	64	364

The report indicated no new subpoena enforcement litigation.

Case Aging

29.7 % of all cases are 2 years or older.

9.3 % of all cases are over 18 months, but less than 2 years old.

17.9 % of all cases are over 12 months, but less than 18 months old.

18.1 % of all cases are over 6 months but less than 12 months.

25 % of all cases are 6 months or less.

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

Category	7/1/19 – 4/24/20	7/1/20 – 4/24/21	7/1/21 – 4/24/22	7/1/22 – 4/24/23	7/1/23 – 4/24/24
PCQ Received	449	374	398	436	473
Intake Decision	491	333	381	452	488
Complaint Filed	243	173	162	165	162
Investigation Closed	169	176	210	149	181
Notice of Cause	9	7	14	9	3
Enforcement Closure	4	11	9	6	18

Chief Counsel's Report

Update on docketed cases for contested case hearings:

There is no update on docketed cases for contested case hearings as confirmation for proper service on the Respondents for the final demand has yet to happen. The case would then be docketed fifteen days after that date.

Update on public hearing on proposed rule amendments:

An overhaul of administrative rules is underway. This is a major endeavor started years ago by the previous chief counsel.

Some of the updates to the rules relate to newer technology, for instance, email and "e-signing" documents is more common now rather than submissions by "fax". In addition, the updates proposed include amendments to definitions, such as an update to the definition of "employment". Others are more substantive, for example related to pregnancy discrimination and additions to make it clear that reasonable accommodations in employment may include accommodations for individuals who use medical cannabis.

The proposed rules are posted on the website, a public comment period was had, and comments are still being accepted. The proposed rule amendments went to the small business regulatory review board, and the governor signed off on our first request for a public hearing in October or November. The Attorney General's office have done their initial review and have suggested language changes. We await their final suggestions. The most current version of the proposed rules will then be posted to our website and we will then resubmit to the Governor for approval to hold a public hearing.

Update on legislation:

The legislative session ends on Friday, none of the bills that would directly impact the HCRC's jurisdiction made it though. In comport with sunshine laws, a detailed list was provided on the agenda for the bills that passed final reading and are heading to the governor (except for SB2503).

Announcements

Congratulations to Commissioner Matsuoka and Commissioner Muller whose second terms serving on this Commission were confirmed by the Senate and will continue until June 30, 2027.

Next Meeting

The next meeting of the Commission was scheduled for Thursday, June 27, 2024, at 2:00 p.m. at 830 Punchbowl Street Room 410, Honolulu HI 96813.

Adjournment

**Draft minutes circulated by Heather McVay, Deputy Executive Director.
Approved by Commission, as circulated, on June 27, 2024.**