

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

Meeting of the Commission
May 30, 2012
10:00 a.m.

James R. Thompson Center
Murdock Room - IDHS
Suite 5-300
100 West Randolph Street
Chicago, IL 60601

And

Lincoln Land Training Center
130 W. Mason Street
Room 104
Springfield, Illinois

MINUTES

PRESENT:

Commissioners

In Chicago

Martin R. Castro, Chairman
Robert A. Cantone
David Chang
Terry Cosgrove
Marylee V. Freeman
Nabi Fakroddin
Spencer Leak, Sr.
Rozanne Ronen
David J. Walsh
Patricia Bakalis Yadgir
Diane M. Viverito (Via telephone)

In Springfield

Marti Baricevic

Absent

none

Staff

Keith N. Chambers
Michael J. Evans
Reva Bauch
LaNade Bridges
Donyelle L. Gray
Evelio Mora
Christine Welninski

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Members of Public: None

NOTICE:

Open and closed meetings of the Illinois Human Rights Commission are audio recorded.

I. Call to Order

On May 30, 2012, at 10:00 a.m., Chairman Martin Castro called to order a meeting of the Illinois Human Rights Commission.

Pursuant to the Illinois Open Meetings Act, 5 ILCS 120/1 et seq., it was determined that:

- 1) A quorum of the public body was present at the meeting.
- 2) Prior to the meeting, Commissioner Viverito gave notice (and good cause as defined by the Illinois Open Meetings Act) to the General Counsel and Secretary of the Public Body, Donyelle L. Gray, that she would be unable to be physically present at today's meeting.
- 3) Prior to the meeting Commissioner Viverito requested to participate via telephone. The Commission voted to allow Commissioner Viverito to participate in the meeting via telephone. Motion made by Commissioner Freeman and seconded by Commissioner Cantone. Motion carried 10-0.
- 4) Commissioner Leak arrived at the meeting after approval of the minutes.

II. Consideration of Minutes

April 25, 2012

The Commission voted to approve the minutes of the April 25, 2012, meeting as amended. The April 25, 2012, minutes are amended as to item 1 paragraph 3, to change Commissioner Yadgir to Commissioner Muhammad and Item 3 paragraph 3, last line to reflect that the Illinois Attorney General commenced an investigation into the alleged profiling issue in the McHenry County Sheriff's Department. Motion to approve the minutes as amended made by Commissioner Nabi and seconded by Commissioner Freeman. Motion carried 11-0.

III. Chairman's Report

Martin R. Castro, Chairman

Chairman Castro announced that Commissioner Muhammad's appointment was not confirmed by the Illinois General Assembly. Chairman Castro suggested that the

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Commission issue a letter of appreciation to Commissioner Muhammad for his service with the Commission, and indicated that Commission staff could undertake this task.

IV. Staff Reports

A. N. Keith Chambers, Executive Director

Mr. Chambers announced that he and the Chairman attended the Springfield Human Relations Commission's Unity Breakfast and the Illinois Municipal Human Relations Association's Annual Conference. The Chairman served as keynote speaker at these events, both of which were well-attended.

Mr. Chambers reported that there was no change in the status of the Commission's FY13 budget and that he is scheduled to meet with Jerry Stermer, Director of OMB, to begin discussion about FY14 funding.

Mr. Chambers reported that HB 5290, the anti-bullying legislation, failed to pass in the General Assembly by one vote. Mr. Chambers also reported that there are two pending Bills of note: SB 3287 which would provide legal protections for military personnel under the Act, and HB 1717 which would amend the State Officials and Employees Ethics Act.

Mr. Chambers announced that the Commission will host a Ukrainian Delegation at the request of the State Department, sometime in June 2012.

B. Dr. Ewa I. Ewa, Chief Fiscal Officer

Dr. Ewa reported that that Donyelle Gray has been confirmed to the position of General Counsel. The position of Deputy General Counsel will not be filled.

Dr. Ewa reported that the General Assembly will be voting on the elimination of the Illinois Torture Inquiry and Relief Commission within a day or two of today's *en banc* meeting. Dr. Ewa suggested that the Commission should start considering what to do with the funds allocated to the Torture Commission from the Commission's budget.

C. Michael J. Evans, Chief Administrative Law Judge

Judge Evans submitted the Administrative Law Section's statistics for the month of April 2012. Judge Evans also reported that several cases pending before the Administrative Law Section were rescheduled because of the NATO conference.

D. Donyelle L. Gray, General Counsel

Ms. Gray reported that Commission staff has completed the on-line ethics training, with 100% compliance.

Ms. Gray reminded the Commission that the date for filing Statements of Economic Interest has passed, and that all Statements should have been submitted to the

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Secretary of State by now. Ms. Gray provided instructions to the Commissioners for checking the Secretary of State's website to verify when their statements have been uploaded to the Secretary of State's website.

Ms. Gray reminded the Commissioners to complete their Ethics Training for State Appointees and to please forward the certificate of completion to her, and asked that they do so by July 2, 2012.

Ms. Gray gave a presentation on timesheet preparation to the Commissioners.

Ms. Gray announced that two Coles Fellows will begin on the first week of June.

Ms. Gray announced that the Chicago Bar Association and the Office of the Governor will sponsor a free Administrative Law Conference for State of Illinois employees who are involved in administrative hearings. Ms. Gray distributed registration materials for the conference.

Finally, Ms. Gray distributed materials on HB5290 and recent labor and employment updates.

V. Unfinished Business

A. Legislative Committee Report on Anti-Bullying & the HRA

Commissioner Chang commenced a discussion of the Legislative Committee's meeting of May 9, 2012, by providing an overview of the topics broached: (i) the status of HB5290, and (ii) whether or not the Human Rights Act already contains any protections against bullying in the school.

Regarding HB5290, the body was informed that HB5290 had failed in the General Assembly by one vote. The Chairman indicated that much of the opposition to HB5290 seemed to be from conservative legislators and interest groups who opposed what they saw as the expansion of protections based on sexual orientation. News articles and editorials to that effect were also distributed to the Commissioners. This issue is not necessarily dead, however, and may come up again in the next legislative session.

Regarding the existence of bullying protection in the Act, Assistant General Counsel Mora gave a brief overview of the legislative history of amended Section 5/5-102.2 of the Act. Section 5/5-102.2 is in the section of the Act which provides protection against discrimination in the provision of public accommodations. This section was recently amended. He noted that the original language of the amendment contained the word "bullying." However, the amended statute as it was ultimately passed by the General Assembly did not contain the word "bullying." Instead, the amended statute provides protection against "severe and pervasive harassment" in educational settings.

General Counsel Gray recounted that one of the issues discussed by the Committee regarding Section 5/5-102.2 was whether or not it was clear that it was intended to protect against bullying, since the Act already provided protection against "severe and

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pervasive” harassment based on a protected classification. Another issue discussed during the Legislative Committee meeting was whether or not it was clear that liability could attach to the school under this provision for “student-to-student” or “peer-to-peer” harassment. Ms. Gray pointed out that in the other provision of the Act which deals explicitly with sexual harassment in education, schools are liable when a representative of the school sexually harasses a student, but not when a student sexually harasses a student. Ms. Gray said there is a case currently pending before an ALJ filed pursuant to Section 5/5-102.2 of the Act, alleging severe and pervasive harassment of a student—but not by another student. Without going into specific details, so far there are no cases pending before the Commission under this provision where the alleged harasser was a student.

A recommendation was made by the Legislative Committee to clarify the Act to include the term “bullying” explicitly in the language, as well to make clear the scope of liability under this provision. However several Commissioners felt that trying to have the “bullying” term explicitly added to the Act would most likely face the same opposition as HB5290. Further, Commissioner Cantone was of the opinion that Section 5/5-102.2 was already broad enough to cover bullying and the liability issue as well.

The Commissioners decided the issue warranted further consideration and discussion, and no vote was taken to move forward with any legislative initiatives on this issue at this time.

VI. New Business

A. Meet the HRC Staff

Christine Welninski introduced herself to the Commission and described her duties.

VII. Executive Session

No Executive session

VIII. Adjournment

The meeting was adjourned at 11:30 a.m. Motion made by Commissioner Freeman, seconded by Commissioner Nabi. Motion carried 12-0.

Respectfully submitted,

Donyelle L. Gray
General Counsel