

MINUTES	Thursday, August 12, 2021 at 12:00 PM	
Human Relations Commission Meeting	Commission Room 1st Floor—City Hall 224 West Ninth Street Sioux Falls, South Dakota or by teleconference at 1-408-418- 9388, Access Code 1870 98 6049##	

BOARD MEMBERS PRESENT: Nassir Yemam.

PRESENT BY PHONE: Karen Gourley, Megan Myers, Ryan Chase, Anny Libengood, Justine Schoolmeester.

BOARD MEMBERS ABSENT: Kassidi Smith, Megan Grode Wolters, Sheku Bannister

STAFF PRESENT: Sharla Svennes, Lyndsey Meier

CALL TO ORDER

A quorum being present, the meeting was called to order at 12:05 p.m.

ADOPT THE AGENDA

A motion was made by Gourley and seconded by Schoolmeester to adopt agenda. Motion passed.

APPROVAL OF MINUTES

A motion was made by Libengood and seconded by Schoolmeester to approve minutes from the June 2021 meeting. Motion passed.

BUSINESS OR PENDING ISSUES BROUGHT BEFORE THE BOARD

Officer Elections – Secretary: Motion made by Chase and seconded by Yemam to nominate Libengood as Secretary. Motion passed 5-0. Libengood elected HRC Secretary.

Subcommittees – Identify Active Committees and Members: Currently two active subcommittees: Board Diversity Recruitment Committee which is comprised of Libengood and Grode Wolters; and the Communications and Outreach Committee consisting of Schoolmeester and Myers. Libengood suggested disbanding the Diversity Recruitment Committee as they have accomplished their goal having turned over recommendations to the administration. Board agreed, recognizing focus should shift to communications and outreach.

Update from Board Diversity Recruitment Committee: HRC has two board vacancies and discussed representation from different subcultures. Commissioners discussed recruitment efforts for equal representation, specifically looking for representation from the Native American and Hispanic communities. Will continue to encourage community members to apply if interested in serving.

Discussed ordinance requiring members to be a registered voter and living in Sioux Falls city limits which decreases applicant pool. Libengood asked about changing ordinance as individuals working in Sioux Falls but living outside city limits arguably have an equally vested interest in the city. Being a registered voter is also restrictive especially when seeking volunteers from immigrant communities. Board inquired about modifying ordinance. Discussed possibility of adding Ex officio members to bypass requirements.

Update from Communications and Outreach Committee: No update from committee at this time. Discussed HRC participation in community events. SD Multi-Housing Association Poverty Simulation is scheduled for 10/22/21. Libengood explained event sharing it is a poverty simulation for landlords who will receive credit for attending. Rather than random volunteers this year, they are asking actual professionals from the different agencies and organizations to work their respective booths so participants can engage in valuable and informational conversations. HRC will be represented at this event and looking for board volunteers to assist. Myers could possibly attend and will discuss again as date approaches. Discussed developing a list of community resources, referral sources, and stakeholders with shared interest for outreach. Need to update pamphlets and materials for disbursement at upcoming events. Yemem will be providing additional information regarding upcoming Ethiopian Day which is scheduled for 9/5/21.

UPDATE REGARDING HUMAN RELATIONS OFFICE

Determination Process and Ensuring Timely Response: We have been rotating on a monthly basis and board expressed they are satisfied with this process. Once a determination is complete, the Human Relations Office sends the determination out to five Commissioners for review. Three responses are needed before proceeding with closing the file or scheduling conciliation. Email remains the preferred method of communication. Discussed importance of responding in a timely fashion so we can notify parties involved. Board agreed a two-week time frame is sufficient time to review and respond.

Commission Review of Negotiated Settlement Process: Negotiated settlements occur pre-determination through our office. Board reviews resolutions including mediation, conciliation, and negotiated settlement agreements. Board agreed to a monthly rotation similar to our determination review except this will only go to one individual to sign off on behalf of HRC. Members will rotate monthly. Time frames for reviewing these agreements needs to be more expedited and Libengood suggested marking as high importance.

Division Statistics: There are currently 37 active discrimination cases; 18 relating to employment, 16 housing, and 3 public accommodations. The top three bases continue to be disability, race, and retaliation. We continue to work through backlog and have two remaining cases from 2018. We have closed out 19 cases this year; 4 no probable cause, 1 probable cause (successful conciliation), 1 mediation, 3 negotiated settlements, 3 elected to move to court, 1 transferred to the State, 2 voluntarily withdrawn, and 4 deemed abandoned and subsequently dismissed. In July 2021, the Human Relations Office had 26 walk-ins or phone calls relating to discrimination issues.

CIVIL RIGHTS UPDATE

July 16, 2021: An 8-member jury in Green Bay, Wisconsin awarded over \$125 million in an EEOC disability discrimination case against Walmart. The jury found the retailer failed to accommodate Marlo Spaeth, a longtime employee with Down Syndrome, and then fired her in July 2015 because of her disability. Spaeth had worked for the company for 16 years and when her longstanding work schedule was adjusted it caused her significant difficulty. When she requested her schedule be readjusted by 60 to 90 minutes, Walmart failed to act on the request and instead fired her. The jury also found that Walmart turned down Spaeth's later request to be rehired because of her disability or because of their

need to accommodate her disability. Such alleged conduct violates the Americans with Disabilities Act (ADA) and the EEOC filed its lawsuit after first attempting to reach a pre-litigation settlement through its voluntary conciliation process. The jury deliberated for three hours following the four-day trial awarding Spaeth \$150,000 in compensatory damages and \$125,000,000 in punitive damages.

July 16, 2021 - InterVarsity v. University of Iowa: The U.S. Court of Appeals for the Eighth Circuit upheld a trial court ruling overturning the University of Iowa's deregistration of a campus Christian group, calling the action by the institution "clearly unconstitutional." The court reasoned that the campus policy on human rights was reasonable and viewpoint neutral, but it was unequally applied. The issue was a long-standing requirement by InterVarsity that individuals seeking leadership positions in the organization affirm their acceptance of a statement of faith. University officials deemed InterVarsity's affirmation requirement to be inconsistent with its human rights policy and subsequently deregistered the organization. In comparison, another student organization, LoveWorks, had been allowed to retain a "gay affirming statement of Christian faith." The court determined UI applied their policy in a discriminatory manner by picking and choosing what discrimination was okay. Furthermore, the court determined university administrators are not protected by qualified immunity meaning they could be held personally responsible. Interesting case because the non-discrimination policy was upheld to standards, but the application of the policy is what caused issues.

PUBLIC INPUT

No public input.

NEXT MEETING

September 9, 2021

ADJOURNMENT

A motion was made by Libengood and seconded by Chase to adjourn the meeting. Motion passed.

Meeting was adjourned at 1:07 p.m.

Respectfully submitted,

Lyndsey Meier
Human Relations Specialist