

STEVE SISOLAK
Governor

KARA M. JENKINS
Administrator



COMMISSIONERS
Connye Y. Harper, Chair
Tiffany Young, Secretary
Ivette A. Fernandez
Ngai Pindell
Krista Wahnefried

MEETING MINUTES

Name of Organization: Nevada Equal Rights Commission

Date and Time of Meeting: Wednesday, December 2, 2020 at 2:30 p.m.

Pursuant to Governor Steve Sisolak's Emergency Directive 006; Subsection 1; The requirement contained in NRS 241.023 (1 (b) that there be a physical location designated for meeting of public bodies where members of the public are permitted to attend and participate is suspended. The public may observe this meeting and provide public comment during the public comment session participants can join the meeting via Zoom.

Zoom Meeting

Commission Members Present: Connye Y. Harper, Chair; Tiffany Young, Secretary, Ivette Fernandez; Ngai Pindell; Krista Wahnefried

Others Present: Sophia Long, Senior Deputy Attorney General; Kara Jenkins, Administrator, NERC; Lila Vizcarra, Chief Compliance Investigator, NERC, Coralie Peterson, Administrative Assistant III, NERC; Christina Ennis, Administrative Assistant II, NERC.

The following items may be taken out of order and/or items may be combined for consideration. Items may also be removed from the agenda or the Nevada Equal Rights Commission (Commission) may delay discussion relating to an item on the agenda at any time. Prior to the commencement and conclusion of a contested case or a quasi-judicial proceeding that may affect the due process rights of an individual, the Commission may refuse to consider public comment. See NRS 233B.126.

1. Call to Order

Connye Harper, Chair

The meeting was called to order at 2:30 p.m.

2. Roll Call, Confirmation of quorum, and Verification of Posting - Coralie Peterson, Administrative Assistant III, Nevada Equal Rights Commission (NERC)

Roll was called and the presence of a quorum was confirmed. In addition, Mrs. Peterson affirmed that the meeting was posted in accordance with Nevada Open Meeting Law.

3. Public Comment – Connye Harper, Chair

Members of the public will be invited to speak before; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to three (3) minutes per person at the discretion of the chair.

Chair Harper announced the First Public Comment Session and invited members of the public to speak. Hearing none, the Chair closed this item.

At this juncture, Chair Harper moved to **Agenda Item 6.** and stated that the Professor Wendy Greene would now provide her presentation on **The Crown Act.**

4. For Possible Action - Approval of the Commission Meeting Minutes – Connye Harper, Chair

- August 5, 2020 Commission Meeting Minutes

Chair Harper asked if all had opportunity to review the minutes from the previous meeting, and if no changes were requested, she would entertain a motion to approve the draft.

A motion to approve the minutes was raised by Commissioner Krista Wahnefried and was seconded by Commissioner Ngai Pindell. All were in favor and the motion passed unanimously.

5. Discussion/for Possible Action – Administrator’s Update - Kara Jenkins, Administrator

Administrator Jenkins stated that despite COVID 19 and office closures, NERC survived December 2020, and on behalf of the agency, investigators, administrative professional and legal, she was proud to report that the agency met its contractual obligation with the Equal Employment Opportunity Commission (EEOC). This last fiscal year NERC received approximately 1,560 complaints of alleged discrimination with 14 FTE on staff, successfully closing nearly half of those cases (669) for credit, leaving a surplus of federal funds for needs, such as headsets and equipment to support the investigative/administrative staff in their remote work during the pandemic.

Ms. Jenkins stated that NERC developed a plan for remote work, still investigating and closing cases, while remaining safe and, thankfully, no COVID interruptions. She also noted appreciation of the support on the part of the Department of Employment, Training and Rehabilitation (DETR), as well as that of the Commissioners.

She added that, NERC has also come up with and presented COVID 19 PANDEMIC ADA AAA guidance for employers to prepare their offices to do what NERC has done, still meeting business functions but providing ADA AAA accommodation with pre-existing conditions when COVID becomes a factor. This training is provided at no cost and is also via Zoom.

6. **Presentation** – The Crown Act and Updates – *Professor D. Wendy Greene, J.D.,LL.M. Thomas R. Kline School of Law, Drexel University*

Professor Wendy Greene thanked Chairwoman Harper and Administrator Kara Jenkins for allowing her the opportunity to present on the “Create a Respectful and Open World for Natural Hair” (C.R.O.W.N.) Act as well as other legal reforms addressing various forms of racial discrimination encountered in the workplace.

She raised the question: “What does hair have to do with racial discrimination?” and went on to relate a ‘Hair 101’ in her PowerPoint presentation to give others a visual of natural hairstyles that African descendants in the United States, and elsewhere, commonly wear (some examples were locs, Afros, twist-outs, braids).

Historical reference: During the eras and post-eras of racial slavery times many efforts were made to achieve a European hairstyle, sometimes as a form of personal expression, but others saw this as a means for socio-economic mobility. In the early 1900’s many were subjected to various, sometimes damaging experiments in treatments in a quest to straighten their hair.

Biased reactions against those wearing ‘natural’ hairstyles included:

- Black women with natural hairstyles are less likely to get job interviews. (Duke University study)
- Employer (Harrods) instructed a black woman job applicant to chemically straighten her hair.
- Black Woman legislator told by a constituent he would get her vote when she “fixed her hair.”
- Prominent black women, such as Brazilian actress Tais Araujo and Miss USA Deshauna Barber, insulted when likened to gorillas/monkeys on social media for displaying in public their naturally curly hairstyles.

Stigma associated with natural hairstyles. Some are viewed as unprofessional, radical, militant, disheveled, aberrant, extreme, unacceptable, when wearing natural hairstyles. Professor Greene related that pervasive discrimination is encountered by, not only African-American women, but also men due to the biases against race-based natural hair, citing as an example, Texas teenager Kerion Washington who was denied a job at Six Flags park for wearing an “extreme hairstyle” (locs).

Pursuing the perceived professional image of straight hair has caused a type of Catch-22 of sacrificing emotional, physiological well-being in order to obtain and maintain employment opportunities.

Immunity doctrine. Title VII protects against racial discrimination, but **only if it is an ‘immutable’ characteristic** (you are born with/cannot change/difficult to change/all individuals in a particular group possess); therefore, would not be considered intentional race discrimination. Black hair **texture** is considered immutable, but not the **hairstyle**.

Therefore, as Professor noted, employers are free to regulate and discriminate against “mutable, cultural characteristics.”

Example: EEOC V. Catastrophe Management Solutions. Chastity Jones, an African American woman, had a job offer rescinded by CMS when she refused to cut off her locs in compliance with the prospective employer’s instruction.

Professor Greene noted that this outdated notion effectively legalizes race-based discrimination and inequality. She noted that race should not be defined as “immutable characteristics,” and that a new definition should be adopted reflecting how members of society classify individuals and assign racial meanings to immutable *and* mutable characteristics.

The “Create a Respectful and Open World for Natural Hair” (C.R.O.W.N.) Act of 2019 (presented by Rep. Cedric Richmond and co-drafted by Professor Greene) has been passed by the United States House of Representatives (pending Senate/Presidential approval) and this bill clarifies that discrimination on the basis of *characteristics commonly associated* with race and national origin in workplaces, housing, public accommodations, and federally funded institutions violates federal civil rights laws.

In summary, she concluded by that there has much progress in promoting the Crown Act or parallel actions in seven states and municipalities. She went to state that many human rights agencies are also working at providing ground-breaking enforcements as protection against this form of discrimination.

On another positive note, Professor Greene added that, recently named Chief Carol Tome of UPS, changed a long-standing policy prohibiting dreadlocks and allows for natural black hairstyles, ending her comments by saying that now these workers can “rock their hair freely and freely rock their hair.”

Chief Compliance Investigator/Outreach Specialist Lila Vizcarra thanked Professor Greene for her presentation and turned the meeting over to Administrator Jenkins.

Administrator Kara Jenkins thanked Professor Greene for her presentation, mentioning her appreciation for her efforts. She thanked the attendance of elected officials, such as Senator Dina Neal, for their attendance. In the interest of time, Ms. Jenkins encouraged attendees to contact NERC if they had further questions for Professor and returned the meeting to Chair Harper. **She noted that Nevada was not named in the states in which The Crown Act was approved and hoped for more progress in the next legislative session.**

At closing this item, Chair Harper returned to address agenda item 4.

7. **Discussion/for Possible Action** - The Disparate Effect of the COVID-19 Pandemic Upon People of Color and Women – *Kara Jenkins, Administrator*

- Race (Steady Complaints)
- Retaliation
- Xenophobia (against Asian Americans)

Chair Harper asked for comments on related to the disparate effect of Covid-19 on people of color and women.

Administrator Jenkins asked Commissioner Ngai Pindell if he had comments for the Commission.

Commissioner Ngai Pindell commented that the magazine *The Nevada Independent* recently published his editorial opinion calling upon the Nevada legislature to increase the ability of NERC to address fair housing litigation cases.

He added that 36 jurisdictions across country have already accessed the federal matching funding and hopes that Nevada is added to that list.

Commissioner Tiffany Young thanked Commissioner Pindell and said she would be interested in seeing how many communities of color have been impacted the end of the lease moratorium.

Ngai Pindell stated while he did not have that local data; however, others, such as Nancy Bruin, Executive Director, Public Priorities, also wrote in *The Nevada Independent* and may have that data and also added the Office of Minority Health.

Administrator Jenkins added that while details would have to be kept confidential, a large class group with predominately Asian last names, who seemed to have been discriminated against (possibly xenophobia), and also over the age of 40, who were permanently furloughed due to COVID that have been turned over to the EEOC. She said if she becomes aware of any updates, she will share this with the Commission at the next meeting.

Chair Harper announced that DETR Director Cafferata was in attendance for the meeting and asked if she would like to comment to the group.

Director Elisa Cafferata thanked NERC for the work that the Commission is doing, which she felt is paramount as we struggle with these difficult economic times and thanked them for their efforts. Chair Harper thanked Director Cafferata for taking the time from her busy schedule to join the meeting.

8. Second Public Comment – Connye Harper, Chair

Members of the public will be invited to speak; however, no action may be taken on a matter during public comment until the matter itself has been included on an agenda as an item for possible action. Public comment may be limited to three (3) minutes per person at the discretion of the chair.

Chair Harper announced the Second Public Comment Session, and again, welcomed members of the public to speak.

Public Comment #1: UNLV Graduate, greeted the group and shared that in March 2020, he felt he was ostracized by being asked to leave his class because he was wearing a face mask. He explained that the face mask was being worn because of his allergies, before it was ‘popular.’ He stated his appreciation for the campus Office of Social Justice and for this agency (NERC) to help individuals of color (who experience discrimination.)

Public Comment #2: UNLV Senior, stated that prior to the COVID pandemic, he had concerns about law school, LSATS, et cetera, but then, he developed the virus. He informed his professors and tried to quarantine, and was permanently furloughed indefinitely from his job, possibly because of his color, being the only Asian at that place of work. Now he has concerns about employment, having a felony record, and about even completing his law studies. He feels that it is people of color that are most impacted by the criminal justice system.

Public Comment #3: UNLV Sophomore, commented that she wanted to share her experience with COVID. During grocery shopping she was encountered by a woman, who brushed by her and a man, who looked at her with malcontent. She tried to make light of the incidences, but the experience caused her to feel very uncomfortable and frightened. She noted that more recently she shopped at an Asian market, which made her feel more at peace.

Chair Harper thanked each public speaker for their comments.

9. Adjournment – Connye Harper, Chair

Chair Harper adjourned the meeting at 3:30 p.m.

Notice: Persons with disabilities who require special accommodations or assistance at the meeting or information regarding obtaining supporting materials for the meeting should contact Coralie Peterson, Nevada Equal Rights Commission (NERC), between the hours of 8:00 a.m. – 5:00 p.m. at (702) 486-4010 or by writing to the Nevada Equal Rights Commission (NERC) 1820 E. Sahara Ave., Suite 314, Las Vegas, Nevada 89104; or fax (702) 486-7054 on or before the close of business on Tuesday, December 1, 2020.

Notice of this meeting was posted at the following locations on or before 9:00 a.m. on the third working day before the meeting: DETR, 2800 E. St. Louis, Las Vegas, NV; DETR, 500 East Third St., Carson City, NV; DETR, 1325 Corporate Blvd., Reno NV; NEVADA JOBCONNECT, 3405 S. Maryland Parkway, Las Vegas, NV; NEVADA JOBCONNECT, 4500 Sunset Road., Henderson, NV; NEVADA JOBCONNECT, 2827 N. Las Vegas Blvd., North Las Vegas, NV; NEVADA JOBCONNECT, 1929 N. Carson St., Carson City, NV; NEVADA JOBCONNECT, 172 Sixth St., Elko, NV; NEVADA JOBCONNECT, 480 Campton St., Ely, NV; NEVADA JOBCONNECT, 121 Industrial Way, Fallon, NV; NEVADA JOBCONNECT, 475 W. Haskell, #1, Winnemucca, NV; NEVADA JOBCONNECT, 4001 S. Virginia St., Suite G, Reno, NV; NEVADA JOBCONNECT, 2281 Pyramid Way, Sparks, NV; GRANT SAWYER OFFICE BUILDING, 555 E. Washington Ave., Las Vegas, NV; LEGISLATIVE BUILDING, 401 S. Carson St., Carson City, NV; NEVADAWORKS 6490 S. McCarran Blvd., Building A, Unit 1., Reno, NV; WORKFORCE CONNECTIONS, 7251 W. Lake Mead Blvd., Las Vegas, NV. This agenda was also posted on DETR’s Web site at www.detr.nv.gov. In addition, the agenda was mailed or e-mailed to groups and individuals as requested.

1325 Corporate Blvd., Suite 115 ■ Reno, Nevada 89502 ■ Phone: 775.823.6690 ■ Fax: 775.688.1292
Park Sahara ■ 1820 E. Sahara Ave., Suite 314 ■ Las Vegas, Nevada 89104
Phone: 702.486.7161 ■ Fax: 702.486.7054
www.detr.nv.gov