

STEVE SISOLAK
Governor

DR. TIFFANY G. TYLER-GARNER
Director

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: Friday, June 7, 2019
10:00 a.m.

Place of Meeting: Nevada Equal Rights Commission Office
1820 E. Sahara Ave., Suite 314
Las Vegas, NV 89104

Nevada Equal Rights Commission Office
1325 Corporate Blvd., Room 115
Reno, NV 89502

Commission Members Present: Chair Connye Harper; Ngai Pindell; Krista Wahnefried; Ivette Fernandez (via telephone).

Commission Members Absent: Tiffany Young (excused).

Others Present: Dr. Tiffany G. Tyler-Garner, Director, Department of Employment, Training & Rehabilitation (DETR); Rosa Mendez, Public Information Officer (DETR); Sophia Long, Deputy Attorney General; Kara Jenkins, Administrator, NERC; Lila Vizcarra, Chief Compliance Investigator, NERC; Darrell Harris, Supervisory Compliance Investigator, NERC; Coralie Peterson, Administrative Assistant III, NERC; Laura Chiesa, Administrative Assistant II, NERC; Matthew Estrada, Intern, State Attorney General's Office.

**Please note that all attendees may not be listed above.*

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*

Chair Harper called the meeting to order at 10:04 a.m. She welcomed all and thanked them for their attendance.

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

Coralie Peterson called roll and confirmed for the record that a quorum was present. Meeting was posted in accordance with Nevada Open Meeting Law.

3. Public Comment:

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 Comment Session and invited members of the public to speak. Hearing no comments, she closed the session and moved to the next agenda item.

4. For Possible Action - Approval of the October 17, 2018 Commission Meeting Minutes – Connye Harper, Chair

Chair Harper explained that Ivette Fernandez was the only commissioner present at the previous meeting, she could bring a motion to approve the minutes. State of Nevada Deputy Attorney General Sophia Long commented that this was an appropriate action.

Commissioner Ivette Fernandez raised a motion to approve the October 17, 2018 meeting minutes. As Commissioner Fernandez was the only commissioner present for the previous meeting, her motion did not need to be seconded, and the minutes were approved.

5. Discussion/for Possible Action – Administrator’s Update – Kara Jenkins,
Administrator, Nevada Equal Rights Commission

Administrator Kara Jenkins began her comments by stating that she was happy to have a full and active commission, as NERC has some cases that need their consideration, such as the one that Deputy Attorney (DAG) Sophia Long would discuss later in the meeting.

Ms. Jenkins went on to give a general overview on NERC’s recent activities, highlighting:

- **NERC is the *only* entity that oversees equal opportunity** in employment and access to public spaces in the State of Nevada, but has only seventeen (17) full time employees.

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Recent requests by NERC for 1) additional investigators, 2) full time legal assistance; 3) more funding have met with some favorable response; however, a fully involved and engaged Commission will help those goals to be achieved.

She went on to explain that Investigators and staff of the agency represent the enforcement side of NERC, but the Commission is the “face” of NERC. Ms. Jenkins mentioned that Rosa Mendez, DETR’s Public Information Officer, was present to help them in this role.

At this juncture, **DETR Director Dr. Tiffany G. Tyler-Garner** joined the meeting. Ms. Jenkins explained that Dr. Tyler was a recent appointee and cabinet member of Nevada Governor Sisolak, who oversees NERC’s parent agency, the Department of Employment, Training and Rehabilitation (DETR).

Ms. Jenkins reiterated that NERC is the enforcement arm for any wrongful discrimination practices in the State of Nevada that have been investigated and found to have met the legal standard of cause. She went on to explain that they are relying on the Commission to bring more visibility to the agency, and encouraged them to reach out to Rosa Mendez about media opportunities to share all the efforts NERC has made to promote fairness and equity within the State. Ms. Jenkins invited Rosa Mendez to comment.

Rosa Mendez, introduced herself and explained, that as Public Information Officer, she represented on behalf of the Department of Employment, Training & Rehabilitation (DETR) in its entirety and this is reflected in her work. She added that she is looking for opportunities to increase the profile of many of DETR’s agencies, whose important efforts for the constituency base benefits both private citizens and businesses within the state. She will be working with NERC to develop campaigns to share the fine work that NERC does. Ms. Mendez is also working on fine-tuning DETR’s new website.

- **Legislative Update:**

Ms. Jenkins shared highlights on the Legislative Session, which ended on Monday, June 3, 2019. During this session, she stated that Michael Baltz served as NERC’s legislative liaison, who worked with Chris Sewell, DETR’s legislative liaison. In addition, Lila Vizcarra and Darrell Harris provided help, DAG Sophia Long weighed in and Dr. Tyler was present often to give her support during testimonies that she had given. There were many comments involving NERC, perhaps due to the national “climate” or makeup of the new Commission.

Numerous bills mentioned the agency, and Ms. Jenkins went on to note those that will directly affect NERC.

Senate Bill (SB) 28: *This bill would allow NERC to share information with other regulatory agencies when licensees do not cooperate with conciliations offered by NERC.* The law requires that conciliation efforts are made when merit is found for probable cause of discrimination through investigation and by the deputy attorney general's office, and effort is made to settle the matter privately, through conciliation. In some case where an employer does not show "good faith" in settling the matter, this bill would allow NERC to share this information with other regulatory agencies. Although the bill made traction, it did fail.

Senate Bill (SB) 166: *Sponsored by Senator Pat Spearman, this bill provides for pay equity for women and gives NERC the ability to have public hearings when an employer (with 50 or more employees) has been found, through the course of an investigation, to have been engaging in discriminatory acts, as it relates to pay. When notice has been given to the employer to correct the practices and no action takes place within 30 days, the public hearing option is available, and will, by statute, allow the Commission to impose fine/penalties of: \$5,000.00 (first unlawful employment practice); \$10,000.00 (second unlawful employment practice); \$15,000.00 (third and subsequent unlawful employment practices.) See: www.leg.nv.us for full details. This bill passed but is awaiting the Governor's signature, and will impact as early as next year.*

Assembly Bill (AB) 274: *Sponsored by Assemblywoman Dina Neal, this bill requires NERC to maintain confidentiality for any complaint received within the DETR agency. Ms. Jenkins explained that NERC sends complaints within DETR (after the charge is framed) to the Equal Employment Opportunity Commission (EEOC) so as not to have, even the appearance of, a conflict of interest, as DETR is NERC's parent agency. She assured commission members that NERC keeps these matters private.*

Assembly Bill (AB) 397: *Assemblywoman Teresa Benitez-Thompson sponsored this interesting and significant bill that would allow the Commissioners to impeach local elected officials on the finding of cause. In recent times, individuals who worked for local elected officials that experienced sexual harassment had no way to report this misconduct. Now, they may file directly with NERC, and the case would be investigated as in any other case, and if through the investigative/Attorney General office recommendations, another option for public hearing is given to the Commission.*

Assembly Bill (AB) 509: *This bill allows funding for a Case Management System for NERC. The passage of this bill was a great success for NERC. The current process is that when we receive a complaint, the administrative team manages/tracks the complaints put into the IMS system shared with the EEOC, and then a case is physically assigned to an investigator in a manner in a first-come, first-served basis - the next available investigator takes the case.*

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Instead, the software system would begin the complaint process online, with the system determining if a complaint is within jurisdiction and then assigning to an investigator. This would free up investigators to spend valuable time in investigations and related work, such as onsite visits and taking affidavits to assist EEOC in potential prosecutions.

Areas of Interest – Ms. Jenkins went on to explain to the commissioners that *they can* recommend agenda items for upcoming meetings, asking them: “Is there an area that you would like to discuss?”

She also stated that *she* could take up cases “on her own” without a formal filing, which, to her knowledge, was an unprecedented action, but noted that there’s no current time like the present!

If NERC becomes aware of a practice in the state that offends our NRS (Nevada Revised Statutes, Ms. Jenkins, with the approval of DAG Sophia Long, can move forward with an Administrators Hearing.

Some of Administrator Jenkins current areas of interest are:

- 1) Sexual Harassment (Me Too) Issues – in rural Nevada, many may not be aware of being able to file a complaint with NERC or EEOC. One of Governor Sisolak’s first acts was to create a Sexual Harassment Task Force, of which she is a member. She asked that Commissioner Wahnefried let NERC know if a greater presence is needed in rural Nevada, or if she becomes aware of a situation where an Administrators Charge should be considered.
- 2) Human Trafficking – Massage Parlors (sex discrimination – national origin discrimination/intimidation).
- 3) Casino/Resort “Lists” – Excluding/limiting the number of persons of color – including English only policies – limiting the use of pools, bars, lounges based on race under the guise of “right to refuse” or neutral policy.
- 4) School Inclusion and compliance with Gender Identity and Expression protections.
- 5) Housing Discrimination – Same sex/people of color (denial of credit for mortgages)

Administrator Jenkins closed her comments by stating that these are issues of interest for her and hopes that the commissioners are inspired to think of areas of interest to them as well to show Nevada that these practices break the law and will not be tolerated. She thanked all for their support and commended the Commission members. Chair Harper thanked her for her comments and moved to the next agenda item.

6. Discussion/for Possible Action – Possible NERC Public Hearing –
Sophia Long, Deputy Attorney General, State of Nevada

Sophia Long explained that NERC took a race-based (based on association) complaint; a Caucasian woman, whose bi-racial (black) children affected her employment. As the process goes, the investigator found that the employer, most likely, engaged in race discrimination. The file was then sent to the Attorney General's office for legal review, who agreed with the investigator's findings. The next step in the NERC process is that the file goes to Administrator Jenkins, to attempt conciliation, which failed. At this point, there is now an opportunity for a public hearing with an Administrator's Charge, basically NERC versus the employer.

NERC contends that:

- 1) Employer's practices were egregious,
- 2) Employer needs to *change/stop* these practices,
- 3) Public becomes aware of the egregious practices and this will educate the public.

Ms. Long stated that before moving forward with a public hearing, the approval of the Commission is required, but before that is considered, she asked for any questions.

Commissioner Ngai Pindell asked how many public hearings had been conducted by NERC within the previous two years.

Ms. Long responded that there was one public hearing, which settled just before the hearing took place; however, NERC's purpose for the public hearing was accomplished. The employer changed their policy and practices, had training, created a complaint hot line, and barred the offending party (co-owner) from the property. In addition, the issue was made public; was in the newspaper.

Administrator Jenkins added that violation of that settlement agreement would subject the employer to a lawsuit in district court.

Commissioner Pindell further asked if no further information would be provided to them or would wait until such time that the public hearing was conducted, which Ms. Long confirmed.

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Ms. Long stated that what they would get initially is the Administrator's Charge, stating the basic facts of why they were bringing the issue to a public hearing. At the hearing, they will be given all the specifics. So, it was up to them to determine if they agree with NERC and the Attorney's General office. She further explained that at the hearing, she would act as the prosecutor and Commissioners would act as judge and jury. As they were no doubt aware, in court cases, judges are not aware of the details of a case until it comes before them.

Hearing no further comment or questions, **Chair Harper** asked for a motion to approve the public hearing.

Commissioner Ngai Pindell raised a motion to approve the public hearing and this was seconded by Krista Wahnefried. All present were in favor and the motion passed with no objection.

7. Public Comment:

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 and invited members of the public to comment.

DETR Director Dr. Tiffany G. Tyler-Garner stated that on behalf of DETR, she wanted to thank each for their service and leadership, and that they are at the core of change to ensure that people are afforded due process. She added that on behalf of the organization, she again thanked all and stated that she gives her full support and deep gratitude for the work NERC undertakes.

Hearing no further comments, the Chair adjourned the meeting.

8. Adjournment – *Connye Harper, Chair*

Meeting was adjourned at 10:37 a.m.

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.