



# State of Connecticut COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES

Central Office ~ 450 Columbus Blvd., Suite 2, Hartford, CT 06103

*Promoting Equality and Justice for all People*

## **Testimony to the Legislative Program Review and Investigations Committee Tanya Hughes, Executive Director – September 21, 2016**

Good morning/afternoon. My name is Tanya Hughes and I am the Executive Director of the Connecticut Commission on Human Rights and Opportunities. I'm pleased to be here today to share with you some of the great strides being made by the Commission.

Fiscal year '15-'16 was a banner year for the CHRO's processing of discrimination complaints. We achieved some of our highest case closure levels, our highest settlement amounts, and our lowest aged inventory levels to date. Our case process overall is faster and fairer than ever, thanks in part to some of the procedural tools given to us by the legislature. I'd like to walk you through some of our major accomplishments.

### **Case Assessment Review**

The first major step in the life of most CHRO complaints is the Case Assessment Review, or CAR, formerly the Merit Assessment Review, or MAR. Cases at CAR are reviewed to make sure that the CHRO has jurisdiction, and that the case is properly filed. If a case is within our jurisdiction and properly filed it will be retained; if not, it will be dismissed.

While some claim that too many cases are retained after a CAR review, this is a distorted perception. It is true that at one time upwards of 30% of our cases were being dismissed. However, between 60 and 70% of those cases were found to have been dismissed in error and were reinstated after review by our Legal Division or after appeal to the Superior Court.

So while the result may be that more cases are being retained, these are the largely cases that *should* be retained under the CAR standard.

### **Mediation**

After CAR, all cases move to our mediation process, one of the CHRO's most successful endeavors. Public Act 11-237 revolutionized the CHRO case process by emphasizing the importance of early mediation and making mediation a separate step in the process, independent of the investigation. Mediating cases early means that a complainant's damages are not as severe, considerably brightening the prospects of a negotiated settlement. Separating mediation from investigation means that both sides are spared the litigation costs associated with preparing their cases for fact-finding.

While P.A. 11-237 did many things, the emphasis it placed on mediation was its true core. In 2010, the CHRO received 2,087 complaints but only closed 1,299. This was a time when mediation was a perfunctory step, a quick prelude to an inevitable investigation. Mediations and investigations were scheduled back-to-back. The parties came to the mediation with their witnesses in tow and their game faces on. In the year immediately following P.A. 11-237, the CHRO took in 2,073 cases

but closed an astonishing 2,121. This marks a 63% increase in case closures due almost entirely to the new mandatory and independent mediation process established by P.A. 11-237.

Mediation has truly been a successful part of the Commission's work; with millions of dollars returned to and saved by parties.

### **Investigation/ELI**

Cases that are not resolved at mediation move forward in one of two directions: investigation, or the Early Legal Intervention (ELI) process.

ELI, on the other hand, is a process in which cases are reviewed by attorneys in the Legal Division who, after receiving input from the parties, ultimately determine the next step for the case. This is another tool created through P.A. 11-237. ELI gives the CHRO control over its docket while also allowing the parties a chance to express their preferences regarding the processing of the case. From ELI, a case may be released from the CHRO's jurisdiction allowing the complainant to pursue their remedies in court; the case may be sent directly to public hearing, allowing for a more expeditious resolution on the merits; or the case may be sent to investigation.

If a case is retained for investigation, it is assigned to an investigator whose role is to gather evidence, interview witnesses, and ultimately determine whether there is reasonable cause to believe that discrimination has occurred. The investigator must conduct a complete and thorough investigation in order to make this determination, considering all relevant evidence. If the investigator concludes that there is not reasonable cause to believe discrimination occurred, the complaint will be dismissed and the case closed. From there the Complainant can request reconsideration or appeal to the Superior Court. If the investigator concludes that there *is* reasonable cause, the parties will have one more chance to resolve the case through conciliation before the case is certified to public hearing.

### **Aged Inventory**

During the past several years, the Commission has made great progress in reducing its inventory of aged cases, meaning cases that have been open for two years after filing. Procedural initiatives like mandatory mediation and ELI, as well as a change in management and an emphasis on production, have led to a remarkable turnaround. We are about to go from 60% of our inventory being aged to less than 2%.

Even though the CHRO retains more cases at CAR than 20 years ago, the speed and efficiency with which we are processing cases have increased dramatically. In this last fiscal year, the CHRO closed a total of 2,800 cases, the highest in the history of the agency and nearly double the number closed five years ago.

While such a rapid increase is a benefit to all those involved in our process, the fiscal benefit should not be lost. The CHRO earns federal dollars from the U.S. Equal Employment Opportunity Commission (EEOC) on a per case basis for each case we close that would also fall under the EEOC's jurisdiction. The money the CHRO earns goes directly to the General Fund. Through our

efforts in processing cases, last year we were able to contribute over \$1 million dollars to the Connecticut general fund based on our contract with the EEOC alone. The U.S. Department of Housing and Urban Development awarded us an additional \$366,425 for processing housing cases. These numbers translated to roughly a third of our total budget. This means that civil rights enforcement only cost \$1.34 a year per Connecticut taxpayer. We anticipate that even more revenue will be generated this year, resulting in increased savings for the state.

## **Conclusion**

To conclude, I want to thank you for this opportunity to update you on Commission's progress. Adopting a uniform CAR standard has enabled us to reduce premature case closure while still expediting case processing. Meanwhile, Public Act 11-237 has propelled us along an upward trajectory toward eliminating our backlog of cases, investigating complaints more quickly and more accurately, and closing more cases through negotiated settlement. These changes and our ongoing efforts have provided benefits for Complainants and Respondents well beyond their cost, and have created a better Commission overall.