

Minutes
LEGISLATIVE AUDIT COMMISSION
February 28, 2020

Members Present:

Representative Rick Hansen, Chair
Representative Connie Bernardy
Representative Nels Pierson
Senator Mary Kiffmeyer
Senator Mark W. Koran

Members Absent:

Representative Sondra Erickson
Representative Tina Liebling
Representative Duane Quam
Senator Michelle Benson
Senator Nick A. Frentz
Senator Matt D. Klein
Senator Ann H. Rest

Representative Rick Hansen, Chair, called the Legislative Audit Commission (LAC) meeting to order at 10:00 a.m. Judy Randall, Deputy Legislative Auditor for the Office of the Legislative Auditor's (OLA's) Program Evaluation Division thanked Chair Hansen for convening the commission to receive the OLA report, *Department of Human Rights: Complaint Resolution Process*.

Ms. Randall said that the report's main findings had to do with the Minnesota Department of Human Rights' (MDHR's) timeliness—that individuals who file complaints usually have to wait one year, to often two years, for their cases to be investigated and resolved. These delays often have a negative impact on the people who are alleging discrimination, the people accused of discrimination, and the quality of investigations. Ms. Randall said that MDHR should more strategically allocate resources so that investigations can be resolved in a timely way and focused on cases that should be a priority. Ms. Randall then introduced Caitlin Badger, manager of the evaluation, to explain more about the report's findings and recommendations.

Ms. Badger thanked the Chair and LAC members for hearing OLA's report. She also thanked Carrie Meyerhoff and Yue Zou, OLA staff, for their work on the report, and the Department of Human Rights for their assistance during the evaluation. Ms. Badger described some key findings in the report, including the large backlog of cases awaiting determination, lack of timely investigations for the majority of MDHR's cases in recent years, lack of an effective process to allocate MDHR's limited resources, a need for standards and guidelines for consistent investigations, and a need for clarity in some aspects of the Minnesota Human Rights Act.

Ms. Badger then gave background on the Minnesota Human Rights Act and explained the three main phases of an MDHR investigation. Ms. Badger noted that the number of cases filed with the department has increased in recent years, with nearly 800 cases awaiting determination. Ms. Badger explained that OLA had interviewed MDHR investigators and surveyed attorneys who expressed concerns that delays in investigations can lead to lost documents, difficulty in tracking down witnesses, and the potential for memories to fade.

Representative Hansen asked if or how frequently there are any communications to complainants or respondents during investigations. Ms. Badger explained that there are communications at certain times during the process, although attorney survey responses indicated a desire for more ongoing feedback on the status of an investigation.

Ms. Badger noted that MDHR has made some changes to its screening process but that MDHR still needs to work on prioritizing cases as defined by law. Ms. Badger summarized that MDHR should also (1) establish a triage process to reduce the number of cases going through the full investigation process, (2) develop a plan for meeting timeliness requirements in law and submit a plan to the legislature for review, and (3) adopt clear standards common across the investigation process. Ms. Badger also noted areas where legislative action could help MDHR's investigation process.

Commissioner Rebecca Lucero testified next and thanked the commission for having her. Commissioner Lucero also thanked OLA for their work on the evaluation and said the report recommendations aligned with the assessments of MDHR leadership developed in early 2019.

The commissioner said MDHR is developing a formal mechanism to develop case status updates on a more regular basis. The commissioner said that supervisors would be meeting with investigators to evaluate their case loads and make sure investigators are prioritizing cases as required by law, but MDHR could use help from the Legislature because statute currently requires noncomplex cases to be investigated within 180 days, and noncomplex cases are not one of the six priority cases required to be prioritized under the Minnesota Human Rights Act.

Commissioner Lucero reported on the progress of additional recommendations OLA had made. The commissioner said MDHR: (1) has implemented a triage process for the investigative team, (2) is making greater effort to ensure complaints meet basic screening criteria, (3) is working toward clearer standards for activities common across the investigation process (by developing legal templates), (4) has hired an additional supervisor for the investigations unit, (5) has implemented a more stringent training process, and (6) is improving its mediation program. The commissioner said that MDHR lacks staff capacity to meet timeliness statutory obligations and needs more investigators in order to get to a more reasonable case load per investigator.

Senator Kiffmeyer asked about the contract MDHR has with the Equal Employment Opportunity Commission (EEOC) to conduct investigations on certain cases and for which EEOC pays MDHR to conduct these investigations. Commissioner Lucero said she would give further information on the contract and dollar amounts in another meeting.

Representative Bernardy asked how MDHR would best be able to tackle cultures that can exist within agencies that may be an issue. Commissioner Lucero responded that all cases are important, they investigate all cases, and MDHR is definitely trying to tackle management and procedural matters also.

Representative Hansen asked if when a case is closed, there is a publicizing without the names of the individuals involved, providing sufficient awareness to the public. The commissioner said that an area of focus for MDHR is outreach and education to prevent discrimination from happening in the first place.

Judy Randall came back to the table to give an update on the topic selection process and the upcoming OLA report release, *Compensatory Education Revenue*. She added that the Evaluation Subcommittee's first topic selection meeting was scheduled for March 9, 2020.

Representative Hansen adjourned the meeting at 11:02 a.m.