

Minutes – Jan. 20, 2017 Meeting of the Iowa Civil Rights Commission

- I.** Roll Call: Jackson (Chair), Lipski (by phone), Conley, Cunningham, Oelschlaeger
Staff: Director Johnson
AG: Fiala
Public/Press: None
- II.** Minutes from 10-21-16 presented. Motion by Oelschlaeger, seconded by Cunningham to approve minutes from 10-21-16; motion approved.
- III.** Report on ICRC’s testing by Don Grove. See attachment. Grove described the three types of training performed by the ICRC.
- a. Phone testing based on rental advertisements for assistance animals. Grove described a typical phone call and explained what steps are taken based on the result of the test. Commissioner Conley had questions about the definition of health care provider. Grove clarified that testing does not occur in conjunction with the ICRC’s testing program. The term “healthcare provider” is not a defined term within Iowa Code Chapter 216, and this term is not necessarily the operative term. The answer depends on the context and the reason. There is a publication by HUD and the U.S. Department of Justice that the ICRC uses for guidance. Housing providers are sometimes allowed to obtain information from a credible source, not focused on degrees or credentials, but if the disability is evident, no clarification is allowed. The definition of “health care provider” in other sections of the Iowa Code is not relevant.
 - b. Design and Construction testing. Grove explained the process and steps involved in determining accessibility of newly construction housing. The ICRC investigators take many steps, starting with the scouting of the properties by interns, volunteer or paid, depending on the budget. The ICRC has so far been very successful in obtaining voluntary compliance with bars to accessibility for individuals with disabilities.
 - c. Paired testing. The ICRC contracts with a company that conducts fair housing testing on race and national origin for \$17,000. This company is very experienced and is sent to a different area of the state each year. Commissioner Jackson asked whether there has been testing in Iowa City recently, and Grove indicated there had been testing in the past few years in Iowa City. Next fiscal year’s testing will be in southeast Iowa and the Des Moines suburb area.
 - d. Commissioner Conley asked whether local and city inspectors are helpful to builders of housing in making sure accessibility standards are met. Grove indicated this has been a difficult area for at least 20 years. Property owners, builders and architects have the legal duty to comply with requirements, and approval by an inspector does not provide a defense. Local and city inspectors often do not have the expertise or training to determine compliance with accessibility requirements. The ICRC does not have adequate funding or staff to be able to perform this function. The ICRC has been reaching out and offering conferences and training. We held a conference in 2015 and in 2016, and we will be traveling to Sioux City and Cedar Rapids in 2017 to provide training geared toward inspectors, as well as others.
- III.** Commissioners’ Reports
- e. Commissioner Patricia Lipski – nothing to report.

- f. Commissioner Lawrence Cunningham –reported he works with the Kellogg Foundation, which has a \$20,000 grant to promote diversity and inclusion on campus. The website is wkkf.org, and it uses the hashtag #RemixTheNarrative. Commissioner Cunningham suggested the ICRC explore whether there are grant opportunities the ICRC could pursue.
- g. Commissioner Oelschlaeger – reported that there is a case pending before the U.S. Supreme Court, *Endrew F*, which may have an impact with respect to accommodating disabilities in education. (See <http://www.scotusblog.com/case-files/cases/endrew-f-v-douglas-county-school-district/> for information on the case).
- h. Commissioner Tom Conley – thanked Commissioner Jackson for information she provided to him on the civil rights recognition and awards available. Commissioner Conley also appreciated the conversation about the term “healthcare provider,” as he feels a personal obligation in striving to become a better commissioner to understand these terms, even though he understand he is not authorized to give legal advice.
- i. Commissioner Angela Jackson –attended the NAACP banquet. There was a great community presence at the event. She also attended another community social gathering. It is beneficial for Commission members to share on the record any public engagements because, even if not an official Commission engagement, Commissioners do represent the ICRC and present the face of the agency to the community. Commissioner Jackson indicated the ICRC is doing an excellent job communicating with the public and keeping its website updated, keeping the public informed, by posting copies of public settlement agreements and providing an explanation of the process.

IV. Director’s Report – Director Johnson reported that the ICRC has so far not been required to take a budget cut in the current fiscal year, and she will be closely monitoring budget discussions. Commissioner Oelschlaeger inquired about whether the ICRC can keep fines charged to those found liable for discriminating. The Director noted that civil penalties can be requested in housing cases, but those funds would go to the general fund. Money damages items like compensatory damages go directly to the victims of discrimination.

Director also reported that that the appointments of Commissioners Conley, Oelschlaeger and Hou expire in April, and they will need to reapply to be considered. She distributed a printout of the statutory attendance requirements. She will be sending an attendance list with the minutes for Commissioners to be able to track their attendance. The Commission should also keep in mind the ICRC rule requiring a statement of reason it is impracticable to attend in person when four or more Commissioners attend by phone. These cannot be waived, and the State Auditor monitors this item. A few years ago, the ICRC was cited in the audit report for a deficiency in this regard.

Director Johnson reported that the two federal lawsuits filed last summer against the ICRC and Commissioners were both dismissed, one by the court, and one by the plaintiff following the court’s ruling on the ICRC’s Motion to Dismiss. There are no more pending lawsuits naming Commissioners personally.

There is an oral argument to be scheduled for the Commission’s next meeting.

V. Next meeting will be on Thursday, April 6, 2017 at the Grimes Building at 1:00 pm. There will be oral argument at this meeting and discussion in closed session thereafter.

At approximately 2:07 pm, Commissioner Conley moved that the Commission adjourn, seconded by Commissioner Lipski, motion approved unanimously.

Meeting adjourned.

Approved April 6, 2017

