



State of Illinois
Department of Central Management Services
Illinois Human Rights Commission
Illinois Department of Human Rights

Third Progress Report on Implementation of Executive Order 2018-08

*“An Executive Order Reforming
the Administration and
Eliminating the Backlog of
Anti-Discrimination and Equal
Opportunity Hearings at the
Human Rights Commission”*

An intergovernmental partnership between the Illinois Department of Central Management Services, the Illinois Human Rights Commission, and the Illinois Department of Human Rights

December 2020

Introduction

Two and a half years ago, four Illinois agencies embarked on a journey to strengthen human rights in our State. Executive Order 2018-08, issued June 2018, called for a multi-agency collaborative effort to eliminate within 18 months the growing backlog of cases pending before the Illinois Human Rights Commission (“Commission” or “HRC”), and to further improve how our State communicates and delivers important services to its residents under the Illinois Human Rights Act (“Act”).

Together, the Commission, Department of Human Rights (“Department” or “DHR”, Central Management Services Bureau of Administrative Hearings (“CMS BAH”, and the Department of Innovation and Technology (“DoIT”, devised and implemented a comprehensive plan, announcing a major milestone by its Second Progress Report last December (2019– the **complete elimination of a decade-long backlog of more than 2,500 cases**. This announcement coincided with the 40th anniversary of the Act that created the broadest civil rights coverage in the State’s history for the people of Illinois.

Now in 2020, more than ever, we must protect and strengthen the administration of that Act. A worldwide pandemic has prompted us all to examine and reimagine access to justice. The devastating and disparate effects of COVID-19 have shone a light on the social and racial inequities many have felt for far too long.

Operational challenges in working remotely far from discouraged the Team, rather it drove us to **work even harder toward equity, fairness, and justice**. This year has taught us the importance of flexibility and adaptation, with the Commission and Department swiftly modifying procedural rules to accept electronic filings and substituting an oath and affirmation requirement for the more burdensome notarization requirement. The cessation of in-person gatherings did not deter public outreach efforts. Educational training and events, including the Commission’s second annual Civil Rights Summit, pivoted to a virtual platform as each agency worked to provide timely guidance in critical areas addressed by the Act.

The Transformation Team is pleased to report that **not only has backlog not reaccumulated in 2020, but collaborative partnership has deepened to protect civil rights and effectively serve Illinoisans**. The Team appreciates this opportunity to share its third annual report since issuance of Executive Order 2018-08. A brief background is provided, followed by updates to each of the 9 target goals established by the Team.

Background

Crafting a Transformational Plan in Response to Executive Order 2018-08

Executive Order 2018-08 created a multi-agency opportunity to attack the backlog collectively by **sharing resources, ideas, and applying best practices** to achieve greater efficiencies. The Order required a detailed Plan be submitted within 60 days. Interagency efforts were to include:

- 1) Developing a benchmark system and (within 60 days) a plan for complete elimination of backlog within 18 months;
- 2) Identifying where legislation, rules, and internal policies may be amended to streamline process;
- 3) Executing intergovernmental agreements to share resources;

- 4) Developing (with the Department of Innovation and Technology (“DoIT”) technological solutions and shared case management systems;
- 5) Tracking and reporting (at least quarterly) total number of pending cases, average and median length of time for case resolution, and other information necessary to capture backlog or delay;
- 6) Soliciting feedback and surveying parties appearing before the Commission and the Department and incorporating suggestions for better service; and
- 7) Developing and participating in training programs, including Rapid Results.

Legal, technical, and operational leaders at each agency quickly mobilized a Transformation Team and working groups to implement the Order. Highlighting CMS BAH’s successes coordinating between State agencies to model best practices, the Order tasked CMS BAH with coordinating inter-agency efforts and monitoring and reporting on backlog reduction and overall improvements.

Implementing the Transformational Plan & Eliminating Backlog

In pursuit of a thoughtful, carefully calculated Plan, the Transformation Team sought to:

- Identify extent of backlog by cataloging inventory of all pending cases;
- Identify root causes of backlog;
- Review current efforts to reduce backlog; and
- Make recommendations to address the existing backlog and prevent growth of new backlog.

Taking comprehensive inventory of all cases pending before the Commission, the Transformation Team discovered that backlog was isolated to the Commission’s General Counsel’s Office, and almost exclusively on Requests for Review of the Department’s investigatory determinations. Prompt resolution of these matters is important because it is the first hurdle in whether a complaint moves forward to a hearing.

CMS’ Office of Operational Excellence led a special, targeted Rapid Results workshop, training more than a dozen staff in proven continuous process improvement techniques. Using the tools learned there, the inter-agency Transformation Team identified bottlenecks, developed streamlined processes, and instituted more rigid timeframes for each step in the filing and review process.

Within 60 days of the Executive Order’s issuance, the Transformation Team devised a carefully crafted plan (“60 Day Plan”) to **ensure due process and thoughtful consideration of each matter in the reduction of backlog**. The Transformation Team concluded the following were essential to create lasting change:

- Adopting consistent, streamlined processes and articulated timeframes for anticipated resolution;
- Temporary injection of additional human resources to reverse growing backlog and drive caseload down, coupled with long-range plans to normalize staffing upon elimination of backlog;
- Oversight of assignments, regular monitoring of productivity, and robust training;
- Migrating the Department and upgrading the Commission to a modern, electronic case management system to improve transparency, accountability, service, and provide significant time savings; and
- Improving accessibility and service to the public through outreach and educational efforts, a user-friendly website, and stakeholder feedback to inform continuous improvement.

Just 14 months after the issuance of Executive Order 2018-08 the Commission cleared its backlog. More importantly, the Commission has created the **necessary infrastructure, accountability, and transparency to prevent further backlog.** It has made sustainable improvements in service delivery, promoting knowledge of human rights laws and increased accessibility for Illinoisans.

In-depth case statistics and early successes are detailed in the 60 Day Plan and First and Second Progress Reports, filed with the General Assembly and published on each involved agency's websites.

Third Progress Report

More than a full year having passed since the end of the Commission's backlog, it is clear the **procedural and structural changes, combined with the institution of performance metrics and increased accountability, have prevented re-formation of backlog.**

Additionally, regular inter-agency communications continue to identify opportunities for appropriate collaboration concerning joint rules, legislation, outreach and process improvements. This ensures the progress to date extends far beyond the reporting and oversight requirements of Executive Order 2018-08, resulting in strengthened enforcement of the Act and increased service to Illinoisans.

The Transformation Team previously established 9 target goals from which to gauge progress. This Third Progress Report is structured as an update on continuing efforts toward achieving each of these 9 targets:

- 1) **Reach Zero Backlog Without Sacrificing Due Process or Decision Quality**
- 2) **Resolve All Newly Filed Request for Review Matters Within 12 Months of Receipt by the Commission**
- 3) **Upgrade the Commission's Case Management System to Ensure Continued Support**
- 4) **Procure and Implement a Case Management Solution for the Department**
- 5) **Continue Building and Launch the Commission's Revamped, User-Friendly Website**
- 6) **Convene an Advisory Council of Practitioners and Public Policy Experts to Provide Guidance to the Commission on Service Delivery**
- 7) **Implement Public Outreach Activities**
- 8) **Formally Propose the Rules Drafted by the Commission, Implementing Public Act 100-1066**
- 9) **Continue to Enhance the Frequency and Location of the Department's Mediation Offerings**

Target #1

Reach Zero Backlog Without Sacrificing Due Process or Decision Quality

In 2019, the Transformation Team announced that consistent implementation of its Plan yielded complete eradication of a decade-long backlog that had plagued the Commission and Illinoisans seeking timely relief. As each case reflects a human experience, not merely a number, the Team placed the utmost importance on ensuring due process and decision quality in backlog reduction measures.

The Team is pleased to report that one year later, in December 2020, there is **no sign of backlog reaccumulating, signifying the lasting effects of the comprehensive Plan** first set in motion in 2018. Request for Review filings (where Commission panels review Department defaults and dismissals) made

up the largest portion of the Commission’s backlog at over 2,000 cases. With the backlog gone, the Commission has kept pace with incoming matters, effectively resolving 250 Request for Review cases in the period January 1, 2020, through November 30, 2020.

A full listing of matters resolved by the Commission’s Office of General Counsel and Commissioners between January 1, 2020, and November 30, 2020 includes:

- Request for Review: 250
- Contested Matters: 5
- Rehearing En Banc: 5
- Settlements: 17
- Interrogatory Appeal: 0
- Certified Question: 0

Target #2

Resolve All Newly Filed Request for Review Matters Within 12 Months of Receipt by the Commission

The Commission addressed all Request for Review matters filed in 2019 by October 2020, demonstrating its present **ability to keep pace with incoming caseload and avoid recurrence of backlog**. The Commission met this target even during an ongoing pandemic which posed unprecedented operational challenges.

Target #3

Upgrade the Commission’s Case Management System to Ensure Continued Support

Vital to lasting transformation was **linking new, efficient business processes with effective technology solutions**. By the end of the 2020, the Commission will have implemented its first upgrade to its case management system in nearly 20 years. Unlike the Commission’s previous unsupported version, this newest version of myCaseLoad is web-based, meaning it can be accessed outside the office, runs faster, and receives continuous updates via the Internet. Moreover, its sophisticated report-generating capabilities will enable Commission management to closely monitor case progress. Additionally, myCaseLoad will hold electronic versions of all case files, and can eventually be upgraded to include secure electronic filing capability like most modern courts.

Target #4

Procure and Implement a Case Management Solution for the Department

In 2020, DHR successfully completed a two-year procurement process for the selection of a case management system, myCaseLoad, which will **usher DHR into 21st century investigation case management**. Implementation is underway and DHR workgroups are working with vendor staff to identify critical agency workflows which will guide vendor’s configuration of the system to maximize the efficiency of DHR processes. Data migration is an important component of the implementation. Among many features available in the new system, myCaseLoad will help Complainants (victims of discrimination) and Respondents (persons/organizations responding to allegations of discrimination) access information concerning the status of charges within DHR’s investigative process cycle and facilitate communication and interaction between DHR and parties to a charge. Go-live is anticipated December 2021.

Target #5

Continue Building and Launch the Commission's Revamped, User-Friendly Website

In November 2019, the Commission debuted its revamped, user-friendly website designed to help Illinoisans understand their rights and obligations at the Commission. Since its launch, the Commission **continues to develop and update the site monthly** with additional guidance to the public and copies of decisions rendered. Most recently, the Commission added information on its new electronic filing procedures, and expanded translation of forms to include Chinese, Polish, and Spanish, to ensure greater accessibility for Illinoisans.



The Commission's user-friendly website, packed with helpful information for the public

Target #6

Convene an Advisory Council of Practitioners and Public Policy Experts to Provide Guidance to the Commission on Service Delivery

The establishment of a more formal advisory council that could **offer ongoing and robust feedback** on matters relating to the adjudicatory process, and the policies and regulations proposed by the Commission would provide excellent insight. Commission staff continue to plan for the convening of such a body. Due to the ongoing public health pandemic, these efforts have been rescheduled to occur in 2021.

Target #7

Implement Public Outreach Activities

Undeterred by the pandemic and resulting cessation of in-person activities in 2020, the Commission and Department conducted numerous virtual outreach activities, educating both the public and the bar, and mentoring students on the importance of the Act and its protections. A non-exhaustive list of 2020 highlights are included below.

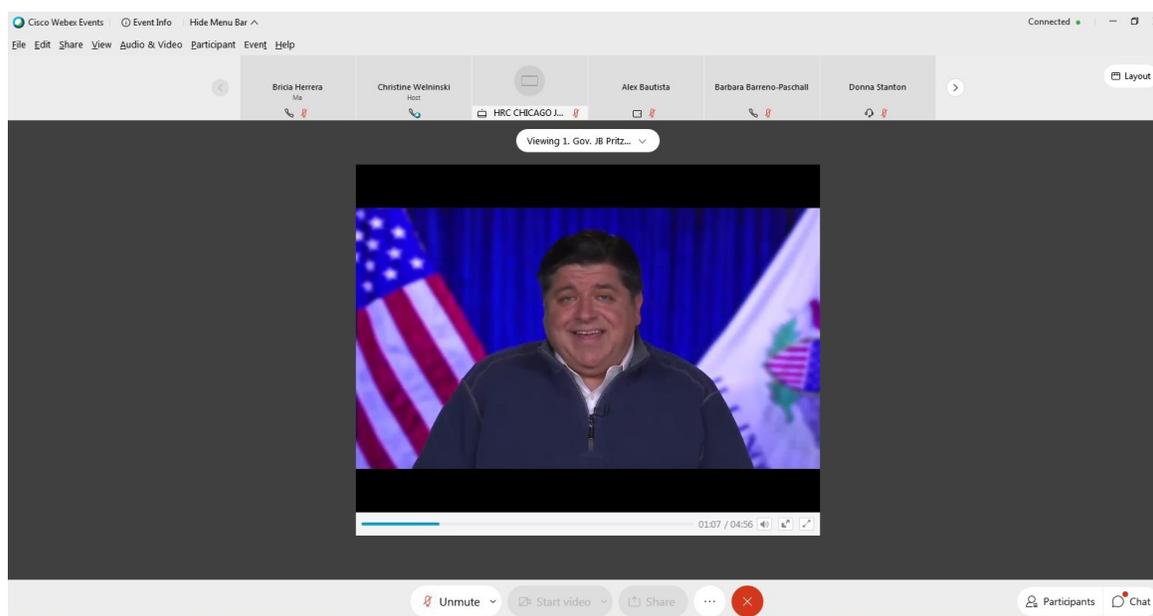
Quarterly Newsletter - The Commission continues to release the quarterly newsletters it began in April 2019. The newsletter is sent to all State employees electronically and made available to the public on the Commission's newly revamped user-friendly website. The newsletter is one more avenue for the Commission to provide ongoing education regarding the Act.

Lunch & Learn CLE - With a focus on educating the bar, the Commission continues to host the "Lunch & Learn" series it established in August 2019. The program has been well received in the legal community. Topics this year have included:

- Update on the Equal Rights Amendment
- Providing Culturally Responsive Legal Services for LGBT Elders
- Legal Proceedings in a Virtual World
- Arrest Record Discrimination in Illinois and Elsewhere
- Hot Topics in Reasonable Accommodations under the Fair Housing Act
- Accommodating People with Disabilities in State Administrative Hearings



Civil Rights Summit - In December 2020, the Commission held its second annual Civil Rights Summit, offering valuable networking and educational opportunities for human rights advocates, and providing a forum to recognize and discuss important topics, including diversity, equity and inclusion, and the impact of COVID-19 on housing, employment and education. Governor Pritzker provided inspirational opening remarks to kick off this virtual event.



Governor Pritzker provided inspirational opening remarks at the second annual Civil Rights Summit

Joint State and Local Events - The Commission began utilizing social media as a tool to increase the public's awareness of the Act and its protections. In July 2020, Commissioner Andersson joined Illinois State Representative Stephanie Kifowit and members of the Aurora Human Rights Commission on Facebook Live to discuss the local agency and the State Commission's common goal of insuring all people's human rights are protected. This event was viewed by approximately 1,800 people.



More than 1,800 people joined a Facebook Live event centered on cooperation between local and State human rights bodies.

Mentoring students – The Commission continued its Coles Fellows program in a virtual format, providing law students exposure to the important work of the Commission. Additionally, in February, the Commission welcomed nine law students from four Chicago-area law schools to visit the Commission as part of the Chicago Bar Association's inaugural Shadow-A-Lawyer Month. Students attended Commission En Banc, Panel and Committee meetings and met with Commissioners, attorneys within the Office of General Counsel, Administrative Law Judges, and staff regarding their career paths.

Critical Civil Rights Guidance – In 2020, DHR issued critical civil rights guidance in the following areas:

- *Non-Discrimination in Medical Treatment for Novel Coronavirus 2019 (COVID-19) (April 2020):* The guidance was issued to ensure clear understanding that whereas during a pandemic such as COVID-19, healthcare providers are required to make difficult decisions concerning the allocation and rationing of limited healthcare resources, including staff, supplies, and space, the healthcare community must remain cognizant of their ongoing obligations to render healthcare in an ethical and non-discriminatory manner, obligations that are even more critical when providers are operating beyond their capacity. Healthcare institutions and providers must ensure effective protocols are in place in order to support the delivery of ethical, non-discriminatory decisions, especially those related to the allocation and rationing of limited healthcare resources. DHR, coordinating with the Illinois Departments of Human Services, Public Health, Aging, and the Governor's Office released guidance to reassure Illinoisans that their civil rights are still in full force and effect during the pandemic.

- *FAQ for Businesses Concerning Use of Face-Coverings During COVID-19 (May 2021)*: The FAQ was issued to provide guidance regarding the application of the face-covering requirement in Executive Order 2020-32 for businesses and other places of public accommodation subject to Article 5 of the Illinois Human Rights Act, 775 ILCS 5/.
- *Nondiscrimination in Healthcare Services in Illinois (June 2020)*: On June 12, 2020, the U.S. Department of Health and Human Services (HHS) announced it will remove the explicit nondiscrimination protections for transgender individuals and other vulnerable populations under the Affordable Care Act (ACA). This rule creates confusion about the right of everyone in the LGBTQ+ community, and specifically transgender individuals, to receive healthcare free from discrimination. DHR, coordinating with the Illinois Departments of Healthcare and Family Services, Insurance, and the Governor's Office released guidance that clarifies the 2020 Final Rule's impact on residents of Illinois, identifies the protections from discrimination that exist in State law, and reminds the healthcare community of their ongoing obligations to deliver healthcare services in a non-discriminatory manner.

Target #8

Formally Propose the Rules Drafted by the Commission, Implementing Public Act 100-1066

To maintain accessibility to the public and continuity of operations during the COVID-19 pandemic, both the Commission and Department **adopted emergency rulemaking** during Spring 2020, amending agency procedures to permit electronic service of documents and correspondence and use of the "oath and affirmation" language in lieu of more burdensome notarization previously required.

The Commission continues to examine its existing procedural rules to provide clarity to Illinoisans seeking to enforce their rights under the Act.

Target #9

Continue to Enhance the Frequency and Location of the Department's Mediation Offerings

DHR's Mediation Program offers parties to a charge of unlawful discrimination the opportunity to negotiate a settlement of charges rather than go through a full, time-consuming investigation. Mediation services are voluntary and provided free of cost to the parties. In response to the COVID-19 pandemic, DHR moved its mediation services from an in-person service delivery model to a virtual one.

Demand for virtual mediation services have exceeded DHR's expectations as parties overcome participation hesitancy. **Parties continue to successfully reach negotiated settlements with the assistance of the Department that effectively resolve their pending discrimination case disputes.** DHR will utilize experience information gained from the virtual mediation COVID-19 pilot program to better understand the efficacy and consumer needs for virtual-distance mediation services and will use that information to enhance the Department's mediation program. Further expansion of the mediation program will be revisited in 2021.

The Future

More than simply eliminating a longstanding backlog, the systemic changes and increased coordination stemming from inter-agency implementation of Executive Order 2018-08 continue to bring value to the lives of Illinoisans. Free from the crushing operational constraints of backlog, the Commission may focus its resources on expanding access to justice initiatives, providing critical public guidance, mentoring Illinois youth, and furthering diversity, equity and inclusion in our State. Moreover, **strengthened inter-agency communication and cooperation ensures that innovations will extend far beyond the reporting and oversight requirements of Executive Order 2018-08.**

A prime example of this strengthened capacity and cooperation is the work of the Commission and Department, as leaders and experts in the area of human rights, to provide Illinois agencies with resources on diversity, equity and inclusion and implicit bias. Training for both staff and managers/supervisors is being piloted and will be released in 2021.

The Transformation Team is pleased to provide this Third Progress Report pursuant to Executive Order 2018-08, and looks forward to continuing its work with stakeholders to strengthen civil rights in our State.