

# STATE OF ILLINOIS ILLINOIS HUMAN RIGHTS COMMISSION

## QUARTERLY NEWSLETTER OCTOBER—DECEMBER

December 29, 2023



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### *A Note from the Executive Director Tracey B. Fleming*

Dear Friends,

The Illinois Human Rights Commission (“Commission”) has—certainly during my tenure—benefited from diligent and dedicated Commissioners and staff in both Springfield and Chicago, who have consistently given their time, expertise and effort in support of our agency’s work.

I would like to extend our appreciation to former staff members Evelio Mora and Denise Hutton who have retired after years of dedicated service to the State of Illinois and the Commission. I would also thank former staff members Taylor Pierson, Erica Seyburn and Jessica Torres who have all transitioned to new opportunities. I would like to welcome John Aten, who joins our Springfield office as Office Specialist, and Adrian Atwater and Emily Curosh, who have joined the Commission as Assistant General Counsels in Chicago. I would like to further congratulate Bonnie Kim on her promotion to Deputy General Counsel. As we conclude 2023, I extend my most sincere thanks to all our staff and Commissioners—past and present—without whom the accomplishments noted elsewhere in this newsletter, other publications, our website, and beyond would not have been possible.

Speaking of accomplishments, I am delighted to note that we have issued our Fiscal Year 2023 Annual Report, which you can [find on our website](#) under “About Us” and “Publications.” In this latest report, you will find updates on the work of the Commission during the reporting period, future plans and highlights of some of the ways that we’ve worked to share information about the rights afforded to residents of Illinois under the Illinois Human Rights Act (“Act”), and our work to enforce the protections afforded therein.

We are also excited that beginning January 1, 2024, the Commission will implement the mandates of House Bill 2829 and provide additional language supports for those engaging in proceedings here at the Commission. This is an important part of our continuing work to make the Commission fairer and more accessible to anyone who believes they have experienced discrimination as prohibited by the Act.

2023 was a year of substantial change for the Commission. Throughout, we have endeavored to provide excellent service to the public utilizing the Commission and to anyone interested in learning more about the Act or the protections it affords. We commit to building on these significant achievements in supporting our Commissioners, maintaining an efficient request for review docket, and reducing the resolution time for cases in our Administrative Law Section, all the while continuing our exemplary record of providing fair and well-reasoned legal recommendations and decisions in all Commission proceedings.

On behalf of the Commission, I wish you happiness and safety in 2024.

## Case Note: *Atkins v. St. Cecilia Catholic Sch.*, 90 Cal. App. 5th 1328 (2023)

Clea Braendel, Coles Fellow

The Constitution of the United States protects the rights of religious groups to organize and practice their faiths without interference from the government. The U.S. Supreme Court extended this protection to religious institutions in their capacity as employers in *Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 565 U.S. 171 (2012). *Hosanna-Tabor* established that the First Amendment grants religious groups the explicit right to hire and fire their own religious leaders at their own discretion without being subject to employment discrimination laws. *Id.* at 188.

In 2020, the Supreme Court clarified the ministerial exception, holding that there is no set test for determining if an employee is considered a minister and that it comes down to whether conveying the religion's message and carrying out its mission is at the heart of their duties (regardless of whether they are officially identified as a minister). See *Our Lady of Guadalupe Sch. v. Morrissey-Berru*, 140 S. Ct. 2049 (2020). The "ministerial exception" was invoked by a Catholic school in *Atkins v. St. Cecilia Catholic Sch.*, 90 Cal. App. 5th 1328 (2023). In the *Atkins* case, the California Appellate Court had to decide whether an art teacher was covered by the ministerial exception as a matter of law.

Frances Atkins worked for St. Cecilia Catholic School as a secretary from 1978 to 2018. In 1999, she began teaching art part time in addition to her office administrative duties. Ms. Atkins completed and signed a job application for a "non-teaching staff" position which stated that the applicant was "willing to maintain, by word and actions, a position of role model and witness to the Gospel of Christ that is in conformity with the teachings, standards, doctrines, laws, and norms of the Roman Catholic Church as interpreted by the [Archdiocese of Los Angeles]." Ms. Atkins did not otherwise self-identify as a Catholic.

In her deposition, Ms. Atkins stated that she did not explicitly teach religion because the students had another teacher for that purpose. However, she stated that she "just made sure it was upheld that they did Christ-like things whatever they needed to be done. If their behavior was not Christ-like, [Ms. Atkins] would say it's not Christ-like." She also stated that she occasionally led prayer in her classroom.

The *Atkins* court ruled in Ms. Atkins's favor and held that even though she led prayer and stated that she upheld Catholic beliefs in her classroom, the evidence did not prove that her role was fundamentally ministerial in nature. Furthermore, the *Atkins* court suggested generally that courts cannot decide as a matter of law whether "promoting Christ-like behavior" in a classroom constitutes religious teaching (i.e. ministerial duties). This is because, in summary judgment motions, the evidence must be considered in the light most favorable to the non-moving party. Therefore, this kind of question should go to trial.

The *Atkins* case exemplifies the fact-sensitivity of the ministerial exception. It is difficult, if not impossible, to prove that a particular employee is or is not a minister as a matter of law. The boundaries of what constitutes ministerial duties are broad and official titles and responsibilities are not necessarily dispositive. Even the most seemingly straightforward cases can become unclear once the parties begin to make their arguments.

# EDWARD COLES FELLOWSHIP

## ILLINOIS HUMAN RIGHTS COMMISSION

### SUMMER 2024

#### When

Begins June 3, 2024  
8-10 weeks

#### Where

Hybrid— Remote and In-Person  
Michael A. Bilandic Building, 160 N. LaSalle St., Chicago

Focusing primarily on employment discrimination cases, Coles Fellows will work under the supervision of the Office of the General Counsel and the Administrative Law Section.

Fellows will draft orders and present cases to the Commission panels; assist Administrative Law Judges in pending cases; and assist the General Counsel in outreach projects and compliance issues. Fellows will be exposed to all aspects of the Commission's work, and will receive feedback and mentorship from the attorneys in the Office of the General Counsel and the Administrative Law Judges.

#### To apply for Summer 2024:

Sign up to interview at the Midwest Public Interest Law Career Conference— [mpilcc.org](http://mpilcc.org)

OR

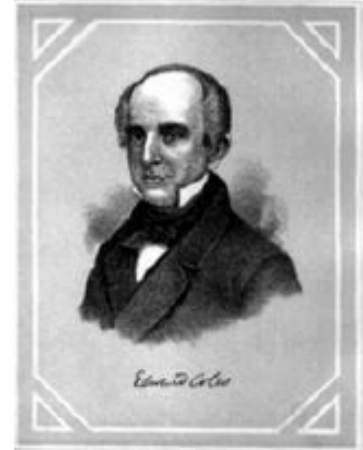
Please email a resume, cover letter, transcript, and writing sample to:

[HRC.internships@illinois.gov](mailto:HRC.internships@illinois.gov)

Deadline: January 31, 2024

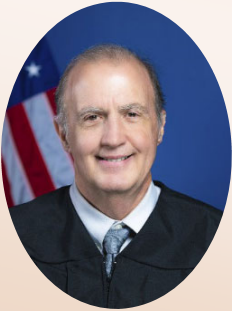
For more information, consult our website:

<https://hrc.illinois.gov/about/coles.html>



We are a quasi-judicial state agency, hearing complaints and administrative appeals regarding discrimination and retaliation in employment, housing, financial credit, public accommodations, and education.

We are seeking law students with strong writing skills and a commitment to public service.



On October 9, 2023, the Honorable Michael R. Robinson, Administrative Law Judge, received a Certificate of Publication from the Illinois Institute for Continuing Legal Education for his contribution as an author for the 2023 Edition *Advising Elderly Clients and Their Families*.



On November 1, 2023, Commissioner Stephen Kouri II was recognized as one of the “40 Leaders Under 40” by Peoria Magazine.



On December 7, 2023, Commission Chair Mona Noriega celebrated International Human Rights Day with a virtual Fireside Chat, alongside Illinois Department of Human Rights Director Jim Bennett, Illinois Department of Human Rights Inaugural Director Joyce Tucker, and Cook County Commission on Human Rights Chair Sufyan Sohel. These leaders discussed Illinois’s pioneering role in the civil rights arena, reflecting on the implementation of the Illinois Human Rights Act over 40 years ago, its subsequent development, and the work we do today to protect all Illinoisans from discrimination.



Commissioners Janice Glenn and Jacqueline Collins attending the Governors State University event, “Generating Hope: Social Justice Resource Fair: Know Your Rights: Human Rights in Illinois,” on October 27, 2023.



## *Spotlight on Civil Rights History*

**October 27, 2021:** The U.S. State Department announced that it had issued the first passport with an X gender marker. The marker was added to better serve non-binary, intersex, and gender non-conforming individuals who apply for passports.

**October 28, 2009:** President Barak Obama signed the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act into law. The law makes it a federal crime to assault a person because of their sexual orientation or gender identity.

**October 31, 1978:** President Jimmy Carter signed the Pregnancy Discrimination Act into law. The Act amended Title VII of the Civil Rights Act of 1964 to expand sex-based discrimination to include discrimination on the basis of pregnancy, childbirth, and related medical conditions.

**November 4, 1993:** The text of the Hate Crimes Sentencing Enhancement Act was incorporated into what would eventually become the Violent Crime Control and Law Enforcement Act of 1994. This law allows a judge to enhance a sentence if there is evidence showing that the perpetrator selected the victim because of the victim’s “actual or perceived race, color, religion, national origin, ethnicity, gender, disability, or sexual orientation.”

**November 5, 1968:** Shirley Chisholm became the first Black Congresswoman in American history. She served her Bedford-Stuyvesant neighborhood of Brooklyn for seven terms from 1969 to 1983. In 1972, she became the first Black candidate for a major-party nomination for President of the United States when she ran in the Democratic Party’s primary election.

## Spotlight on Civil Rights History



**November 21, 1991:** President George H.W. Bush signed the Civil Rights Act of 1991. Among other things, the law permits judges and juries to award compensatory and punitive damages to victims of intentional employment discrimination based on gender, national origin, and religion.

**December 6, 1979:** Governor James R. Thompson signed the Illinois Human Rights Act into law. The law provides broad civil rights coverage for the people of Illinois and created the Illinois Department of Human Rights to investigate charges of discrimination and the Illinois Human Rights Commission to adjudicate complaints in the areas of employment, housing, public accommodations, and financial credit.

**December 13, 2022:** President Joseph Biden signed the Respect for Marriage Act into law, formally codifying recognition of same-sex and interracial marriages across all U.S. states and federal territories.

**December 14, 1964:** In *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S. 241 (1964), the U.S. Supreme Court found that the Commerce Clause authorized Congress to prohibit racial discrimination in places of public accommodation.

**December 21, 1988:** The City of Chicago passed the Human Rights Ordinance, which protects Chicagoans from discrimination on the basis of race, creed, national origin, sex, religion, disability, sexual orientation, type of military discharge, source of income, and parental and marital status.

### Lunch and Learn in Review

On October 26, 2003, the Commission hosted a Lunch and Learn CLE presentation given by Katherine Greenberg, Director of Strategic Litigation at A Better Balance. Ms. Greenberg led a discussion on the Pregnant Workers Fairness Act and the PUMP Act.

**Illinois Human Rights Act** <https://www.ilga.gov/legislation/ilcs/ilcs5.asp?ActID=2266&ChapterID=64>

**IHRC Rules and Regulations** <https://www.ilga.gov/commission/jcar/admincode/056/05605300sections.html>

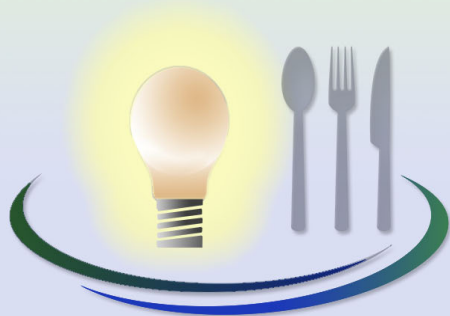
**IHRC website** <https://hrc.illinois.gov/>

**IHRC events (including Lunch and Learn)** <https://hrc.illinois.gov/about/events.html>

Helpful Links

## Illinois Human Rights Commission CLE Presentations in 2023

Date	Topic	Presenter
January 25, 2023	The Bermuda Triangle: FMLA, ADA, and Workers' Comp– in 60 minutes	Noah A. Frank, Associate General Counsel Enlivant
February 23, 2023	Understanding the New Source of Income Protection: Illinois Fair Housing Update	Mary Rosenberg, Senior Attorney for the Civil Rights Team Access Living of Metropolitan Chicago Maya Ziv-El, Fair Housing Staff Attorney Prairie State Legal Services
March 23, 2023	Is Disability a Part of Diversity? Lawyers with Disabilities Respond	Azeema N. Akram, Administrative Law Judge Illinois Human Rights Commission (Moderator) Rachel M. Arfa, Commissioner Mayor's Office for People With Disabilities Brandy L. Johnson, Partner Early & Miranda, P.C. Andrew Webb, Staff Attorney Civil Rights Team, Equip for Equality
April 19, 2023	2023 Fair Housing Update	Allison K. Bethel, Clinical Professor of Law and Director of Fair Housing Legal Support Center & Clinic University of Illinois Chicago School of Law
May 17, 2023	Introduction to Special Education Rights	Jodi Bianchini, Staff Attorney Cristina Kinsella, Staff Attorney Equip for Equality
June 12, 2023	Conducting Internal Employee Complaint Investigations	Kristen Prinz, Founder and Managing Partner The Prinz Law Firm
September 27, 2023	Privacy in Employment	Vera Iwankiw, Managing Associate Sidley Austin LLP
October 26, 2023	Pregnant Workers Fairness Act and the PUMP Act	Katherine Greenberg, Director of Strategic Litigation A Better Balance



# LUNCH —AND— LEARN CLE

CLE Credit:  
One hour of general CLE  
credit for Illinois attorneys  
12:00 PM—1:00 PM

## Lunch and Learn via Webex

<https://hrc.illinois.gov/about/events.html>

To receive information about  
future Lunch and Learn Webi-  
nars and other events, scan the  
QR code to join our mailing list.



## Upcoming Lunch and Learn CLEs

Date	Topic	Presenter
January 17, 2024	The Illinois Gender Violence Act	Max Barack, Partner Garfinkel Group, LLC
February 13, 2024	Restrictive Covenants and the Changing Landscape	Amit Bindra, Partner The Prinz Law Firm, P.C.

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