



A Note from the Executive Director Tracey B. Fleming

Dear Friends,

I would like to begin this Quarterly Newsletter by congratulating Commissioners Barbara R. Barreno-Paschall and Robert A. Cantone on their recent confirmations by the Illinois Senate. We are excited to have the continued benefit of their expertise, engagement and dedication to issues of civil rights.

Further in this newsletter, you will see a note from former Commission Chair James A. Ferg-Cadima who resigned as Chair and Commissioner in May 2021. Jim is far more eloquent than I could be about his time at the Commission, but I would be remiss if I did not thank him for his unwavering devotion to the work of the Commission and his adopted home of Illinois and, on a personal note, for making my transition to the Commission as painless and positive as possible.

As one of his final tasks as Commission Chair, Jim helped us to successfully onboard new Commissioner Stephen A. Kouri II, whom you will read more about in the following pages of this newsletter. I will add my own welcome to Commissioner Kouri and reiterate that everyone at the Commission looks forward to working with him over the course of his State service.



Commission Chair Mona Noriega

On June 3, Governor Pritzker named Mona Noriega as our new Commission Chair and we are delighted and honored to welcome her. Chair Noriega comes to the Commission having already had a distinguished career of legal service in the non-profit and governmental sectors, and within days of joining the Commission, she has made many significant and positive contributions to our work. I look forward to you hearing from Chair Noriega in the coming months in these pages.

On the staff side of the house, I would like to welcome Bonnie Kim and Jennifer Nolen, who have both joined the Commission as Assistant General Counsels. They join new Administrative Law Judge Azeema N. Akram and Chief Administrative Law Judge Kerrie Maloney Laytin. Each of these new additions exhibits a deep commitment to human and civil rights, and I look forward to highlighting their work in the future and seeing them utilize their knowledge and skills in service of the residents of our State.

Beyond the personnel changes at the Commission, I have been delighted with the advent of Phase 5 of the Restore Illinois program, enabling us to relax some of our most stringent COVID-19 protocols—while maintaining a suitably safe work environment for all staff and guests—and return more of our staff to in-person work. This has been invaluable from a productivity standpoint, but also in terms of our ability to get to know each other as co-workers and as human beings.

While the Commission, along with all of State government, has been impacted and certain activities have necessarily been delayed due to required safety protocols, our Commissioners and staff have made herculean efforts to keep our offices in both Chicago and Springfield open throughout the pandemic. I applaud their dedication to that goal for the good of the public.

Last, but certainly not least, I would like to congratulate IHRC General Counsel Kellee Chube for her recent inclusion in the 2021 Notable General Counsels list by Crain’s Chicago Business. I know no one more deserving of this recognition, and am eternally grateful for the work that Kellee and our Commissioners and staff do for the residents of Illinois.

May your summer be full of family, friends and mask-less days in the sun.

Tracey

Inside This Issue:

Table listing contents: A Note from the Chair James A. Ferg-Cadima (2), Sexual Orientation and Disability Discrimination in a Public Accommodation (3), Violent Crime Victim Assistance Program / Edward Coles Fellowship (4), A Note from the Administrative Law Section (5), COVID—19 Guidelines (6), Lunch & Learn (7)

A Note from the Chair James A. Ferg-Cadima (July 2019—May 2021)

Through this edition of the Illinois Human Rights Commission’s newsletter, I offer both farewell and welcome messages. At the end of May 2021, I departed the Commission to move back to the East Coast. While Illinois has been my adopted home for the past fifteen-plus years, as an only child I face some elder-care that has become increasingly inescapable during this unprecedented, pandemic-shaped year that we all have juggled with.

I leave the Commission in the capable hands of the next generation of leaders, judges, and career staff who are deeply committed to ensure that the people of Illinois have this no-cost, accessible route to vindicate their civil rights under the Illinois Human Rights Act. As the first Chair since the 2018 reforms, I am heartened to see that the Commission has accomplished a great deal in these past few years. Some of the agency’s more important milestones include: (1) clearing out a decade-long backlog of cases; (2) refreshing agency rules; (3) welcoming both a new, talented Executive Director and a new, accomplished Chief Administrative Law Judge; (4) adopting emergency rules and embracing technology-enabled access to legal proceedings during a pandemic; (5) adopting a code for Commissioners to avoid conflicts of interest in cases; (6) instituting a staff-driven diversity, equity, and inclusion plan; and (7) launching digital modernizations that will help with agency docketing, and also accord external transparency and accountability in the years to come.

I now turn to welcoming our newest Commissioner, who joins our Panel A for adjudications.



Commissioner Stephen A. Kouri II

Earlier this year, Governor JB Pritzker appointed Stephen A. Kouri II to fill the seat left open by the passing of Commissioner Jeff Shuck. Commissioner Kouri’s arrival, however, was slightly delayed as he properly wound down his campaign to join the Peoria City Council in April 2021.

Commissioner Kouri was born with cerebral palsy, a disability that affects one’s ability to move and maintain balance and posture. He became the first young person with his level of physical disability to graduate high school from Peoria Public Schools District 150. He also went on to graduate from the University of Illinois with a bachelor’s degree, and from the Florida Coastal School of Law with a juris doctorate in 2015. Upon obtaining his Illinois law license, Commissioner Kouri served as an assistant state’s attorney

in Peoria County. He also has worked at the Peoria-based law firm of Habecker, Morris, & Dluski, LLC, across a variety of practice areas and topics of law.

Commissioner Kouri is passionate about public service, particularly in the larger Peoria community. For example, immediately prior to his service at the Commission, he served as the Chairman of the City of Peoria’s Liquor Commission, and on the Zoning Board of Appeals. His dedication to public service has even extended to motivational and educational speaking on issues of disability rights.

Sexual Orientation and Disability Discrimination in a Public Accommodation

Illinois Human Rights Act, 775 ILCS § 5/5- 102

Michael S. and Andrea E. on behalf of P.S., a minor v. Komarek School District #94

In their complaint, the Complainants alleged that the Respondent, a school district, discriminated against P.S., a minor student at one of the Respondent's schools, on the basis of his sexual orientation, as related to his gender-related identity, male, and disability, gender-related identity dysphoria. Specifically, the Complainants alleged that the Respondent denied P.S. access to his school's communal boys' restrooms because of his gender-related identity and disability. The Complainants also alleged that the Respondent failed to provide P.S. with a reasonable accommodation by denying him access to his school's communal boys' restrooms.

P.S. first discussed being a boy with Andrea E., his mother, in late 2013, when he was seven years old. In January 2014, Andrea E. contacted his school's social worker. At that time, P.S. began to outwardly manifest his gender-related identity at school by dressing and grooming as a boy, while still preserving his female name and birth sex affiliation.

A year later, on January 14, 2015, Andrea E. requested that the Respondent use P.S.'s male name along with its corresponding masculine pronouns. The Respondent soon agreed, knowing that the issue before it was P.S.'s gender-related identity, and not a dress code matter or a student being delusional, as exemplified by the social worker describing P.S. as a "gender-related identity non-conforming student," and on at least two known occasions the Respondent's superintendent emailing to numerous personnel about "our second grade transgender student."

On February 11, 2015, the desire of P.S. to use the communal boys' restrooms was communicated to the social worker. After some delay, a meeting was called by the Respondent for March 6, 2015. Andrea E. and a multitude of administrators attended the meeting, where she was told by the superintendent that P.S. would not be allowed access into the communal boys' restrooms. P.S. was limited to the adult male faculty and staff restrooms, unless assigned to a classroom with its own unisex restroom. When the parents asked the Respondent to reconsider P.S.'s request to use the communal boys' restrooms, both the superintendent and the school board president, independent of each other, denied their requests. The decision was understood to be "final."

On March 4, 2015, P.S. was formally diagnosed by his doctors with gender dysphoria. The diagnosis did not modify the Respondent's ban. No other student, whose gender-related identity was male or who had his disability, was banned from the communal boys' restroom.

ALJ William Borah entered a recommended order finding that the Respondent discriminated against P.S. on the basis of his sexual orientation and disability and granting summary decision in the Complainants' favor. After a damages hearing, ALJ Borah recommended that the Commission: 1) award the Complainants emotional distress damages in the amount of \$55,000.00; 2) order the Respondent to allow P.S. to use its communal boys' restrooms; 3) order the Respondent to cease and desist from further acts of unlawful discrimination; 4) award the Complainants attorneys' fees in the amount of \$100,000.00; and 5) award the Complainants \$3,610.00 in litigation costs.

The Respondents filed no timely exceptions in this case, making ALJ Borah's recommended order the final order of the Commission. Moreover, the Respondent's failure to file timely exceptions foreclosed their ability to appeal the Commission's decision. In short, this decision is final and stands as Illinois law.

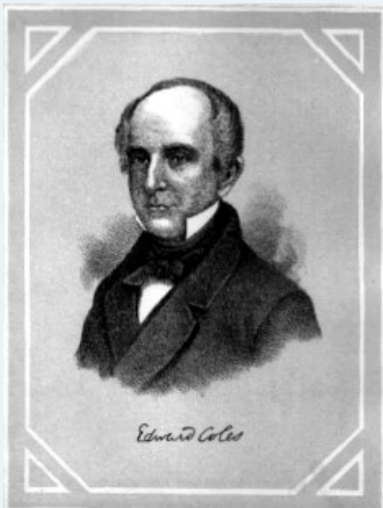


This April marked the 40th Anniversary of National Crime Victims' Rights Week (April 18-24, 2021), honoring survivors and promoting crime victims' rights and services throughout the country. Here in Illinois, we are proud that our Illinois Human Rights Act guarantees individuals freedom from discrimination based on their order of protection status. We also have many services and programs run by our Illinois Attorney General's office, including the Illinois Crime Victim Compensation Program which offers direct financial assistance to eligible victims of violent crime, the Domestic Violence Fund which provides funding for legal services to victims of domestic violence, and the Violent Crime Victim Assistance Program which provides grants to victim and witness assistance programs throughout the state.

At our April Lunch & Learn CLE, we invited Jessica O'Leary from the Attorney General's office to inform us about the Illinois Address Confidentiality Program, which offers survivors of domestic violence, sexual assault, and stalking a substitute address to use as their home, school, and work addresses to prevent perpetrators from locating them through the use of public records. Since the program was launched in December 2019, around 200 participants from across the state have enrolled in the program and currently receive ACP protection.



[Illinois Address Confidentiality Program](#)
 1-844-916-0295
 1-877-398-1130 (TTY)
acp@atg.state.il.us
illinoisattorneygeneral.gov/victims/



Edward Coles Fellowship

We are thrilled to welcome our impressive Summer 2021 Coles Fellows:

Jennifer Anton, Michigan State University College of Law
 Annesley Clark, Washington University School of Law
 Katherine Hanson, Chicago-Kent College of Law
 Katherine Plaster, Northwestern Pritzker School of Law

For more information on our Coles Fellowship program, please visit:

<https://www2.illinois.gov/sites/ihrc/about/Pages/Coles.aspx>

A Note from the Administrative Law Section

New Discovery Procedure: A new case management procedure has been in operation since February. Instead of numerous ongoing status hearings, a set period for discovery is calendared, with a short, written mid-term “Discovery Report.” The “Final Status Hearing” is primarily dedicated to discussing either a briefing schedule for a dispositive motion or to bracket Public Hearing dates. During this period, any relevant motion is filed as an issue becomes ripe. Briefing schedules and decisions are sent by mail, avoiding an additional hearing.

Standard Discovery Requests. A new discovery rule will soon be implemented that will obligate the parties to exchange certain documents and information. It will be in the form of standard interrogatories and requests for documents. These expected disclosures should greatly assist the pro se litigant and lessen the necessity of filing motions to compel. The Circuit Court has similar statutes. (e.g. S. Ct. Rule 222 and S. Ct. Rule 213)

Public Hearings: Public Hearings were postponed during the COVID-19 pandemic and will soon begin again. The parties can use the Commission’s hearing rooms, which are CDC compliant or arrangements can be made for larger space in the Thompson Center.

Video Conferencing: I have modified and consolidated the relevant Supreme Court Rules on video conferencing to be considered for the Commission’s Rules and Regulations.

Section 5300.30 Service of Pleadings

a) Manner of Service. Unless otherwise provided, all motions, orders, notices, and other pleadings required to be served under the Illinois Human Rights Act (Act) or this Part shall be served either personally, or by first-class mail, or by paid shipping carrier, or electronically at HRC.NEWS@illinois.gov to the Commission, receipt acknowledged.

Section 5300.40 Filing

a) All documents and pleadings required by the Act or this Part to be filed with the Commission shall be deemed filed when received in the Commission’s Chicago or Springfield office. And item properly received by mail shall be deemed to have been filed on the date specified in the applicable proof of mailing...

Remote Hearings Procedure

a) The administrative law judge, upon request, or on his/her own order, may allow a case participant to partake remotely in non-testimonial hearing, including by telephone or video conference. Participants include any individual involved in the case, including the judge, parties, lawyers, and court reporters.

b) The record of court proceedings may be taken by stenographic means or by an electronic recording system, including video conferencing services, approved by the administrative law judge.

c) The administrative law judge, upon request or on its own order, for good cause shown and upon appropriate safeguards, may allow a case participant to testify or otherwise participate in a Public Hearing or evidentiary hearing, by video conferencing, from a remote location. Where the Commission or case participant does not have video conference services available, the judge may consider the presentation of the testimony by telephone conference in compelling circumstances with good cause shown and upon appropriate safeguards.

d) Some case participants may appear by telephone, some by video, and some in person all on the same case.

Appearances: Make sure your contact information on the filed Appearance is current.

The Health and Wellness of our Guests and Staff is our First Priority!

During the COVID-19 outbreak the Illinois Human Rights Commission will remain open with certain services being provided remotely

The Commission will continue to service the residents of the State of Illinois as follows:

- ⇒ **Complaint and Request for Review Filing:** Effective April 7, 2020 and throughout the duration of the Gubernatorial Disaster Proclamation all motions, orders, notices and other pleadings required to be served under the Illinois Human Rights Act or the Commission Procedural Rules shall be served by in-person, by first-class U.S. mail, or by electronic mail. Commission Procedural Rule Section 5300.30(a). **For the health and safety of Illinois residents and the Commission staff while COVID-19 protocols are in place filing at the Commission by U.S. Mail or electronically is strongly encouraged.**
- ⇒ **Filing by U.S. Mail:** An item properly received by mail shall be deemed to have been filed on the date specified in the applicable proof of mailing. Proof of mailing shall be made by filing with the Commission a certificate of the attorney, or the affidavit of a person who is not an attorney, stating the date and place of mailing and the fact that proper postage was prepaid. The certificate or affidavit shall be filed with the Commission at the same time the item to which it refers is filed. If the certificate or affidavit does not accompany an item filed by mail, an item received by mail shall be deemed to have been filed when postmarked, properly addressed and posted for delivery. Commission Procedural Rule Section 5300.40(a). Service by mail shall be deemed complete 4 days after mailing of the document, properly addressed and posted for delivery, to the Person to be served. Commission Procedural Rule Section 5300.40(c).
- ⇒ **Filing Electronically:** **Filing electronically will be completed by filing all required documents at HRC.NEWS@illinois.gov.** A document submitted by electronic mail shall be considered timely if submitted before midnight (in the commission's time zone) on or before the date on which the document is due, unless it is submitted on a Saturday, Sunday or legal State holiday, in which case, it is deemed filed on the following business day. Filing electronically at the Commission will remain in place while the Gubernatorial Disaster Proclamation is in place.
- ⇒ **Weekly Request for Review Commissioner Panel Meetings:** Weekly Request for Review Commissioner Panel Meetings have been cancelled through April 17, 2020. Please check the HRC website (www.illinois.gov/ihrc) for details regarding panel meetings beginning the week of April 20, 2020.
- ⇒ **ALS Briefing and Motion Deadlines:** Effective April 3, 2020 and throughout the duration of the Gubernatorial Disaster Proclamation all post-hearing briefing deadlines and motion deadlines will be extended by 30 days. If you have questions regarding your briefing and motion deadlines, please contact the Judges' clerk by calling 312-814-6269.
- ⇒ **ALS Motion Call, Settlement Conferences and Status Hearings:** ALS Motion Calls, Settlement Conferences and Status Hearings will be conducted telephonically or virtually. If you have questions, please contact the Judges' clerk by calling 312-814-6269. The electronic filing system is not intended to handle voluminous filings. If you wish to file a motion with the Administrative Law Section (ALS) with extensive supporting documentation, you can file the motion itself electronically (meeting any applicable deadlines), but you should send hard copies of the supporting documents to the Commission through U. S. mail.

Questions: For any questions please contact the Commission by calling 312-814-6269 or by email at HRC.NEWS@illinois.gov



With a focus on educating the public about the Commission and its mission, the Commission hosts a monthly “Lunch & Learn” series. The program has been well received in the legal community. Topics this year have included: The Path of a Discrimination Charge under the Illinois Human Rights Act; Fair Housing and the Pandemic: An Update on the Law and Emerging Issues; Aging Workforce; Illinois Address Confidentiality Program; No Longer Locked Out: The Rights of People with Criminal Records in Real Estate; and Criminal Convictions and Equal Pay and EEO Reporting, Oh My! A Zoo of New Employment Obligations for Illinois Employers.

To register or learn more about the series, please visit <https://www2.illinois.gov/sites/ihrc/about/Pages/Events.aspx>

Lunch & Learn via WebEx

Please visit www.illinois.gov/ihrc for WebEx information

CLE Credit: One hour of general CLE credit for Illinois attorneys (pending)

July 2021—TBD

Presenter: TBD

Topic: Asian American Discrimination Issues

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