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## U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

+ + + + +

FRIDAY, JANUARY 19, 2018

+ + + + +

The Commission convened via teleconference  
at 11:02 a.m., Catherine Lhamon, Chair, presiding.

PRESENT:

CATHERINE E. LHAMON, Chair\*

PATRICIA TIMMONS-GOODSON, Vice Chair\*

DEBO P. ADEGBILE, Commissioner\*

GAIL HERIOT, Commissioner\*

PETER N. KIRSANOW, Commissioner\*

DAVID KLADNEY, Commissioner\*

KAREN K. NARASAKI, Commissioner\*

MICHAEL YAKI, Commissioner\*

MAURO MORALES, Staff Director\*

MAUREEN RUDOLPH, General Counsel\*

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STAFF PRESENT:

EVELYN BOHOR

LASHONDA BRENSON

PAMELA DUNSTON, Chief ASCD

ALFREDA GREENE

LENORE OSTROWSKY

MICHELE RAMEY

JOHN RATCLIFFE

SARALE SEWELL

JUANDA SMITH

BRIAN WALCH

MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

JASON LAGRIA

CARISSA MULDER

AMY ROYCE

RUKKU SINGLA

ALISON SOMIN

IRENA VIDULOVIC

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UNEDITED PUBLIC COMMENT

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P-R-O-C-E-E-D-I-N-G-S

(11:02 a.m.)

CHAIRMAN LHAMON: This meeting of the U.S. Commission on Civil Rights comes to order at 11:02 a.m. on January 19, 2018. This meeting takes place over the phone.

I'm Chair Catherine Lhamon. I'd like to confirm that each of the Commissioners is on the line so I'll take a roll call here at the outset. Please say present when I say your name.

Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Present.

CHAIRMAN LHAMON: Commissioner Adegbile?  
Commissioner Heriot?

COMMISSIONER HERIOT: Present.

CHAIRMAN LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIRMAN LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: Here.

CHAIRMAN LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Present.

CHAIRMAN LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: On the phone.

CHAIRMAN LHAMON: Thank you. Based on that, a quorum of the Commissioners is present. Is

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1 the court reporter present?

2 COURT REPORTER: I'm here.

3 CHAIRMAN LHAMON: Thank you. Is the Staff  
4 Director present?

5 STAFF DIRECTOR MORALES: Yes, I am.

6 CHAIRMAN LHAMON: Thank you. The meeting  
7 now comes to order. Is there a motion to approve the  
8 agenda for this business meeting?

9 **I. APPROVAL OF AGENDA**

10 COMMISSIONER KLADNEY: So moved.

11 COMMISSIONER NARASAKI: This is  
12 Commissioner Narasaki, so moved.

13 CHAIRMAN LHAMON: Thank you. Is there a  
14 second?

15 (Simultaneous speaking)

16 CHAIRMAN LHAMON: I heard voices, do we  
17 have a second actually?

18 COMMISSIONER YAKI: Yes, this is Michael.

19 CHAIRMAN LHAMON: Thank you. I think to  
20 ease the transcription for the court reporter it would  
21 be helpful if those who are not I, the Chair, identify  
22 who you are when you speak so the court reporter can  
23 appropriately record.

24 My understanding is that the Vice Chair  
25 seconded. Are there any further amendments to the, or

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1 any amendments, to the agenda?

2 (Simultaneous speaking)

3 COMMISSIONER HERIOT: Oh, go ahead.

4 VICE CHAIR TIMMONS-GOODSON: Madam Chair,  
5 Vice Chair Timmons-Goodson. I move to amend the  
6 agenda to include a discussion and vote on the  
7 statement that I sent out a few days ago.

8 CHAIRMAN LHAMON: Okay, thank you. Is  
9 there a second?

10 COMMISSIONER YAKI: Commissioner Yaki,  
11 second.

12 COMMISSIONER HERIOT: This is Gail. I  
13 just want to clarify, I'm working off an agenda here  
14 that already has the Vice Chair's thing on it, is this  
15 the correct agenda? The one that is dated January  
16 18th by email we got?

17 CHAIRMAN LHAMON: It's a publicly noticed  
18 agenda so it has that on it.

19 COMMISSIONER HERIOT: Okay.

20 CHAIRMAN LHAMON: But that's like an  
21 internal agenda.

22 COMMISSIONER HERIOT: Okay.

23 CHAIRMAN LHAMON: I'll offer three  
24 amendments in addition. I move to amend the agenda to  
25 add, one, a discussion and vote on an administrative

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1 instruction on the order of succession, two, a  
2 discussion and vote on revised timeline for the FY19  
3 statutory enforcement report on federal civil rights  
4 enforcement efficacy and, three, a discussion and vote  
5 on the statements on the passing of Frankie Muse  
6 Freeman. Do I have a second for those three  
7 amendments?

8 COMMISSIONER KLADNEY: Kladney seconds.

9 CHAIRMAN LHAMON: Thank you. Are there  
10 any further proposed amendments?

11 COMMISSIONER KLADNEY: Madam Chair, is the  
12 higher ED project on the agenda? Because if I have an  
13 agenda, and we're making all the motions, I don't know  
14 if it's on there.

15 CHAIRMAN LHAMON: It is on the agenda.  
16 Thank you, Commissioner Kladney.

17 COMMISSIONER KLADNEY: Thank you.

18 CHAIRMAN LHAMON: If there are no further  
19 amendments, let's vote to approve the agenda as  
20 amended. All those in favor say aye?

21 (Chorus of ayes)

22 CHAIRMAN LHAMON: Any opposed? Any  
23 abstentions? The motion passes unanimously.

24 First, we'll discuss and vote on the  
25 administrative instruction on oral public comments.

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1           **II. DISCUSSION AND VOTE ON THE ADMINISTRATIVE**  
2           **INSTRUCTION ON ORAL PUBLIC COMMENTS**

3                   CHAIRMAN LHAMON:    Open the floor for  
4           discussion.  I make a motion for the Commission to  
5           approve the administrative instruction on oral public  
6           comment period as seconded by my special assistant on  
7           Wednesday, January 17.  Is there a second?

8                   COMMISSIONER NARASAKI:    Commissioner  
9           Narasaki seconds.

10                  CHAIRMAN LHAMON:  Thank you.  I offer a  
11           few --

12                  COMMISSIONER HERIOT:  I --

13                  CHAIRMAN LHAMON:  -- points just to begin  
14           our discussion.  I'll pause.  Commissioner Heriot?

15                  COMMISSIONER HERIOT:  I would like to make  
16           a motion to amend the proposal.  I have circulated the  
17           text of my amendment, do you want me to read it out  
18           loud anyway?

19                  CHAIRMAN LHAMON:  I don't object if you  
20           would like to but I don't think you need to, I think  
21           we all have it.

22                  COMMISSIONER HERIOT:  Okay.  Because I  
23           don't see any point in, because it's long.  I mean,  
24           it's longer than average.

25                  CHAIRMAN LHAMON:  Okay.

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1 COMMISSIONER HERIOT: My point here is  
2 that we've gone through this once --

3 CHAIRMAN LHAMON: Commissioner Heriot,  
4 should we wait to see if we have a second for your  
5 motion and then have a discussion?

6 COMMISSIONER HERIOT: Sure.

7 CHAIRMAN LHAMON: Thanks.

8 COMMISSIONER KIRSANOW: Kirsanow seconds.

9 CHAIRMAN LHAMON: Okay, thanks.

10 COMMISSIONER KIRSANOW: Kirsanow seconds.

11 CHAIRMAN LHAMON: Thank you. Commissioner  
12 Heriot, do you want to describe?

13 CHAIRMAN LHAMON: Yes, I would like to  
14 talk about this. We've had wanted these open mic  
15 sessions now, and during that occasion I was worried  
16 that the word was not going to get out to everyone  
17 about this decision.

18 And in truth there is some evidence  
19 already. The only pole that we have on this, that I'm  
20 aware of at least, was by Education Next.

21 And it showed that most teachers opposed  
22 the Obama Administration's policy on school  
23 discipline. And yet, all of the persons who responded  
24 to our open mic invitation, other than people that I  
25 or our special assistants contacted, or people that

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1 were contacted by the people that we contacted, who  
2 were on one side of it. Which I think shows that  
3 there was something wrong with our list.

4 And I think that should be something that  
5 is accessible to Commissioners. Because otherwise  
6 there is the very strong possibility, and I think that  
7 we saw it on this last occasion that the list of  
8 people that are getting the invitation is slanted.

9 So I think it's extremely important that  
10 this be a list that members of the Commission have  
11 access to so that they can supplement that list. And  
12 so that is why I am proposing that that list be  
13 accessible to Commissioners so that they can conduct  
14 outreach that the Commission Staff doesn't, or they  
15 can ask the staff to expand that list to include  
16 people that might not be on the original list.

17 CHAIRMAN LHAMON: Thank you. Any other  
18 views on this motion.

19 VICE CHAIR TIMMONS-GOODSON: This is Vice  
20 Chair Timmons-Goodson. In looking at the proposed AI  
21 under .03, Commissioner Heriot, why does the, and I  
22 note the language, or some of the language that your,  
23 in your proposal, is indeed included there.

24 In keeping with the bipartisan structure  
25 of the Commission, the Staff Director, Public Affairs

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1 Director and our designees shall reach out to groups  
2 and individuals with viewpoints representing the full  
3 spectrum of informed opinions on the topic. Nothing  
4 herein shall be construed to prohibit the  
5 Commissioners or special assistants from conducting  
6 their own outreach about it, of why that doesn't take  
7 care of your concern.

8 COMMISSIONER HERIOT: I think that there  
9 has been, well, I don't think I know, that there has  
10 been a refusal by the Staff Director to share the  
11 list. And because of that, special assistants for  
12 Commissioner Kirsanow and for me, had to very quickly,  
13 after this has already gone out, they had to create  
14 their own list not knowing whether they were  
15 duplicating the efforts of the Staff because the Staff  
16 was keeping their list secret. Which I think is  
17 highly irregular. And that's what this is designed to  
18 prevent.

19 I think you can see, from the results that  
20 what we had from the last briefing, that the list that  
21 the staff was working from, could not have been  
22 ideologically diverse because, as I said, even though  
23 poles suggest that most people are on the other side  
24 of this issue, all the people who showed up were  
25 either contacted by people that our special assistants

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1 contacted, were from our outreach and not from the  
2 staff's outreach.

3 So it's pretty clear that they're not  
4 doing a good job on that. That's why I think it needs  
5 to be supervised by people who care about the issue.  
6 And that would mean it has to be supervised by all  
7 members of the Commission.

8 If any single member of the Commission  
9 wants to see the list, they ought to be able to see  
10 the list rather than having to duplicate efforts.

11 When the staff is doing a good job, it  
12 won't be necessary for special assistants to  
13 supplement that. It shouldn't be something that they  
14 should have to do. But it was on this last occasion.

15 CHAIRMAN LHAMON: I think casting, this is  
16 the Chair, I think casting aspersions on the efforts  
17 of the staff is unwarranted and those aspersions are  
18 not demonstrated by the actual results that we  
19 received.

20 But the staff are directed to reach out in  
21 a non-partisan way and to try to reach out in a  
22 comprehensive way. It's my understanding --

23 COMMISSIONER HERIOT: So, why are they  
24 keeping this a secret?

25 CHAIRMAN LHAMON: It's my understanding,

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1 it's my understanding the staff reached out to all the  
2 special assistants and asked for contacts, who should  
3 be included. I think that they would welcome, develop  
4 and maintain the appropriate list.

5 I'm agnostic about, well, whether they  
6 should list them, I think that's a call for the Staff  
7 Director to make, but I don't think it's appropriate  
8 either for us to micro manage the conduct of staff  
9 duties, which is within the purview of the Staff  
10 Director, or to task aspersions on how they conducted  
11 them without having information sufficient to be able  
12 to evaluate them.

13 COMMISSIONER HERIOT: But the fact that  
14 it's being kept secret is the evidence.

15 CHAIRMAN LHAMON: That's not --

16 COMMISSIONER YAKI: Commissioner Yaki.

17 CHAIRMAN LHAMON: Go ahead Commissioner  
18 Yaki.

19 COMMISSIONER YAKI: I actually am not  
20 unsympathetic to both Commissioner Heriot's and  
21 Commissioner Kirsanow's points of view on this. I  
22 don't know if I actually agree with the amendments,  
23 but I have a, as someone who has had the experience of  
24 dealing with public comment as a part of my  
25 legislative life, I actually look at it from a

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1 different point of view, which is given the amount of  
2 work that must be done by staff and others on the  
3 Commission already, I don't see why we are even doing  
4 outreach.

5 The whole point about public comments is  
6 actually to give people who are interested in this and  
7 make the journey to witness, to see what is going on  
8 and hearing whether it's in D.C. or briefing in D.C.  
9 or elsewhere, a chance to add their own point of view  
10 for the record. And I don't actually see why we  
11 should even do any "additional outreach at all."

12 I think that it, as a part of the notice  
13 of the hearing and briefing, and as part of the  
14 communication that we send to all the people who are  
15 being contacted as or invited or confirmed as  
16 witnesses, that they be informed that there will be  
17 this commentary and they're invited to ask others to  
18 join or attend if they wish to have an opportunity to  
19 comment.

20 Beyond that, I think that it is difficult  
21 for me to why we should have the, have our staff try  
22 and do additional work at getting people to show up.  
23 I think that from a partisan point of view that it  
24 could be abused. And as someone who has been on both  
25 the majority and the minority, I can see how this

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1 could happen.

2 But rather than have a situation where we  
3 are publicly fighting over who, for who an outreach  
4 was given and who was not, I think that instead we  
5 have a more passive point of view towards outreach.  
6 And if people do show up and are interested and find  
7 out that they have an opportunity at the end to make  
8 it to say a few words, I'd say let them.

9 But given our resource limitation,  
10 limitations right now, I just don't see why we should  
11 burden the Staff Director and the public affairs  
12 director and others, to go out there and try and beat  
13 the bushes for additional people to show up and then  
14 have a situation where the minority may argue that  
15 only certain people were called or not and have a  
16 whole fight about the entire list.

17 So I don't want, I don't like -- I think  
18 that Commissioner Heriot's amendments, as written,  
19 adds too much of a burden to Staff. And I would  
20 actually rather just go for deleting the whole motion  
21 of additional outreach all together and let come what  
22 may, with the appropriate notice on our agenda and the  
23 notice to all people who we have contacted or who have  
24 been invited to the briefing to let them know there  
25 will be this additional period.

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1 COMMISSIONER HERIOT: That argues more for  
2 not having open mic than it does for not trying to get  
3 the people who might be interested --

4 COMMISSIONER YAKI: No it doesn't. I  
5 don't know where you get to that conclusion.

6 I have been in hundreds of, at least maybe  
7 even more, meetings in my public life, as a public  
8 official, whereby law there is a required public comment  
9 period for every public meeting that exists. And  
10 there are always going to be people who will show up  
11 and who have a point of view.

12 And sometimes, you know, if you are doing  
13 something important, you or your staff will go and ask  
14 people to show up. In addition to that, the public  
15 comment period, to lend support to the structured  
16 testimony that is part of the regular hearing.

17 It happens, it is natural, it is part of  
18 democracy in pretty much every, every city council and  
19 town hall and township in this country. I've always  
20 felt we should have a public comment period anyway  
21 whenever we go out and do a briefing or a hearing.

22 It doesn't say that we don't do it, it  
23 just simply says, let the organic nature of democracy  
24 work. And if you supplement it with your own help,  
25 with your own work, that's fine but it's not the full-

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1 time Commission staff to have to go out and try and  
2 drive people to the public comment period.

3 The whole thing about the public comment  
4 is comment for the public writ large, not for the  
5 public writ, whoever the Commission staff manages to  
6 make the phone call to.

7 COMMISSIONER ADEGBILE: Madam Chair?

8 COMMISSIONER YAKI: If you want your  
9 special assistant to do it, that's great. But I don't  
10 see a reason why this cuts against the entire idea of  
11 public comment.

12 To me the comment by Commissioner Heriot  
13 about just throw it, the whole with the back water is,  
14 someone is looking down the road thinking, well, I  
15 don't get it, I don't get it at all. I like the idea  
16 of --

17 CHAIRMAN LHAMON: Okay, Commissioner Yaki,  
18 let's speak to Commissioner --

19 COMMISSIONER YAKI: -- it's part of  
20 democracy.

21 CHAIRMAN LHAMON: Commissioner Adegbile,  
22 we've joined us?

23 COMMISSIONER ADEGBILE: Yes. Madam Chair,  
24 for the record can you just reflect that I have been  
25 on for the entirety of the call?

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1           We were having an audio issue wherein I  
2           could hear you but you could not hear me. I just  
3           wanted to clarify that for the record.

4           CHAIRMAN LHAMON: Oh, terrific, I'm glad  
5           that you're here. Thank you. Any more comment on  
6           Commissioner Heriot's amendments?

7           COMMISSIONER KIRSANOW: Kirsanow here.

8           CHAIRMAN LHAMON: Commissioner Kirsanow.

9           COMMISSIONER KIRSANOW: Thank you. I'm  
10          not inclined to vote for this AI, not because I'm  
11          opposed to public comment but because I believe no  
12          matter what we do to structure this, it is necessarily  
13          going to be unbalanced. And that's because, the other  
14          public comments that we have are transmitted by letter  
15          or email and that's subject to geographical  
16          restrictions.

17          Now, if our public comment AI was  
18          restricted to regional hearings that we might have  
19          where people had ready access to the Commission's  
20          hearing, I might rethink this. Although I'm not fully  
21          persuaded that that's necessarily a good idea.

22          But here, as Commission Heriot has  
23          suggested, kind of in a different way however, is that  
24          you have certain individuals who have access to the  
25          Commission either because they have the funds to get

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1 there, the time to get there or more precisely, they  
2 live close by and we would get skewed public comments.

3 We have the ability to entertain public  
4 comments by virtue of, as I said, emails and letters.  
5 We've done so in the past.

6 Someone who has a passionate position on a  
7 given subject that we have a hearing on, who  
8 nonetheless lives in Hawaii or Alaska, will not be  
9 able to make any public comments. Although I'll be  
10 lobbying strenuously for us to have a hearing in  
11 Hawaii, but they will not be able to come to  
12 Washington, D.C., or wherever we have a hearing.  
13 Presumably on the continental United States. In the  
14 continental United States.

15 So, I'm not sure about the utility or the  
16 value of public comments that are so skewed. So I'll  
17 be voting against this.

18 COMMISSIONER HERIOT: Excuse me, against  
19 the main motion?

20 COMMISSIONER KIRSANOW: Against the main  
21 motion, correct.

22 COMMISSIONER KLADNEY: This is Dave  
23 Kladney.

24 CHAIRMAN LHAMON: Go ahead, Commissioner  
25 Kladney.

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1                   COMMISSIONER KLADNEY: First of all, I  
2 would support any motion Commissioner Kirsanow makes  
3 to have a meeting in Hawaii.

4                   (Laughter)

5                   COMMISSIONER KLADNEY: So I would like  
6 Commissioner Kirsanow to know that that's going to be  
7 a bipartisan effort from now on.

8                   COMMISSIONER KIRSANOW: I'll make a  
9 motion.

10                  (Laughter)

11                  COMMISSIONER KLADNEY: You got to find a  
12 subject. I'm kind of disturbed by the fact that there  
13 was a, that the record reads that there's no need to  
14 display who has been contacted for the public comment  
15 period.

16                  And I'm also disturbed by the fact that  
17 Commissioner Heriot's motion goes into way too much  
18 detail.

19                  I don't understand why in that the staff,  
20 that most of these invitations are sent out for the  
21 six weeks prior to the hearing occurring. I am sure  
22 that we have to give some lead time.

23                  And I would say that that list should be  
24 provided to all the commissioners at the time that the  
25 invitations are sent out. Because it seems to me that

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1 that's information anyways.

2 And I would say that in the future, that  
3 then the Commissioners or special assistants could use  
4 the same invitation, or should be required to use the  
5 same invitation, and inform the staff as to who they  
6 invited. I think that would cover that problem, if  
7 there is a problem.

8 And it would lead to more openness within  
9 the Commission. It would also address I think some of  
10 Commissioner Yaki's concerns in the sense that it  
11 would add more people carrying the burden of these  
12 invitations.

13 I would also believe that Commissioners  
14 would inform the staff. I'm just missed at this whole  
15 thing.

16 And I'm also, I assume, and I don't have  
17 the proposed, Commissioner Heriot's proposed language  
18 in front of my right now so I apologize, but it's my  
19 understanding she also requested the Commission could  
20 read other people's statements. I am against that.

21 COMMISSIONER HERIOT: That's not part of  
22 this motion. That's not part of this motion.

23 COMMISSIONER KLADNEY: Oh, that's another  
24 motion? Okay. Then I have said my piece on this.

25 CHAIRMAN LHAMON: Okay.

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1 COMMISSIONER KLADNEY: Thank you very  
2 much.

3 CHAIRMAN LHAMON: I want to move us to a  
4 vote on this proposed amendment. Is there any more  
5 discussion on this amendment?

6 COMMISSIONER HERIOT: Well, I'm just  
7 wondering in view of Commissioner Kladney's statement  
8 whether we can like come up with something that will  
9 make everybody happy here. Maybe not on this call but  
10 at the next meeting.

11 CHAIRMAN LHAMON: I think that's fine,  
12 Commissioner Heriot, and I welcome taking a look at  
13 draft language if you would like to take a lead on  
14 that.

15 We do have a motion that's been seconded  
16 so why don't we move to voting on it. To be clear,  
17 we're not voting on a full proposed administrative  
18 instruction we're just voting on the amendment  
19 proposed by Commissioner Heriot.

20 I'll take a roll call vote on that now.  
21 Commissioner Adegbile, how do you vote?

22 COMMISSIONER ADEGBILE: Nay.

23 CHAIRMAN LHAMON: Commissioner Heriot?

24 COMMISSIONER HERIOT: Yes.

25 CHAIRMAN LHAMON: Commissioner Kirsanow?

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1 COMMISSIONER KIRSANOW: Yes.

2 CHAIRMAN LHAMON: Commissioner Kladney?  
3 Commissioner Kladney?

4 COMMISSIONER KIRSANOW: Sorry, I had it on  
5 mute. No.

6 CHAIRMAN LHAMON: Commissioner Narasaki?

7 COMMISSIONER NARASAKI: Nay.

8 CHAIRMAN LHAMON: Commissioner Yaki?

9 COMMISSIONER YAKI: No.

10 CHAIRMAN LHAMON: Vice Chair Timmons-  
11 Goodson?

12 VICE CHAIR TIMMONS-GOODSON: No.

13 CHAIRMAN LHAMON: My vote, no. The motion  
14 fails. Two Commissioners were in favor, no  
15 Commissioner abstained, all the rest opposed.

16 So we'll now continue discussion on the  
17 pending motion to approve the administrative  
18 instruction on oral public comment periods circulated  
19 by my special assistants on Wednesday, January 17. Is  
20 there any discussion of that motion?

21 COMMISSIONER YAKI: Wasn't there another  
22 amendment offered by someone?

23 CHAIRMAN LHAMON: No.

24 COMMISSIONER HERIOT: I think Commissioner  
25 Kirsanow had a motion.

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1 COMMISSIONER KIRSANOW: No, I didn't have  
2 a motion.

3 CHAIRMAN LHAMON: Okay. So, the floor is  
4 open for discussion on the amendment. Hearing none,  
5 let's vote on the proposed motion. I will take a roll  
6 call vote. Commissioner Adegbile, how do you vote?

7 COMMISSIONER ADEGBILE: Aye.

8 CHAIRMAN LHAMON: Commissioner Heriot?

9 COMMISSIONER HERIOT: No.

10 CHAIRMAN LHAMON: Commissioner Kirsanow?

11 COMMISSIONER KIRSANOW: No.

12 CHAIRMAN LHAMON: Commissioner Kladney?

13 COMMISSIONER KLADNEY: Abstain.

14 CHAIRMAN LHAMON: Commissioner Narasaki?

15 COMMISSIONER NARASAKI: Yes.

16 CHAIRMAN LHAMON: Commissioner Yaki?

17 COMMISSIONER YAKI: Abstain.

18 CHAIRMAN LHAMON: Vice Chair Timmons-  
19 Goodson?

20 VICE CHAIR TIMMONS-GOODSON: Yes.

21 CHAIRMAN LHAMON: And I vote yes. The  
22 motion passes. Two Commissioners opposed, two  
23 Commissioners abstained, and four Commissioners were  
24 in favor.

25 Next, we'll consider the release of the

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1 outline and transcript of the Commissions briefing on  
2 inequities in higher education funding.

3 **III. THE RELEASE OF THE OUTLINE AND TRANSCRIPT OF THE**  
4 **COMMISSIONS BRIEFING ON INEQUITIES IN HIGHER EDUCATION**  
5 **FUNDING**

6 CHAIRMAN LHAMON: If you'll open up the  
7 floor for discussion. Is there a motion?

8 COMMISSIONER KLADNEY: Yes, Madam Chair, I  
9 would like to make a motion that we approve the  
10 transcript on outline for approval of the Commission.

11 And I believe that this higher education  
12 funding -- for the higher education funding project  
13 I'd like to thank Aimee Royce and Alison Somin for  
14 leading this project, they did an excellent job.

15 And the other special assistants, which is  
16 Rukku Singla, Sheryl Cozart, Irena Vidulovic, I think,  
17 Jason Lagria and Carissa Mulder for their assistance  
18 as well.

19 I'm glad to see that we're all seeing this  
20 project to completion. I think it was more important  
21 to do this, since we were going to do the report, I  
22 think it was important that the transcript be  
23 summarized and it became useful to the public rather  
24 than just publishing the transcript.

25 I would like to thank them all again and I

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1 would like to thank all their Commissioners for  
2 allowing them to partake in this valuable project.  
3 Thank you very much.

4 COMMISSIONER NARASAKI: Commissioner  
5 Narasaki seconds.

6 CHAIRMAN LHAMON: Thanks, Commissioner  
7 Narasaki. As we open the floor for discussion I'll  
8 add my thanks to the Commission staff who helped us to  
9 hold what was a two day briefing and to look at the  
10 transcript for further materials, bring the experts  
11 who testified to us. I'm very grateful that we have  
12 the material. And I will be enthusiastic, if the  
13 motion passes, to see the transcript on the web.

14 Are there any further discussion? Okay,  
15 hearing none I'll call the question, take a roll call  
16 vote. Commissioner Adegbile, how do you vote?

17 COMMISSIONER ADEGBILE: Aye.

18 CHAIRMAN LHAMON: Commissioner Heriot?

19 COMMISSIONER HERIOT: Aye.

20 CHAIRMAN LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: Yes.

22 CHAIRMAN LHAMON: Commissioner Kladney?

23 COMMISSIONER KLADNEY: Yes.

24 CHAIRMAN LHAMON: Commissioner Narasaki?

25 COMMISSIONER NARASAKI: Yes.

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1 CHAIRMAN LHAMON: Commissioner Yaki?

2 COMMISSIONER YAKI: Aye.

3 CHAIRMAN LHAMON: Vice Chair Timmons-  
4 Goodson?

5 VICE CHAIR TIMMONS-GOODSON: Yes.

6 CHAIRMAN LHAMON: And I vote yes. The  
7 motion passes unanimously. Next item is a discussion  
8 vote on the administrative instruction on the order of  
9 succession.

10 **IV. DISCUSSION VOTE ON THE ADMINISTRATIVE INSTRUCTION**  
11 **ON THE ORDER OF SUCCESSION**

12 CHAIRMAN LHAMON: I open the floor for  
13 discussion. I move for approval of the administrative  
14 instruction on the succession, as speculated by my  
15 special assistant, on Wednesday, January 17. Do I  
16 have a second?

17 COMMISSIONER ADEGBILE: Second. This is  
18 Commissioner Adegbile.

19 CHAIRMAN LHAMON: Thank you. Open  
20 discussion. I'll start with just a few points.

21 I'm told our General Counsel raised to the  
22 Staff Director an inconsistency in our internal  
23 administrative instructions with respect to succession  
24 in the event of a vacancy in the position of a Staff  
25 Director. In order to safe guard the efficient

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1 operation of the Commission, it is necessary to have a  
2 clear plan in place in case the circumstances require  
3 it.

4 Historically, the director of the Office  
5 of Civil Rights Evaluation has been the designated  
6 official who takes on the duties and responsibilities  
7 of the Staff Director in the event of a Staff Director  
8 vacancy. This proposed administrative instruction  
9 uses that past practice as a default model.

10 The Commission is now very leanly staffed.  
11 And with the budget and staffing realities of the  
12 Commission, we need to be able to be flexible, to  
13 address the circumstances we operate under at the time  
14 when we might need to use this proposed administrative  
15 instruction.

16 It's evident to me that so many of our  
17 staff wear multiple hats and I appreciate their  
18 willingness to gap fill when we do not have agency  
19 positions filled. Especially given that staff  
20 willingness to stretch when we need it.

21 We do not want to be in a position either  
22 of unreasonably adding more to any one person's load or  
23 of leaving a Commission with an administrative head of  
24 the agency.

25 For that reason, this proposed

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1 administrative instruction will that process narrowing  
2 the process called for in our statute. That another  
3 member of the Commission staff could exercise the  
4 duties and responsibilities for the Office of the  
5 Staff Director, with a concurrence of a majority of  
6 the Commission.

7 And since the director of the Office of  
8 Management could serve in this role, with the  
9 concurrence of the majority of the Commission.

10 Depending on the realities of the time  
11 these circumstances arise, that or another choice, may  
12 make more sense than the OCRE director. Without a  
13 crystal ball, we cannot know the exact circumstances  
14 of when or how this could happen, and I believe we  
15 need a process flexible enough to handle any emergence  
16 issues.

17 Do we have any other discussion on this  
18 proposed administrative instruction? And I'll start  
19 with the Staff Director, I understand he would like to  
20 weight in.

21 STAFF DIRECTOR MORALES: Thank you, Madam  
22 Chair. I really appreciate your effort in leading  
23 this.

24 I couldn't agree with your more about  
25 contingencies on succession if anything were to happen

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1 to me. And so I would say that if anything, what's  
2 happened in the last 24 hours, with regards to  
3 potential shutdown of the Agency, shows the necessity  
4 in having a head of the Agency is essential for the  
5 Commission to undertaken its operations.

6 And lastly, I would just like to remind  
7 Commissioners that under our continuation of  
8 operations, also known as our COOP plan, in the event  
9 of a natural disaster or a national emergency, in the  
10 absence of a Staff Director, the director of OCRE is  
11 placed in charge of operations. So, this AI is  
12 consistent with that plan and with prior historical  
13 operations and so I would encourage the Commissioners  
14 to adopt the AI.

15 CHAIRMAN LHAMON: Thank you, Mr. Staff  
16 Director. Is there any other discussion?

17 COMMISSIONER ADEGBILE: Madam Chair,  
18 Commissioner Adegbile here.

19 CHAIRMAN LHAMON: Go ahead, Commissioner  
20 Adegbile.

21 COMMISSIONER ADEGBILE: I would just like  
22 to speak in favor of the proposal. In most part  
23 because I think that there has been some, there is  
24 some conflict between the various rules that govern in  
25 this space within our internal documents at this point

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1 and I think adding clarity as to which document  
2 internally governs, which instruction governs, could  
3 be helpful, should be addressed.

4 CHAIRMAN LHAMON: Thank you. Any other  
5 discussion?

6 COMMISSIONER KLADNEY: Madam Chair, Dave  
7 Kladney here.

8 CHAIRMAN LHAMON: Commissioner Kladney.

9 COMMISSIONER KLADNEY: Just a conflict on  
10 the rules of succession. When I first came on the  
11 Commission, a person was acting as acting director and  
12 acting GC [General Counsel]. And then subsequently,  
13 also oversaw OCRE.

14 I always felt that the positions of  
15 general counsel, which is a legal job, and the  
16 director's job, which is chief of operations, should  
17 be kept separate in terms of legal advice. And that  
18 type of format, I believe, is well healed in terms of  
19 efforts in lawyering them, I guess for lack of a  
20 better word or lack of good vocabulary.

21 And I would support the AI as it's  
22 written. For that separation of purpose. That's it.

23 CHAIRMAN LHAMON: Thank you. Any further  
24 discussion? Hearing none, I'll call the question and  
25 take a roll call vote. Commissioner Adegbile, how do

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1 you vote?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIRMAN LHAMON: Commissioner Heriot?

4 COMMISSIONER HERIOT: I'll vote no.

5 CHAIRMAN LHAMON: Commissioner Kirsanow?

6 COMMISSIONER KIRSANOW: Abstain.

7 CHAIRMAN LHAMON: Commissioner Kladney?

8 COMMISSIONER KLADNEY: Yes.

9 CHAIRMAN LHAMON: Commissioner Narasaki?

10 COMMISSIONER NARASAKI: Yes.

11 CHAIRMAN LHAMON: Commissioner Yaki?

12 COMMISSIONER YAKI: Abstain.

13 CHAIRMAN LHAMON: Vice Chair Timmons-

14 Goodson?

15 VICE CHAIR TIMMONS-GOODSON: Yes.

16 CHAIRMAN LHAMON: And I vote yes. The  
17 motion passes. One Commissioner voted no, two  
18 Commissioners abstained and the other Commissioners  
19 were in favor.

20 Next, we'll consider the revised timeline  
21 to the FY19 [Fiscal Year 2019] Statutory Enforcement  
22 Report on federal civil rights enforcement efficacy.  
23 **V. DISCUSSION AND VOTE ON THE REVISED TIMELINE TO THE**  
24 **FY19 STATUTORY ENFORCEMENT REPORT ON FEDERAL CIVIL**  
25 **RIGHTS ENFORCEMENT EFFICACY**

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1 CHAIRMAN LHAMON: I open the floor for  
2 discussion. I move for the approval of the revised  
3 timeline for the FY19 Statutory Enforcement Report on  
4 federal civil rights enforcement efficacy, is there a  
5 second?

6 COMMISSIONER ADEGBILE: Commissioner  
7 Adegbile seconds.

8 COMMISSIONER NARASAKI: Commissioner  
9 Narasaki seconds.

10 CHAIRMAN LHAMON: Thank you. Again, a  
11 discussion with a few points. This is a slight  
12 revision from the timeline that we approved last  
13 month.

14 The major change is to add a second period  
15 of Commissioner review for the report. I thank our  
16 staff, particularly the Staff Director and Sarale  
17 Sewell, for making this change and taking steps to  
18 ensure that the Commissioners and staff have adequate  
19 time with the report draft to make the final product  
20 as accurate and informative as possible.

21 Is there any other discussion to this  
22 motion? Hearing none, I'll call the question and take  
23 a roll call vote. Commissioner Adegbile, how do you  
24 vote?

25 COMMISSIONER ADEGBILE: Aye.

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1 CHAIRMAN LHAMON: Commissioner Heriot?

2 COMMISSIONER HERIOT: I abstain.

3 CHAIRMAN LHAMON: Commissioner Kirsanow?

4 COMMISSIONER KIRSANOW: Abstain.

5 CHAIRMAN LHAMON: Commissioner Kladney?

6 Commissioner Kladney?

7 COMMISSIONER KLADNEY: Yes.

8 CHAIRMAN LHAMON: Thank you. Commissioner

9 Narasaki?

10 COMMISSIONER NARASAKI: Yes.

11 CHAIRMAN LHAMON: Commissioner Yaki?

12 COMMISSIONER YAKI: Aye.

13 CHAIRMAN LHAMON: Vice Chair Timmons-

14 Goodson?

15 VICE CHAIR TIMMONS-GOODSON: Yes.

16 CHAIRMAN LHAMON: And I vote yes. Two

17 Commissioners abstained, all other Commissioners voted  
18 in favor.

19 Next item on our amended agenda is a

20 discussion and vote on a proposed statement titled,

21 "U.S. Commission on Civil Rights strongly criticizes

22 Attorney General Jeff Sessions' withdrawal of critical

23 civil rights guidance," introduced by the Vice Chair.

24 **VI. DISCUSSION AND VOTE ON A PROPOSED STATEMENT**

25 **TITLED, U.S. COMMISSION ON CIVIL RIGHTS STRONGLY**

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1           **CRITICIZES ATTORNEY GENERAL JEFF SESSIONS' WITHDRAWAL**  
2           **OF CRITICAL CIVIL RIGHTS GUIDANCE**

3                   CHAIRMAN LHAMON:     Vice Chair Timmons-  
4           Goodson, could you please read the statement posed for  
5           consideration so we know what it is we're voting on?

6                   VICE CHAIR TIMMONS-GOODSON:   Yes. It is  
7           entitled, "U.S. Commission on Civil Rights strongly  
8           criticizes Attorney General Sessions' withdrawal of  
9           critical civil rights guidance."

10                   [Begin text of statement] "The U.S.  
11           Commission on Civil Rights derides Attorney General  
12           Jeff Sessions' recent decision to resend the  
13           Department of Justice's March 2016 Dear Colleague  
14           Letter on enforcement of fines and fees, its January  
15           2017 advisory on juvenile fines and fees, and multiple  
16           documents on the Americans with Disabilities Act.

17                   Attorney General Sessions trumped the  
18           truism that "any guidance that is outdated, you should  
19           circumvent the regulatory process or that improperly  
20           goes beyond what is provided for in statutes or  
21           regulations should not be given effect." That claim  
22           does not, however, apply to these recent, narrowly  
23           crafted, urgently applicable guidance documents.

24                   For example, the Department issued the  
25           Dear Colleague Letters related to access to justice

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1 for low-income Americans to simply remind state Chief  
2 Justices and state court administrators of what the  
3 Constitution requires regarding the enforcement of  
4 fines and fees and to promote better practices for  
5 municipal courts in dealing with individuals who are  
6 unable to pay.

7 In September 2017, the Commission released  
8 its statutory enforcement report, "Targeted Fines and  
9 Fees against Low-income People of Color, Civil Rights  
10 and Constitutional Implications." The Commission  
11 found that court imposition of fines and fees for  
12 criminal and civil justice activities has become a  
13 common practice in many jurisdictions across the  
14 country.

15 And that even after public condemnation of  
16 the excesses of such practices, most states have taken  
17 virtually no steps to conform their actions to the  
18 law. The Commission also heard from judicial  
19 officials who candidly admitted that some of their  
20 judges did not know the law, prohibiting jailing  
21 people for their inability to pay fines and fees.

22 The Commission's report noted two critical  
23 points relevant to the Department's guidance in this  
24 area. First, the Dear Colleague Letters have led to  
25 reforms among states and municipalities.

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1           Second, after hearing bipartisan clamor  
2 for continued leadership in this area from the  
3 department, the Commission recommended that the  
4 Department continue to promote core principles  
5 identified through its Dear Colleague Letters. Both  
6 of these points, and the report in general, highlight  
7 the importance of the Department's guidance to states  
8 and localities in limiting unconstitutional practices.

9           The Commission is similarly troubled by  
10 the withdrawal of Department guidance related to civil  
11 rights for persons with disabilities. Including a  
12 department statement addressing integration of people  
13 with disabilities to state and local government  
14 employment service systems, as required under Title II  
15 of the Americans with Disabilities Act.

16           This simple statement of existing law  
17 serves as a clear reminder that the Department of  
18 Justice stands ready to enforce civil rights for these  
19 Americans. Withdrawing the guidance, however, sends  
20 the opposite message, relegating rights to the  
21 vagaries of local will, inconsistent with Congress  
22 federal mandate.

23           The Commission is concerned that the  
24 withdrawal of the Dear Colleague's guidance will have  
25 unintended consequences. Courts may erroneously

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1 determine that jailing the poor when they're unable to  
2 pay does not offend the Constitution.

3 Police officers and courts pressured to  
4 raise revenue may revert back to predatory practices  
5 in enforcing fines and fees. State and local  
6 governments may only offer employment to people with  
7 disabilities in a segregated setting.

8 The Commission calls for Attorney General  
9 Sessions immediately to correct the civil rights harm  
10 his guidance withdrawal works on our nation's social  
11 fabric by reinstating the guidance, signaling the  
12 necessary ongoing leadership of our nation's  
13 Department of Justice in actually securing justice for  
14 the people.

15 Chair Catherine E. Lhamon stated, "Federal  
16 leadership is essential to securing civil rights.  
17 Through these repeated guidance withdrawals, the  
18 Department of Justice relegates Americans to less  
19 justice rather than leading the way to ensure greater  
20 justice. The Commission strongly urges the Department  
21 of Justice to course correct to fulfill its mandate of  
22 equal and impartial justice for all." [End of text of  
23 statement]

24 CHAIRMAN LHAMON: Thank you, Vice Chair.  
25 Do we have a second for the motion to approve the

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1 statement?

2 COMMISSIONER KLADNEY: Kladney seconds.

3 CHAIRMAN LHAMON: Thank you. Is there any  
4 discussion on this statement? I'll begin with your,  
5 Vice Chair, with response to the statement.

6 VICE CHAIR TIMMONS-GOODSON: Yes. I have  
7 continued to read about the actions by the Attorney  
8 General, the statements regarding issues that we all  
9 care so deeply about.

10 And I just was concerned that the message  
11 from the top is the wrong message at this time, and  
12 that as the guardian of civil rights that we ought to  
13 say something. Let it be known that is has not gone  
14 unnoticed by us, and in fact, encourage our Attorney  
15 General to reconsider and go back in the other  
16 direction. I ask to support for this statement.

17 CHAIRMAN LHAMON: Thank you. Any other  
18 discussion?

19 COMMISSIONER ADEGBILE: Commissioner  
20 Adebile here.

21 CHAIRMAN LHAMON: Go ahead, Commissioner  
22 Adebile.

23 COMMISSIONER ADEGBILE: Just two points  
24 very quickly. And I think the statement speaks to it  
25 very well, but in part, the rule of law is enforced

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1 and draws its power from people being treated fairly.

2 And the difficulty in this area is that if  
3 constitutional protections are not followed, there is  
4 a widespread, it can lead to the widespread  
5 perception, and in some cases, reality, that people  
6 are being treated unfairly by our legal system because  
7 they are people of modest means. Nothing can be more  
8 corrosive to a democracy than to have our highest  
9 officials, in some way, take steps that can count  
10 against this.

11 The widespread and shared support of this  
12 notion. That it's important for people of modest  
13 means to not be treated harshly by our legal system,  
14 is manifested in some of the recent briefings that we  
15 had where we had an uncommon level of bipartisan  
16 support for reform in these areas.

17 And so I would just like to say that we  
18 can choose to be on a better path here and it is my  
19 great hope that the Attorney General will revisit the  
20 question because I think it enforces the rule of law  
21 in a way that matters when constitutional protections  
22 are met.

23 CHAIRMAN LHAMON: Thank you. Do we have  
24 any other discussions?

25 COMMISSIONER HERIOT: Yes.

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1 CHAIRMAN LHAMON: Commissioner Heriot.

2 COMMISSIONER HERIOT: I just wanted to  
3 point out that we are talking about guidances here.  
4 And I commend Attorney General Sessions for being  
5 concerned about the abuse of guidances.

6 Guidances are not supposed to change the  
7 law, they're supposed to simply state it. Therefore,  
8 withdrawing a guidance doesn't in any way change the  
9 law. The law, if these guidances were correct, then  
10 the withdrawal of a guidance doesn't have any effect.

11 If they misstated the law, then of course  
12 withdrawing them is important. So I am going, I  
13 haven't read all the guidances that have been  
14 withdrawn by the Attorney General so I'm not  
15 expressing an opinion on any particular guidance here.

16 As you know, I agreed with a lot that was  
17 in our fines and fees report but I'm going to be  
18 voting no on this statement.

19 CHAIRMAN LHAMON: Thank you.

20 (Simultaneous speaking)

21 COMMISSIONER KLADNEY: Madam Chair?

22 COMMISSIONER NARASAKI: This is  
23 Commissioner Narasaki.

24 CHAIRMAN LHAMON: Commissioner Narasaki go  
25 ahead and then Commissioner Kladney you can go after.

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1                   COMMISSIONER NARASAKI: So, I want to add  
2 my support to this statement. I think that guidance  
3 has played a very important role because it helped  
4 provide a roadmap for those who need to comply to  
5 understand how they conduct, comply with the law.

6                   And also for the communities who are  
7 affected to be able to use those documents and talk in  
8 with the agencies and work to get compliance. I think  
9 they are very critical to making real the operability  
10 and the operation of the law.

11                   So I am very concerned about both the  
12 fines and fees and also the documents that were  
13 helping to give clear guidance on the Americans with  
14 Disabilities Act. Thank you.

15                   CHAIRMAN LHAMON: Thank you. Commissioner  
16 Kladney.

17                   COMMISSIONER KLADNEY: Thank you, Madam  
18 Chair. I agree with everything that has been said in  
19 support of the statement.

20                   I don't believe that the Attorney General,  
21 the Attorney General didn't say that these guidances  
22 were incorrect. I think the guidances, as stated,  
23 were correct. Especially as to fines and fees.

24                   And I find that what the Attorney General,  
25 the withdrawal of the guidances, is exactly that. It

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1 will not allow states, and municipalities, to move  
2 forward in the proper fashion. Not that they need to  
3 move forward in that step, but they need to meet  
4 constitutional requirements.

5 And especially now, there have been two  
6 lawsuits brought against jurisdictions. A known case  
7 in Biloxi, Mississippi, and a case just recently that  
8 was ruled on in New Orleans.

9 And these suits are succeeding because  
10 concurrent practices of jurisdictions are wrongheaded,  
11 and the only way to inform these jurisdictions about  
12 the constitutional requirements is through these  
13 guidances.

14 And I believe they have had a very  
15 positive effect on justice and the administration of  
16 justice in our country. So I support the motion.

17 CHAIRMAN LHAMON: Thank you. Any further  
18 discussion?

19 COMMISSIONER KIRSANOW: Kirsanow please.

20 CHAIRMAN LHAMON: Commissioner Kirsanow.

21 COMMISSIONER KIRSANOW: Thank you, Madam  
22 Chair. I'll be voting against it. Primarily because  
23 I think with respect to letters, guidances, even  
24 opinion letters, those should be issued, in my  
25 opinion, very sparingly and prudentially.

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1           Because on occasion, I'm not saying with  
2           respect to these particular letters or guidances, they  
3           confuse issues and are inconsistent with the intent of  
4           the administrative procedure. I think very often are  
5           attempts to circumvent the Administrative Procedure  
6           Act.

7           So it's a matter of administrative hygiene  
8           allowing agencies to promulgate guidances and letters  
9           in general, is something that should be done very  
10          carefully. And executive branch sometimes believe  
11          that they are part of the legislative branch. And I  
12          think it's a good idea to make sure we do, we separate  
13          the powers appropriately.

14                   CHAIRMAN LHAMON: Thank you.

15                   COMMISSIONER KLADNEY: Madam Chair, I  
16          would just like to distinguish between an opinion  
17          letter and a guidance. I believe an opinion letter is  
18          much stronger when it's handed out by the Department  
19          of Justice as opposed to a guidance, which allows  
20          jurisdictions to make their own decisions.

21                   An opinion letter, it's a much stronger  
22          document. And I don't believe that the guidances  
23          we're speaking about here, again, were wrongly headed,  
24          wrongly written and I, again, support the motion.

25                   CHAIRMAN LHAMON: Thank you. We've heard

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1 from all so I don't have any --

2 COMMISSIONER ADEGBILE: Madam Chair,  
3 Commissioner Adegbile.

4 CHAIRMAN LHAMON: Yes.

5 COMMISSIONER ADEGBILE: One additional  
6 point about ADA compliance. In my experience, the ADA  
7 is a very important statute, but it's also one that  
8 having guidance in place about how to comply can  
9 provide a very important service to the community and  
10 to businesses and institutions that much prefer to  
11 comply and bring their practices in line with legal  
12 requirements rather than facing suit or liability.  
13 And this is one of the important roles of guidance.

14 And as some of our Commissioners have  
15 said, they likely pass for compliance and for best  
16 practice. Now, every entity can decide whether or not  
17 they follow the guidance or choose a different course.  
18 That is, they're not mandatory in any respect.

19 But I dare say that in many contexts where  
20 there is a lack of clarity or misunderstanding about  
21 the law, to have an articulation with respect to  
22 compliance in certain areas by the United States  
23 Department of Justice can be very helpful. Including  
24 for those entities that want to manage in further  
25 compliance.

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1 CHAIRMAN LHAMON: Thank you. If I can  
2 call to question and take a roll call vote.  
3 Commissioner Adegbile, how do you vote?

4 COMMISSIONER ADEGBILE: After all of that  
5 long-winded stuff I vote aye.

6 (Laughter)

7 CHAIRMAN LHAMON: Commissioner Heriot?

8 COMMISSIONER HERIOT: I vote no.

9 CHAIRMAN LHAMON: Commissioner Kirsanow?

10 COMMISSIONER KIRSANOW: No.

11 CHAIRMAN LHAMON: Commissioner Kladney?

12 COMMISSIONER KLADNEY: Yes.

13 CHAIRMAN LHAMON: Commissioner Narasaki?

14 COMMISSIONER NARASAKI: Yes.

15 CHAIRMAN LHAMON: Commissioner Yaki?

16 COMMISSIONER YAKI: For those who don't  
17 believe this Administration can do any damage, this is  
18 one of the points of evidence in favor that they can  
19 and so I vote aye.

20 CHAIRMAN LHAMON: Vice Chair Timmons-  
21 Goodson?

22 VICE CHAIR TIMMONS-GOODSON: Yes.

23 CHAIRMAN LHAMON: And I vote yes. The  
24 Commission passes. Two Commissioners voted no, all  
25 other Commissioners were in favor.

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1           The next item on our amended agenda is a  
2 discussion and vote on a proposed statement titled,  
3 statement on the passing of Frankie Muse Freedman.

4       **VII. DISCUSSION AND VOTE ON A PROPOSED STATEMENT**  
5       **TITLED, STATEMENT ON THE PASSING OF FRANKIE MUSE**  
6       **FREEDMAN**

7           CHAIRMAN LHAMON: I will begin by reading  
8 the text of the statement into the record.

9           [Begin text of statement] "We join the  
10 nation in mourning the passing of civil rights hero  
11 and former Commissioner Frankie Muse Freeman. We  
12 offer our heartfelt condolences to her family and  
13 friends.

14           Ms. Freeman began her service with the  
15 Commission as a member of our Missouri State Advisory  
16 Committee. In 1964, President Johnson appointed her  
17 to the Commission, making Ms. Freeman the first woman  
18 to serve in that role.

19           She served the nation with distinction for  
20 16 years as the Commission handled seminal civil  
21 rights issues such as evaluating the Voting Rights Act  
22 of 1965, the progress of desegregating schools and  
23 health and welfare services, and the state of equal  
24 employment opportunity.

25           Ms. Freeman's leadership was evident when

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1 the Commission went to Mississippi in 1965 for a  
2 voting rights hearing, she chose to visit Black  
3 churches that had been burned after Black People tried  
4 to register to vote. The visit was reportedly so  
5 moving that Commissioners decided to arrange site  
6 visits to coincide with hearings whenever possible  
7 thereafter.

8 Ms. Freeman dedicated her career to  
9 fighting for civil rights as a practicing attorney at  
10 federal and state levels, advocating for equal  
11 education and housing opportunities, among other  
12 issues.

13 In one of her most well-known roles, she  
14 was lead attorney in the landmark case, *Davis versus*  
15 *St. Louis Housing Authority*, which resulted in the end  
16 of racial segregation in public housing in the city.

17 In 2007, her footsteps were added to the  
18 International Civil Rights Walk of Fame at the Martin  
19 Luther King Jr. National Historic Site. In 2003, she  
20 published her memoir, *A Song of Faith and Hope: The*  
21 *Life of Frankie Muse Freeman*.

22 She served for many years as a Trustee of  
23 Howard University, and received honorary doctorates  
24 from five American universities. Ms. Freeman's  
25 positive impact on civil rights cannot be overstated.

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1           As a nation, we owe her an enormous debt  
2 of gratitude. As Commissioners, we are proud to  
3 continue her legacy." [End of text of statement]

4           I now move to approve the statement and  
5 open the floor for discussion. Do I have a second?

6           COMMISSIONER HERIOT: Second.

7           CHAIRMAN LHAMON: Thank you. Commissioner  
8 Heriot, you seconded?

9           COMMISSIONER HERIOT: Yes.

10          CHAIRMAN LHAMON: Thank you. Any  
11 discussion on this statement?

12          VICE CHAIR TIMMONS-GOODSON: Madam Chair,  
13 Vice Chair Timmons-Goodson. I am just so pleased to  
14 see that we are doing this. Commissioner Freeman  
15 deserves nothing less.

16          I had the pleasure of meeting her in July  
17 of 2014, shortly after I was appointed to the  
18 Commission. It was in Atlanta at a meeting. And she  
19 spoke to the group about how it is that she came to  
20 serve on the U.S. Commission on Civil Rights and what  
21 it meant to her to be able to step into that role.

22          And the words that this Commission sent  
23 marking, I believe her 100th birthday last year, were  
24 very appropriate and spoke movingly about her. And it  
25 was in the words of others, a life well lived. And we

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1 are all the beneficiaries of her love for service.

2 COMMISSIONER NARASAKI: Madam Chair,  
3 Commissioner Narasaki.

4 CHAIRMAN LHAMON: Commissioner Narasaki,  
5 go ahead.

6 COMMISSIONER NARASAKI: Yes. I want to  
7 add my voice of support. Too often the women in the  
8 civil rights movement have been forgotten and I think  
9 it's incredibly important to mark those women who play  
10 such an important role in helping our country to move  
11 forward, so I heartedly support this statement.

12 CHAIRMAN LHAMON: Thank you. I'll add my  
13 own voice of support. Having read the statement but  
14 also just to say that it is truly an honor to pass by  
15 Frankie Freeman's photo with a smiley face, as I walk  
16 in and out of the Commission, and to try to walk in  
17 her footsteps as we do this work.

18 She is a hero. And I deeply regret her  
19 passing but I am so very grateful for her legacy.

20 Thank you all, for drafting the statement  
21 and moving us forward on this. And unless there is  
22 further discussion, I'll call the question and take a  
23 roll call vote. Commissioner Adegbile, how do you  
24 vote?

25 COMMISSIONER ADEGBILE: Aye.

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1 CHAIRMAN LHAMON: Commissioner Heriot?  
2 COMMISSIONER HERIOT: I vote yes.  
3 CHAIRMAN LHAMON: Commissioner Kirsanow?  
4 COMMISSIONER KIRSANOW: Yes.  
5 CHAIRMAN LHAMON: Commissioner Kladney?  
6 COMMISSIONER KLADNEY: Yes.  
7 CHAIRMAN LHAMON: Commissioner Narasaki?  
8 COMMISSIONER NARASAKI: Yes.  
9 CHAIRMAN LHAMON: Commissioner Yaki?  
10 COMMISSIONER YAKI: Aye.  
11 CHAIRMAN LHAMON: Vice Chair Timmons-  
12 Goodson?  
13 VICE CHAIR TIMMONS-GOODSON: Yes.  
14 CHAIRMAN LHAMON: And I vote yes. The  
15 motion passes unanimously. We are at the end of our  
16 agenda, we are also facing the possibility of an  
17 eminent shutdown so I'd like to turn to the Staff  
18 Director to speak to us about that possibly as the  
19 Staff Director Report. Mr. Staff Director.  
20 STAFF DIRECTOR MORALES: Yes, thank you,  
21 Madam Chair. I just wanted to remind or point out to  
22 Commissioners that I sent a notice this morning per  
23 the requirement instructions of the Office of  
24 Management and Budget to notify all employees for the  
25 potential of a shutdown.

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1           If no budget is passed then all employees  
2 will be furloughed on Monday. And Commissioners are  
3 always considered to be part-time federal employees so  
4 you will not be able to work.

5           If we do in fact have a shutdown, you are  
6 furloughed. And we're going to be meeting with senior  
7 management right now, after this meeting, to put up  
8 the contingency plan per all on these requests. We  
9 had one on our website, but we need to have the new  
10 dates for the shutdown.

11           I think OMB and a lot of folks were caught  
12 scrambling in the last 24 hours trying to think that  
13 Congress will be able to pass the budget but now it  
14 looks like we may go to a shutdown. I will be  
15 advising Commissioners as we get to that point, if  
16 that happens on Monday. But we'll see what happens  
17 over the weekend.

18           So I ask everybody to give good thoughts  
19 and good karma that Congress can pass the budget so we  
20 can move forward. We have a field hearing pending and  
21 if there's an extensive delay it could impact the  
22 ability for us to have a field hearing. But I'll have  
23 more to say on that later. Thank you.

#### 24   **VIII. ADJOURNMENT**

25                                       CHAIRMAN LHAMON: Thank you, Mr. Staff

1 Director. If there is nothing further, I hereby  
2 adjourn the meeting at 12:03 p.m. Eastern time. Thank  
3 you all.

4 (Whereupon, the above-entitled matter went  
5 off the record at 12:03 p.m.)  
6

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