

"Each time a man [woman] stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he [she] sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance."

---Robert F. Kennedy

## LOUISIANA COMMISSION ON HUMAN RIGHTS

Office of the Governor

#### June 2016, Issue 1

The Louisiana Commission on Human Rights is committed to protecting the citizens of Louisiana from unlawful discriminatory practices. LCHR was established in 1988 by Act 866 in the 1988 Regular Session of the Louisiana Legislature and has been operating since 1993. The Louisiana Commission on Human Rights is the official entity mandated to process charges of discrimination, investigate alleged discriminatory acts, mediate disputes, and provide education and training related to discriminatory practices.



(L-R) Dr. Leah Raby, the Executive Director of LCHR and Governor John Bel Edwards

"The Office of the Louisiana Commission on Human Rights is an assurance and a commitment by the state of Louisiana that the intent of the values of "equality" and "inalienable rights" are maintained.

#### - Dr. Leah Raby, Executive Director

The Louisiana Commission on Human Rights is authorized by LSA-R.S. 23:301 et seq., as amended, cited as the Louisiana Employment Discrimination Law to handle complaints of discrimination based upon these enumerated bases: race, color, sex, age, disability, national origin, sickle cell trait, pregnancy, genetics, childbirth and related medical conditions.

LCHR is also authorized by LSA – R.S. 51: 2231 et seq, as amended, to handle complaints regarding certain discriminatory practices in the areas of banking and lending, and public accommodations, such as breast feeding in public places; and bars all discrimination in credit transactions.

#### **COMMISSION MEMBERS & STAFF**

The Louisiana Commission on Human Rights is governed by a Board of Commissioners responsible for executing state mandated anti-discriminatory laws. This ninemember board and an executive director constitutes the Commission on Human Rights. Commission Members are appointed by the Governor and confirmed by the Louisiana Senate on a bipartisan basis, one from each Congressional district with the remaining membership appointed at large.

The Commission members are appointed to serve threeyear terms and may continue to serve until reappointed or replaced. The Governor selects one of the appointees to serve as Commission chair. The Commission has specific powers and duties as defined in LSA-RS. 51: 2235. According to state statutes, the Commission is responsible for appointing an executive director and other appropriate staff as deemed necessary to carry out the functions of the office

The staff consists of an Executive Director, an Executive Assistant/Supervising Investigator, an Administrative Assistant/Intake Officer, EO Specialists/Investigators, Law Clerks and Student Interns. An attorney from the Attorney General's Office serves as Legal Advisor.

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On June 10, 2016, Governor John Bel Edwards declared the month of June, "LGBT Pride Month". LGBT pride month acknowledges the rights of lesbian, gay, bisexual and transgender citizens. According to Gov. Edwards' spokesman, Richard Carbo, the governor is committed to protecting access to equal opportunities for all of the citizens of Louisiana and is willing to embrace the differences among each citizen.

The proclamation signed by Gov. Edwards is the first in Louisiana to designate an entire month in recognition of gay rights. According to the Baton Rouge Advocate, the proclamation notes that "June is commemorated across the United Sates in recognition of LGBT people speaking out fearlessly and demonstrating for liberation". In early June, President Barack Obama also declared June as LGBT Pride month in a presidential proclamation.

In the beginning of this year, Governor Edwards signed Executive Order, No. JBE 2016 - 11, which prohibits discrimination against people based on their sexual orientation or gender identity. However, the state of Louisiana does not have a current law regarding discrimination protecting lesbian, gay, bisexual or transgender people.





### UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

The EEOC is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an

employee because of the person's race, color, religion sex (including pregnancy, gender identity and sexual orientation), national origin, age (40 or older), disability or genetic information. Also, it is illegal to discriminate against a person because the person complained about discrimination, filed a charge of discrimination, or participated in an employment discrimination investigation or lawsuit. Most employers, including labor unions and employment agencies with at least 15 employees are covered by EEOC laws. In age discrimination, employers must have at least 20 employees. The laws apply to all types of work situations, including hiring, firing, promotions, harassment, training, wages and benefits. If you believe you have been discriminated by an employer, labor union or employment agency when applying for a job or while on the job, or believe that you have been discriminated against because of opposing a prohibited practice or participating in an equal employment matter, you may file a charge of discrimination with the EEOC. The following laws are enforced by the EEOC and require filing a charge with the EEOC before a private lawsuit may be filed in court: Title VII (Title VII of the Civil Rights Act); ADA (Americans with Disabilities Act); ADEA (Age Discrimination Employment Act); GINA (Genetic Information Nondiscrimination Act), excluding the Equal Pay Act (EPA).

The EEOC works with the Fair Employment Practice Agencies (FEPAs) and the Tribal Employment Rights Offices (TEROs) to manage charges of discrimination and the protection of the employment rights of Native Americans. The EEOC contracts with approximately 90 FEPAs nationwide to process more than 48,000 discrimination charges annually. These discrimination charges raise claims under state and local laws prohibiting employment discrimination as well as the federal laws enforced by the EEOC, FEPA, and TERO offices for the area covered by the Louisiana Commission on Human Rights (LCHR). For more information, visit: www.eeoc.gov

#### LOUISIANA COMMISSION ON HUMAN RIGHTS (LCHR)

The Louisiana Commission on Human Rights is committed to protecting the citizens of Louisiana from unlawful discriminatory practices. In partnership with the EEOC, LCHR has been designated as the FEPA agency to process charges of discrimination, investigate alleged discriminatory acts, mediate disputes, and provide education and training related to discriminatory practices. On August 31, 1994, this status was achieved with the signing of the Memorandum of Understanding (MOU). This moment in time signified Louisiana's progression in protecting the right of its citizens.

The Louisiana Commission on Human Rights is authorized by LSA-R.S. 23:301 et seq., as amended, cited as the Louisiana Employment Discrimination Law to handle complaints of discrimination based upon these enumerated basis: race, color, sex, age, disability, national origin, sickle cell trait, pregnancy, childbirth, and related medical conditions; genetics and retaliation and sexual harassment.

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RACE COLOR RELIGION	Title VII, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment, on the basis of race, color, religion, sex or national origin. Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.			
	In addition to <b>sex discrimination</b> prohibited by Title VII of the Civil			
SEX  NATIONAL  ORGIN	Rights Act of 1964, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work in the same establishment.  Under Louisiana law, review revised statues (RS) 23: 661-669.			
AGE	The ADEA of 1967, as amended, protects qualified applicants and employees 40 years of age or older from discrimination on the basis of again in hiring, promotion, discharge, compensation, terms, conditions or privileges of employment.			
DISABILITY	The ADA of 1990, as amended, protects qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires the covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardships.			
SICKLE CELL TRAIT	Under Louisiana law, review revised statue (RS) 23: 352 regarding the prohibition of sickle cell trait discrimination and exceptions.			
PREGNANCY, CHILD BIRTH AND RELATED MEDICAL CONDITIONS	Pregnancy discrimination is an amendment to Title VII. Discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination. Women who are pregnant or affected by related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations. Title VII's pregnancy-related protections include: hiring, pregnancy and maternity leave, health insurance, fringe benefits, and retaliation.  Under Louisiana law, review revised statue (RS) 23: 342 regarding the unlawful practice by employers prohibited; pregnancy, childbirth, or related medical condition benefits and leaves of absence; transfer of position.			
SEXUAL HARASSMENT	Sexual harassment is a form of sex discrimination that violates Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.			
RETALIATION	Retaliation against a person who files a charge of discrimination, participates in an investigation, or opposes an unlawful employment practices is prohibited. An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination.  Under Louisiana law, review revised statute (RS) 51: 2256 regarding the conspiracy to violate human rights and discrimination laws.			

# Inventory Report

# **OCTOBER -01, 2014 – JUNE 27, 2015**

TITLE VII	49
ADA	24
ADEA	5
OTHER	12
TOTAL	90

Damages Awarded

\$28, 300

# **OCTOBER 01, 2015 – JUNE, 27, 2016**

TITLE VII	40	
ADA	13	Damages Awarded
ADEA	3	\$72, 479.18
OTHER	9	<i>+ 1 - 4 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 -</i>
TOTAL	65	
Pending Cas	ses	67



# IMMIGRATION

# **Employment Discrimination**

The law protects people against employment discrimination on the basis of their national origin. The following are examples of employment discrimination based on national origin.

- Discrimination because of a person's or his or her ancestor's place of birth. Unlawful national origin discrimination may include discrimination because of a person's looks, customs or language. A claim may be proven if a person is discriminated against for having the characteristics for a different group.
- Discrimination based on association with persons of different national origin groups. Discrimination because of attendance at schools or places of worship used by persons of a particular nationality or discrimination because a person's or his/her spouse's name associates with a national origin group.
- Discrimination based on accent. Treating employees differently because they have a foreign accent is lawful only if the accent interferes with being able to do the job. If a person has an accent but is able to communicate effectively and be understood in English, he or she cannot be discriminated against.
- Speak-English Only Rules. Rules requiring employees to speak only English in the workplace violates the law unless the rules are reasonably necessary to the operation of the business.
- Practices may have an adverse effect on particular national origin groups. Some employment practices, such as citizenship requirements, minimum height requirements, and policies against hiring individuals with arrest and conviction records may screen out people of a particular national origin.

- Discrimination based on appearance. Discrimination based on a person's ethnic appearance violates the law.
- Harassment based on national origin. Ethnic slurs and other verbal or physical conduct because of nationality are illegal if they are severe or pervasive; create an intimidating, hostile or offensive working environment; or interfere with work performance or negatively affect job opportunities.
- Discrimination based on citizenship.

  Discrimination based on citizenship is expressly prohibited by the Immigration Reform and Control Act of 1986 (IRCA).

# Immigration Reform and Control Act (IRCA) of 1986

- Granted amnesty to approximately 1.7 million long-term unauthorized workers
- Established criminal and civil sanctions against employers who knowingly hire unauthorized aliens
- Reduced threshold coverage to 4 employees
- Toughened criminal sanctions for employers who hire illegal aliens

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For more information, visit:

www.eeoc.gov/eeoc/pubications/immigrants-facts.cfm



# Quick Guide

	EEOC	LCHR	OSC
TYPE OF DISCRIMINATION	Race, color, religion, gender, national origin, sex, disability, genetic information, pregnancy, age and retaliation	Race, color, religion, gender, national origin, sex, disability, genetic information, pregnancy, age and retaliation	National origin citizenship status, document abuse and retaliation
NECESSARY EMPLOYEE SIZE	15 or more	25 or more	For national origin: 4 to 14 employees For citizenship status and document abuse; 4 or more employees
PROTECTED WORKERS	All workers, including undocumented aliens	All workers, including undocumented aliens	For national origin and document abuse: all work authorized individuals For citizenship status: U.S. Citizens, some legal permanent residents, asylees, refugees
PROHIBITED ACTS	Hiring, firing, recruitment/referr al for a fee, terms and conditions of employment	Hiring, firing, recruitment/referral for a fee, terms and conditions of employment	Hiring, firing, recruitment/referral for a fee, terms and conditions of employment
AVAILABLE RELIEF	Back pay, front pay, reinstatement, compensatory/pu nitive damages, injunctive relief and attorney's fees	Back pay, front pay, reinstatement, compensatory/punitive damages, injunctive relief and attorney's fees	Back pay, front pay, reinstatement, civil penalties, injunctive relief and attorney's fees in limited circumstances
CHARGE FILING DEADLINE	180 days from the date of the alleged violation 300 days in deferral states	180 days in non-deferral states 300 days in deferral states	180 days in non-deferral states 300 days in deferral states
HOW TO FILE A CHARGE WITH EEOC	Call the EEOC's toll-free number: 1-800-664-9400 or 1-800-669-6820 (TTY);  You may also write the office at: The Hale Boggs Federal Building 500 Poydras St. Room 809 New Orleans, LA 70130	Call the LCHR (225) 342-6969 or download on-line application www.lchrgov.com/lchr	Mail, email or fax a completed charge form. Charge forms can be downloaded from internet or you can request them by calling the OSC Employer hotline: 1-800-255-8155 or OSC Employee Hotline: 1-800-255-7688 Fax: (202) 616-5509
AGENCY CONTACT INFORMATION	New Orleans Field Office 500 Poydras St. Suite 800 New Orleans, LA 70113 1-800-699-4000 www.eeoc.gov	Physical Address: 1001 North 23 <sup>rd</sup> St. Suite 268 Mailing Address: P.O. Box 94094 Baton Rouge, LA 70804 Tel. (225) 342-6969 Fax. (225) 342-2063 TTY (888) 248-0859 Website: www.lchrgov.com/lchr	United States Department of Justice Office of Special Counsel for Immigration Related Unfair Employment Practices www.justice.gov/crt/about/o sc/ (Local) Department of Justice 1885 N. 3 <sup>rd</sup> St. Baton Rouge, LA 70802 Tel: (225) 326 – 6000

## CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE

The Civil Rights Division of the Department of Justice, created in 1957 by the enactment of the Civil Rights Act of 1957, works to uphold the civil and constitutional rights of all Americans, particularly some of the most vulnerable members of our society. The Division enforces federal status prohibiting discrimination on the basis of race, color, sex, disability, religion, familial status and national orgin.

#### OFFICE OF SPECIAL COUNSEL FOR IMMIGRATION-RELATED UNFAIR EMPLOYMENT PRACTICES (OSC)

The Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) enforces the anti-discrimination provision (§274 B) of Immigration and Nationality Act (INA), 8 U.S.C. § 1324b), which prohibits:

- 1) Citizenship Status Discrimination in hiring, firing, or recruitment or referral for a fee. Employers may not treat individuals different based on citizenship or immigration status. The following individuals are protected: citizens, nationals of the United States, permanent and temporary residents, refugees, asylees (excluding lawful permanent residents who do not apply for naturalization within 6 months of eligibility); and the injured party was discriminated against with respect to hiring, firing, or recruitment or referral for fee because the injured party is, or is not a U.S. Citizen, or based on the injured party's immigration status.
- 2) National Origin Discrimination in hiring, firing, or recruitment or referral for a fee. Employers may not treat individuals differently because of their place of birth, country of origin, ancestry, native language, accent or because they are perceived looking or sounding "foreign".
- 3) **Document Abuse** (unfair documentary practices during the employment eligibility verification form I-9, process); Document abuse occurs when an individual, business or organization refuses to accept a valid document, specifies the documentation an individual can provide or demands more or different documents than are required for completing the Form I-9 because of an individual's citizenship status or orgin.
- 4) Retaliation or Intimidation. Retaliation against individuals for asserting their rights protected under the anti-discrimination provision of the immigration law, or for having participated or assisted in an investigation conducted by the OSC.

For more information, visit:

https://www.justice.gov/crt/office-special-counselimmigration-related-unfair-employment-practices



# POST 9/11

BACKLASH DISCRIMINATION

#### HISTORY

In 2001, on Tuesday, September 11th, a series of four coordinated terrorist attacks were conducted by 19 militants associated with the Islamic extremist group Al-Qaeda. The militants hijacked four airliners and carried out suicide attacks against targets in the United States. Two planes were flown into the towers of the World Trade Center in New York City, a third plane was flown into the Pentagon located outside of Washington, D.C. and a fourth plane crashed in a field in Pennsylvania. Over 3,000 people were killed during the attacks, including more than 400 police officers and firefighters. As result of the events occurring on September 11th, many people upholding the Islamic faith have been targeted as terrorists and subjected to religious or national orgin employment discrimination in their workplace. All individuals, regardless of citizenship/immigration status, religion or national origin, are protected by law and permitted to file a charge with the Equal Employment Opportunity Commission (EEOC) or Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC).



# DISABILITY RIGHTS DAY



(L-R) Bambi Polotzola, Executive Director of Disability Affairs and, Dr. Leah Raby, Executive Director of Louisiana Commission on Human Rights.

The 2016 Disability Rights Day was held on Tuesday, April 5<sup>th</sup> at the Louisiana State Capitol in Baton Rouge and attended by over 300 LaCan members from all around Louisiana. LaCan is a state wide grassroots network of individuals, families and advocates who have worked together since 1988 advocating for a service system that supports individuals with disabilities to live in their own homes rather than having to be segregated from their communities in a facility to receive support. Specifically, they have advocated for implementation of Louisiana's Community and Family Support System Plan.

At the Capitol, members joined together to visit with legislators and participate in a rally on the Capitol steps to raise awareness of the importance of funding supports and services people with developmental disabilities need to live in their own homes and be productive members of their communities.



The Louisiana State Capitol hosted Equal Pay Day, on Tuesday, April 12<sup>th</sup>, in the Capitol Rotunda. At the the event, advocates from around the state of Louisiana, including Governor Edwards, who made equal pay a part of his campaign, joined together to celebrate women's advocacy and lobbied for equal pay for equal work. At the event, there was a discussion about how to lobby legislators. Advocates also attended the vote by state senators on legislation (Senate Bill 254) that would establish a process that employees may pursue if they suspect their employer are paying different wages based on gender.

Senate Bill 254, which is sponsored by JP Morrell, a Democratic Senator, would allow 60 days for employer and employee to work out their issues before the Louisiana Commission on Human Rights could step in to weigh the arguments of both sides. The commission could weigh justifiable pay disparity factors, such as experience, education, time on the job and productivity. The commission then could render a decision on the merits of the complaint. Only then could a lawsuit be filed.

Although Bill 254, regarding the Equal Pay Act, was supported by Governor Edwards and the Democrats, it was subsequently rejected by the House of Representatives on May 19, 2016.



Dr. Leah Raby, Executive Director of LCHR speaking on Equal Pay Day at the Louisiana State Capitol.



# Clergy Day at the Capitol

Clergy Day was organized by The Faith Based Coalition of Churches on Public Policy and hosted by the Governor's Office of Programs & Planning on May 5, 2016 between 10:30 a.m. – 2:30 p.m. During Clergy Day, topics were discussed and prayed for regarded Predatory Lending, Minimum Wage, Equal Pay Act; Raise the Age, and other pertinent legislation that impacts faith-based congregations & communities they serve. In addition, May 5<sup>th</sup> was the Louisiana National Day of Prayer.



(L-R) Rev. Jay Augustine, Dr. Rebecca Gee, Rev. Gerard Robinson, Sr.



(L-R) Christa Davis; Administrative Assistant/Intake Officer, Dr. Leah Raby, Executive Director; Desha Gay, Executive Assistant/EO Supervisor and John Allen, EO Specialist.



(L-R) Rev. Jay Augustine, Rev. Gerard Robinson, Sr.; and Rep. Marcus Hunter, Monroe, LA

### LOUISIANA NATIONAL DAY OF PRAYER

At 12 noon on May 5, 2016, many elected officials, educators, pastors, business leaders, ministry leaders, families and musicians of Louisiana gathered together at the Louisiana State Capitol Senate Chambers to pray for our nation, our state and local needs.



(top L-R) Dr. Rebecca Gee; Rev. Jay Augustine; State Representative Edward "Ted" James; Rev. Gerard Robinson, Sr. (bottom L-R) Dr. Daniel Birch, International Sign Language Interpreter, Rev. Rodney McFarland; Dr. C.S. Gordon of New Orleans National Baptist; Rev. Gerard Robinson, Sr.; and Johnny Anderson, *Deputy of Program and Planning*,

# COMMUNITY JUSTICE LEGAL IMMIGRATION CLINIC

Gulf Coast Center for Law & Policy and VAYLA of New Orleans

The Louisiana Commission on Human Rights participated in a volunteer project involving the Community Justice Legal Immigration Clinic hosted by The Gulf Coast Center for Law & Policy and VAYLA of New Orleans on Saturday, June 18, 2016 from 10:00 a.m. to 4:00 p.m. in New Orleans, LA. The organizations were seeking lawyers, law students, translators and justice advocates to volunteer for the project.

The organizations welcomed all volunteers as they stabilized the community and built their movement for ecological equity and climate justice. Many new immigrants to the US are facing challenges directly connected to the insecurity that comes with our changing climate. The Gulf Coast Center for Law & Policy works with communities of color on the frontline of climate change to achieve climate justice and ecological equity. The community clinic offered support to the immigrant community of New Orleans East and will be connected to broader community training around the issues of climate and migration. The program provided trainings regarding Translators/Interpreters; Legal Services and Justice Advocate/Community.

For more information, visit:

Gulf Coast Center for Law & Policy: www.gcclp.org

VAYLA of New Orleans: www.vayla-no.org/ The Commission on Human Rights took part in a Community Justice Clinic organized by the Gulf Coast Center for Law and Policy. The Clinic, held at VAYLA New Orleans, focused on members of the New Orleans East's immigrant community, and addressed issues such as U-Visa Status, DACA policy, and VAWA petitions. The afternoon was an excellent opportunity for volunteers to connect with the community and find resolutions to pressing issues our immigrant population faces from day to day. The Community Justice Clinic is likely the first of many outreach initiatives in which LCHR will engage.

Each legal volunteer was assigned a translator, and the volunteer-translator pairs worked together to interview clients who participated in the clinic. The clients provided basic information about their background and their immigration status to the volunteers, and the volunteers asked questions to understand what brought in, and clients subsequently met with attorneys who provided them with more insight. Thereafter, clients were given a significant progress in understanding and resolving their human right issues.



- Erin Sanders, J.D. Louisiana Commission of Human Rights

**2016 EEOC/FEPA**National Annual Training

**JULY 12-14, 2016** New Orleans, LA 70130

## LOUISIANA COMMISSION ON HUMAN RIGHTS

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\*This issue will serve as the Annual Report for the 2015-2016 fiscal year

# COMMISSION MEMBERS

Vacant, At-Large Member

Vacant, 1<sup>st</sup> District Member



Willie Louis Littleton 2<sup>nd</sup> District Member



Cyril A. "Kirby" Verret
3<sup>rd</sup> District Member



Tamara Jacobson, Esq. Chairwoman At-Large Member

Vacant, 4<sup>th</sup> District Member

Vacant, 5<sup>th</sup> District Member



**Terrence G. Ginn** 6<sup>th</sup> District Member



**Angela K. Faulk** 7<sup>th</sup> District Member