

# MAINE STATE LEGISLATURE

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OFFICE OF  
THE GOVERNOR

NO. 2015-013  
DATE November 13, 2015

**AN ORDER ESTABLISHING THE GOVERNOR'S PANEL TO REVIEW AND MAKE  
RECOMMENDATIONS FOR IMPROVEMENT OF  
THE MAINE HUMAN RIGHTS COMMISSION AND ITS OPERATIONS**

**WHEREAS**, the Maine Human Rights Commission ("MHRC") is the administrative, governmental agency charged with enforcing the Maine Human Rights Act ("MHRA"), 5 MRS §§4551, *et. seq.*;

**WHEREAS**, the MHRA protects the opportunity for an individual to secure employment without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, age, ancestry or national origin;

**WHEREAS**, the MHRA protects the opportunity for an individual to secure housing in accordance with the individual's ability to pay, and without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry, national origin or familial status;

**WHEREAS**, the MHRA protects the opportunity for every individual to have equal access to places of public accommodation without discrimination because of race, color, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin;

**WHEREAS**, the MHRA protects the opportunity for every individual to be extended credit without discrimination solely because of any one or more of the following factors: age; race; color; sex; sexual orientation; marital status; ancestry; religion or national origin;

**WHEREAS**, the MHRA protects the opportunity for an individual at an educational institution to participate in all educational, counseling and vocational guidance programs and all apprenticeship and on-the-job training programs without discrimination because of sex, sexual orientation, a physical or mental disability, national origin or race;

**WHEREAS**, there is perception in the Maine business community that the MHRC generally views respondents as culpable before any investigation has been conducted;

**WHEREAS**, there is perception in the Maine business community that the MHRC generally views complainants as truthful without affording respondents the same consideration;

**WHEREAS**, there is a perception in the Maine business community that the MHRC investigatory procedures, fact finding conferences, and settlement conferences are generally unfair to respondents, holding them to a higher standard of proof than complainants;

**WHEREAS**, there is a perception in the Maine business community that the MHRC unduly pressures respondents to settle complaints regardless of their culpability;

**WHEREAS**, there is a perception in the Maine business community that the MHRC, through its agents, is more flexible in the application of its rules toward complainants than toward respondents;

**WHEREAS**, the MHRC, through its agents, has implemented investigatory procedures that are overly and unnecessarily burdensome to respondents, particularly during the early stages of the investigatory process;

**WHEREAS**, the MHRC has upheld a finding of reasonable grounds upon which to find discrimination in at least one case where it had actual knowledge that the evidence it relied on and considered "critical" to the investigation was incomplete and inaccurate;

**WHEREAS**, it appears that the MHRC, through its agents, has, in at least one case, unfairly excluded and refused to consider evidence properly submitted for consideration by the MHRC;

**WHEREAS**, it is necessary to undertake a review of the MHRC's structure and operation to identify factors causing and/or contributing to the perceptions of prejudice against respondents and bias in favor of complainants, to identify rules, practices, and procedures that are unduly and unnecessarily burdensome, and to identify rules, practices, and/or procedures that are unfair;

**WHEREAS**, it is necessary to undertake this review in order to identify problem areas and make recommendations for change in order to ensure fairness and impartiality in the administrative process;

**WHEREAS**, Executive Order 2015-007, which was issued on April 21, 2015, was rescinded by Executive Order 2015-008 and replaced by Executive Order 2015-009;

**WHEREAS**, by administrative error, Executive Order 2015-009 did not include the exemption under the Freedom of Access Act found at Title 1, section 402, subsection 2, paragraph F;

**WHEREAS**, the members of the MHRC Review Panel established by Executive Order 2015-009, have by majority vote requested that the FOAA exemption described above be restored to the Executive Order establishing the MHRC Review Panel;

**NOW, THEREFORE**, I, Paul R. LePage, Governor of the State of Maine, hereby order as follows:

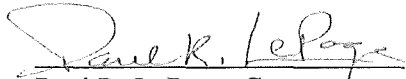
1. Executive Order 2015-009 be rescinded and replaced by this Executive Order, which restores the FOAA exemption described above;
2. The Governor's Maine Human Rights Commission Review Panel is hereby established;
3. The membership of the Review Panel shall consist of seven (7) persons appointed by the Governor including:
  - a. One attorney who regularly represents respondents before the MHRC
  - b. One attorney who regularly represents complainants before the MHRC
  - c. One (1) person from or recommended by the National Federation of Independent Business;
  - d. One (1) person from or recommended by the Maine Apartment Owners and Managers Association
  - e. One (1) person from or recommended by Pine Tree Legal
  - f. One (1) person with a working knowledge of and familiarity with best administrative investigation practices
  - g. One (1) person recommended by the MHRC

The Governor shall appoint one member of the Review Panel to serve as Chair. All Review Panel members shall serve at the pleasure of the Governor and all members shall serve without compensation.

4. The Review Panel shall:
  - a. conduct a review of the structure and operation of the MHRC
  - b. identify factors causing and/or contributing to the perceptions of prejudice against respondents and bias in favor of complainants
  - c. identify rules, practices, and procedures that are unduly and unnecessarily burdensome to participants in the MHRC administrative process

- d. identify rules, practices, and/or procedures that are unfair to respondents and/or complainants
  - e. issue a report to the Governor on or before April 15, 2016, which includes the results of its review in each of the above-listed areas as well as recommendations for improvement in laws, rules, practices, and/or procedures identified as causing or contributing to the problems identified. If the Panel requires more time in which to finalize the report, then the members may have a two (2) month extension in which to complete it.
5. Pursuant to Title 1, section 402, subsection 2, paragraph F, the meetings of this Review Panel are not "public proceedings" subject to Maine's Freedom of Access Act.

The effective date of this Executive order is November 13, 2015.

  
Paul R. LePage, Governor