

# Alaska State Commission for Human Rights

2022 Annual Report



**HUMAN RIGHTS COMMISSION**

907-274-4692 | 800-478-4692 | [humanrights.alaska.gov](http://humanrights.alaska.gov)



# HUMAN RIGHTS COMMISSION

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## Complaint Hotline

907-274-4692 Anchorage Area | 800-478-4692 Toll Free

711 TTY / Alaska Relay



Zachary Gottshall



Mae Marsh



Rebecca N. Carrillo



William P. Craig



Lonzo Henderson



Jessie Ruffridge

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## COMMISSIONERS

Zachary Gottshall, Chairperson

Mae Marsh, Vice-Chairperson

Rebecca Carrillo

William Craig

Lonzo Henderson

Jessie Ruffridge

Vacant Seat, Term Expires 3/1/2023

## COMMISSION STAFF

### Administration

Robert Corbisier

Executive Director

Toyia Del Valle

Administrative Officer

Angela Park

Commission Secretary

Crystal Sakar

Office Assistant

### Legal

Helen Hickmon

Human Rights Advocate

Carolyn Thomas

Paralegal

Stephanie Guerrero

Law Office Assistant

### Investigations

Nanette Gay

Investigations Director

Richard Busch III

Investigator

Mitchell Jones II

Investigator

Angleica Lynn-Regier

Investigator

Donna Nass

Investigator

Antoinette Rust

Investigator

Jocelyn Thammavongsa

Investigator

Front and rear cover photos courtesy of Toyia Del Valle.



The Honorable Michael J. Dunleavy, Governor of Alaska  
 The Honorable Gary Stevens, President of the Senate  
 The Honorable Kathy Tilton, Speaker of the House

2022 was a big year for the Alaska State Commission for Human Rights. The Commission started the year welcoming three new members, including myself. I appreciate the diverse background each of our Commissioners bring to this body. Of note, our Vice Chairperson Mae Marsh brings her time working in Title IX sex discrimination, while Lonzo Henderson's prior knowledge of state board and commission procedure as former Chairperson at the Alaska Board of Parole has been cherished. William Craig, having served on the Commission as both Interim Chairperson and as a Commissioner since 2019, bring decades of experience lobbying Alaska's legislature to improve the rights and quality of life for disabled Alaskans. Commissioner Rebecca Carrillo's knack to identify disenfranchised groups within Alaska, her knowledge of the inner workings of our state capital, and diplomatic predisposition has been vital. Jessie Ruffridge, who grew up in part on the Kenai Peninsula, brings to the Commission a background in helping victims of human trafficking. Our new Commissioners came together for our first meeting in May and immediately got to work.

One of our first areas to focus on was the necessity to have an official outreach program. Our fellow Alaskans must know that we exist, what we can do for them, and how to connect with the Commission in times of need. For this reason, we undertook a significant outreach campaign with the assistance of a professional consultant. As of this writing, the digital aspects of this campaign so far resulted in 201,000 television views, 164,438 Facebook reactions, 113,231 display ads, 23,549 email views, and 12,625 LinkedIn exposures. These numbers do not include the Commission's multiple radio campaigns which likely reached hundreds of thousands of listeners across 29 stations, on top of 113,000 plays through online music streaming services including iHeart Radio and Pandora. With the COVID-19 pandemic ending, the Commission also attended several in-person events including the Kenai Peninsula State Fair, the Alaska State Fair, the Juneteenth Celebration in Anchorage, and the Alaska Federation of Natives Annual Convention. To enhance the outreach campaign, the Commission has begun issuing press releases after more than two years.

Coinciding with formal outreach, Commissioners themselves recognize the benefit to having a presence across Alaska. To summarize a statement from Vice Chairperson Marsh, if your discrimination complaints are down it isn't because discrimination is down, it's because nobody knows about you. To that end, this group of Commissioners dedicated themselves to holding meetings in locations other than Anchorage in a hybrid online format to be mindful of state resources. This began with a meeting during Sitka's Alaska Day festivities and a visit to the Alaska State Trooper Academy in October, followed

by a December meeting at UAF which included the Fairbanks Diversity Council.

The Commission has drafted and passed a number of resolutions this year, which you can find included in this report. Such resolutions range from a formal name change for the commission – to avoid public confusion and more accurately align with the Alaska Constitution's Civil Rights section – to a change to the date of the annual report publication to meet a realistic timeframe. Other resolutions are more substantive, such as seeking greater accommodations for the blind and visually impaired to access state services, drawing attention to disparities in childcare for special needs children, and asking healthcare providers to consider reasonable accommodations when caring for disabled patients.

The Commission had implemented a regulatory change earlier in 2022 to revamp the early stages of our investigation process with the goal of empowering investigators themselves to negotiate early case resolutions and front-load the fact-finding process. Although we do not yet have a full year of data to report on, anecdotally we have seen astounding success. We expect that by this time next year, we will be able to report that the average length of an open case investigation is under one year, which has been an agency goal for over 40 years.

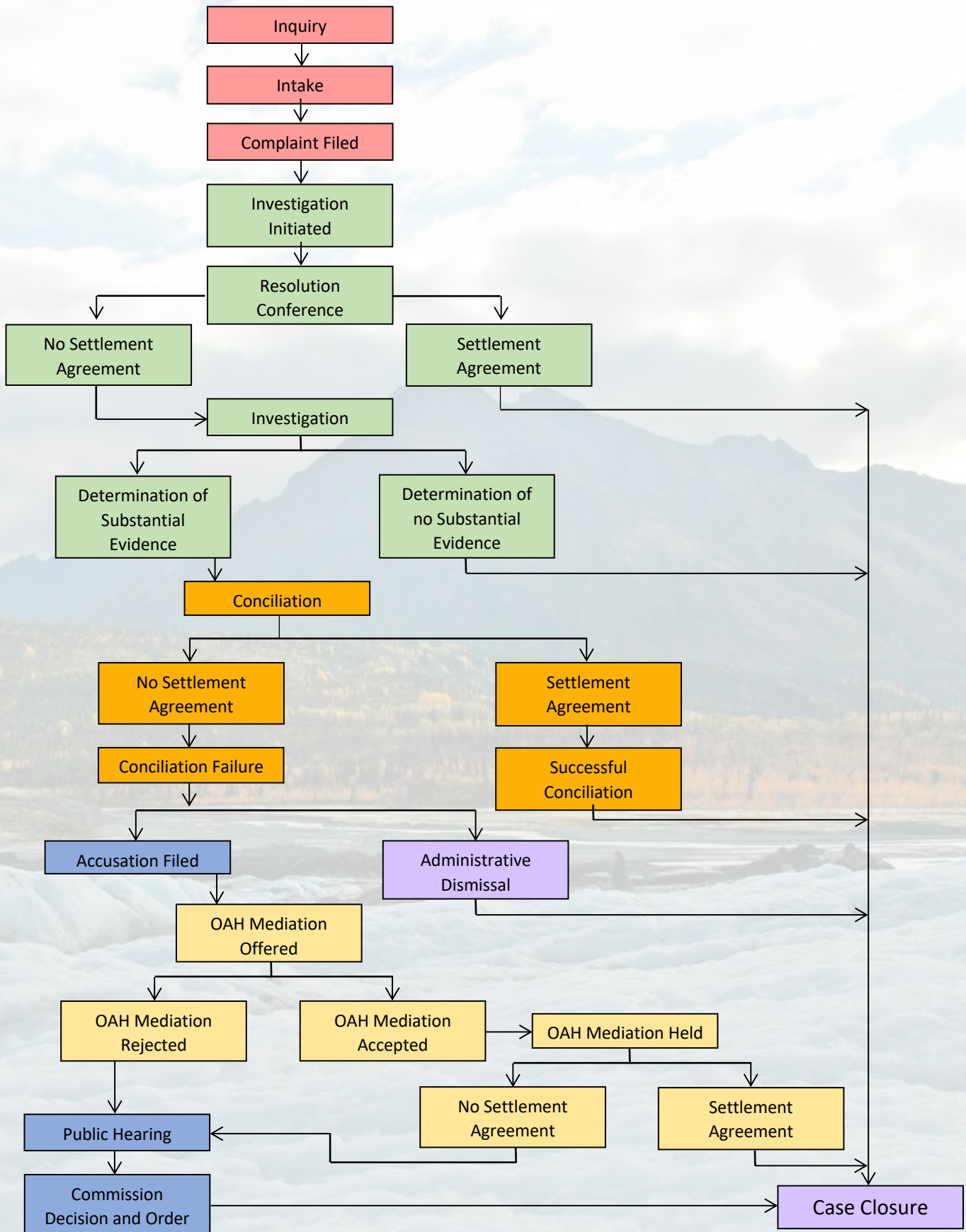
Lastly, I want to address the recent audit undertaken by Legislative Budget and Audit. I, along with my fellow Commissioners are very proud of the work done by the agency's administrative staff, and we hope the Alaska Legislature is as well. The changes put into place in 2021 and 2022 were important reforms for the Alaska State Commission for Human Rights. Such changes are bearing fruit as noted by the auditors. Their recommendation is to adopt a written policy and procedure to guide the complaint resolution process, which has been done, and to address timelines to encourage timely resolution. Thought not immune from the hiring challenges impacting most of Alaska, the Commission's professional staff continues efforts to fill all vacancies so that we might better serve our fellow Alaskans.

Thank you for taking the time to review the 2022 Annual Report. I hope you find this information useful as the Commission fulfills its constitutional and statutory mandates.

Sincerely,

Zackary Gottshall  
 Chairperson

## ALASKA STATE COMMISSION FOR HUMAN RIGHTS Complaint Resolution Process



## ALASKA STATE COMMISSION FOR HUMAN RIGHTS STAFF REPORT OF AGENCY ACTIVITIES January 1 through December 31, 2022



### Public Hearing Cases

In **Robert W. Corbisier v. Denali Foods, Inc. dba Taco Bell**, (OAH No. 22-0221-HRC), a female employee of a fast-food restaurant claimed she was discriminated against based on her sex when she was subjected to unwanted and offensive comments of a sexual nature, including explicit images on her manager's cell phone. Investigation found substantial evidence of discrimination when Respondent confirmed the actions but took no action to prevent the inappropriate conduct. Complainant withdrew her complaint to pursue a civil lawsuit. The Executive Director substituted as the Complainant on November 5, 2021, to pursue public policy goals. Attempts to conciliate failed and an Accusation was filed with the Commission on February 22, 2022. The Case Planning Conference was held on March 29, 2022, and an agreement was reached to attempt judicial mediation. Following mediation, a Mediation Settlement Agreement was approved on November 2, 2022. An Unopposed Motion to Stay Hearing was filed with OAH on November 29, 2022, pending completion of terms of the Agreement, which are due by February 24, 2023.

In **Astin Frazier v. Oriental Garden** (OAH No. 21-0935-HRC), Complainant Astin Frazier alleged that Oriental Garden discriminated against her based on her race, national origin, and color. Oriental Garden hired Complainant as a waitress and terminated her employment two weeks later at the conclusion of her probationary period. She alleged that when the restaurant's chef informed her of her termination, the chef implied that Frazier did not demonstrate sufficient familiarity with the menu because she was a person of non-Asian heritage and therefore, would be better suited working in a non-Asian restaurant. Oriental Garden asserted that Complainant did not meet performance expectations during her probationary period. Investigation by Commission staff found substantial evidence of Complainant's claim. When conciliation attempts failed the Commission filed an Accusation on May 10, 2021. After Complainant advised that she is in the process of changing careers and did not want to appear as a witness at the hearing due to fears it could affect her future employment, a motion to dismiss was filed on March 23, 2022. Following receipt of the Commission's April 14, 2022, Order Granting Motion to Dismiss and the Notice of Case Closure from the Office of Administrative Hearings this case was closed on May 17, 2022.

In **Candice Gardner v. North Slope Borough School District, Nuiqsut Trapper School** (OAH No. 21-0289-HRC), a teacher filed a complaint alleging discrimination based on her race. She was the only black teacher in the community and allegedly faced increasing race-related incidents, including a racial epithet spray-painted on the outside of the school. Complainant reported fear of returning to the community and school because while on approved leave she received a photo of a rope one of her students shaped into a circle and held over another student's head claiming it was for Gardner. Complainant further alleged constructive discharge when her reports were not taken seriously. Commission staff reviewed both claims and found substantial evidence of discrimination and retaliation. Efforts to settle this matter failed and an Accusation was filed with the Commission on August 24, 2020.

Complainant subsequently withdrew her claim to pursue a private action. The Executive Director substituted as the Complainant to pursue the Commission's public policy concerns. Conciliation failed a second time, and an Accusation was subsequently filed. The hearing was vacated on April 19, 2022, following approval of a Settlement Agreement on April 7, 2022. Respondent requested an extension and a First Amendment to Settlement Agreement was approved on October 24, 2022, to allow time for training to be completed. A final report was submitted on December 6, 2022, and the file was closed with the Commission.

In **Jetta Haynes v. Lily's Family Restaurant** (OAH No. 16-1507-HRC), the Complainant alleged one of Respondent's owners subjected her to unwelcome physical contact, including sexual assault. Commission staff discovered another female employee had also been subjected to sexual harassment. An accusation was filed on December 19, 2016. The Commission issued a Final Order on September 28, 2017, awarding Complainant \$15,179.18. In January 2019, Complainant advised the Commission that she had not received the financial settlement from Respondent. After failed attempts to contact Respondent, the Commission received a Final Judgment from Alaska Superior Court in the amount of \$16,895.88, plus post-judgment interest at 6%. On both June 18, 2019, and June 10, 2020, the Commission filed writs of execution for garnishment of the owners' Permanent Fund Dividends. Dividends for Respondent's two owners were garnished on November 21, 2019, and March 2, 2020, for a total amount paid to Complainant to date of \$4,547.60. The Commission filed for a bank sweep of all banks and credit unions in the Anchorage – Mat-Su area for the remaining judgment balance. However, no funds were located. Complainant was notified on April 22, 2021, that the Commission exhausted all collection remedies, and the file was closed. A second bank sweep was performed in February 2022; no funds were seized. Although North Country Process was asked to perform a final PFD execution, Respondents Naomi and Jung Lee have not filed for a PFD since 2020. No further efforts will be made to collect additional funds for the Complainant.

In **David Koen v. State of Alaska, Department of Corrections, Goose Creek Correctional Center** (OAH No. 22-0898-HRC), the Complainant David Koen alleged the correctional center where he is incarcerated refused his religious accommodation request for a Kosher diet. Following a thorough investigation, the Substantial Evidence Determination was issued on August 5, 2022. After months of efforts to find a resolution to this issue, an Accusation was filed with the Commission on October 27, 2022. A Case Planning Conference was held on December 1, 2022, with motion work expected from both parties. A hearing date has been scheduled for March 3, 2023.

In **Nicole Lee v. B.V., Inc. dba Great Alaskan Bush Company** (OAH 22-0695-HRC), the Complainant alleged that the Great Alaskan Bush Company discriminated against her based on sex and disability. While employed as a dancer, the Complainant alleges she was subjected to unwanted sexual contact. Complainant also alleges she was not

■ See Page 6, Public Hearing Cases

## Public Hearing Cases

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permitted to wear a mask to mitigate her exposure to the COVID-19 virus, and Respondent failed to engage in the interactive process to provide her an accommodation for her disability. Investigation by Commission staff found substantial evidence of both allegations. Attempts to reach conciliation failed and an Accusation was filed with the Commission on July 8, 2022. A Case Planning Conference was held on August 29, 2022. Upon opposing counsel's request, mediation has been scheduled for February 16, 2023.

In **Joseph Locke v. Peter's Sushi Spot** (OAH No. 21-1681-HRC), the Complainant Joseph Locke alleged Peter's Sushi Spot discriminated against him by treating him as disabled. Locke's temporary medical condition required him to wear a foot brace, and when he went to the restaurant to collect his tips, the business's owner observed him wearing a brace and later told him not to come to work due to the brace. Despite Complainant's efforts to reassure the owner that he was able to continue working, when he arrived for his next scheduled shift, he found other employees covering his shift. Investigation by Commission staff found substantial evidence of Locke's claim. Conciliation attempts failed, and an Accusation was filed on June 23, 2021. The parties attended a judicial mediation conference on October 7, 2021, and a Confidential Mediation Settlement Agreement was approved on June 16, 2022. Complainant received a settlement of \$220.00 and upon completion of the remaining terms of the settlement, the file was closed on October 5, 2022.

In **Kacie O'Sullivan v. AAA Alaska Cab, Inc.** (OAH No. 21-2166-HRC), Complainant Kacie O'Sullivan alleged that AAA Alaska Cab discriminated against her based on her sex. Complainant applied for and interviewed for a position as a cab driver with AAA Alaska Cab. Complainant alleged she was qualified, believed AAA Alaska Cab processed her paperwork, and hired her. When she contacted the company for a start date, the owner informed her that the only available shifts were at night, and he would not assign a female to a night-shift, citing safety concerns. AAA Alaska Cab's owner indicated he would hire Complainant if a day-time shift was available or became available in the future and declined to hire her for the night-shift despite Complainant's attempt to reassure the owner of her ability to handle unsafe situations. Investigation by Commission staff found substantial evidence of the claim. Following failed attempts to conciliate, an Accusation was filed on September 7, 2021, and later amended on October 19, 2021. A Settlement Agreement was approved on February 16, 2022, and on February 17, 2022, OAH issued an order vacating the previously scheduled public hearing. Upon completion of all terms of the Agreement, a Closing Order was issued on June 9, 2022, and the file was closed.

In **David Rockwell v. Thomas Schwarz dba GI Joes Army/Air Force Surplus Outlet** (OAH 22-0781-HRC), the Complainant alleged that GI Joes Army/Air Force Surplus Outlet discriminated against him by not allowing his service animal to enter the premises and failed to make an accommodation for his disability. The wife claimed she was afraid of big dogs and the owner, who was not present at the time, later claimed the dog was not allowed in because of his extreme allergies. The Complainant further alleges that Respondent would not make an accommodation for his disability. Investigation by Commission staff found substantial evidence to support the Complainant's allegations. All conciliation efforts failed, and an Accusation was filed on August 19, 2022. Following the Case Planning Conference, the hearing was scheduled for February 1, 2023. However, due to scheduling conflicts, the Commission filed an Unopposed Motion to Continue Trial. A new hearing date has been scheduled for March 3, 2023. Due to the Commission not receiving an answer to the Accusation filed on August 19, 2022, a Motion for Entry of Default and a Motion for Default Order were filed with OAH on December 13, 2022. Respondent's counsel filed an Opposition to Motion for Default, along with a Response to Complaint and Accusation on December 20, 2022. The status of the Commission's Motion for Default is pending with OAH.

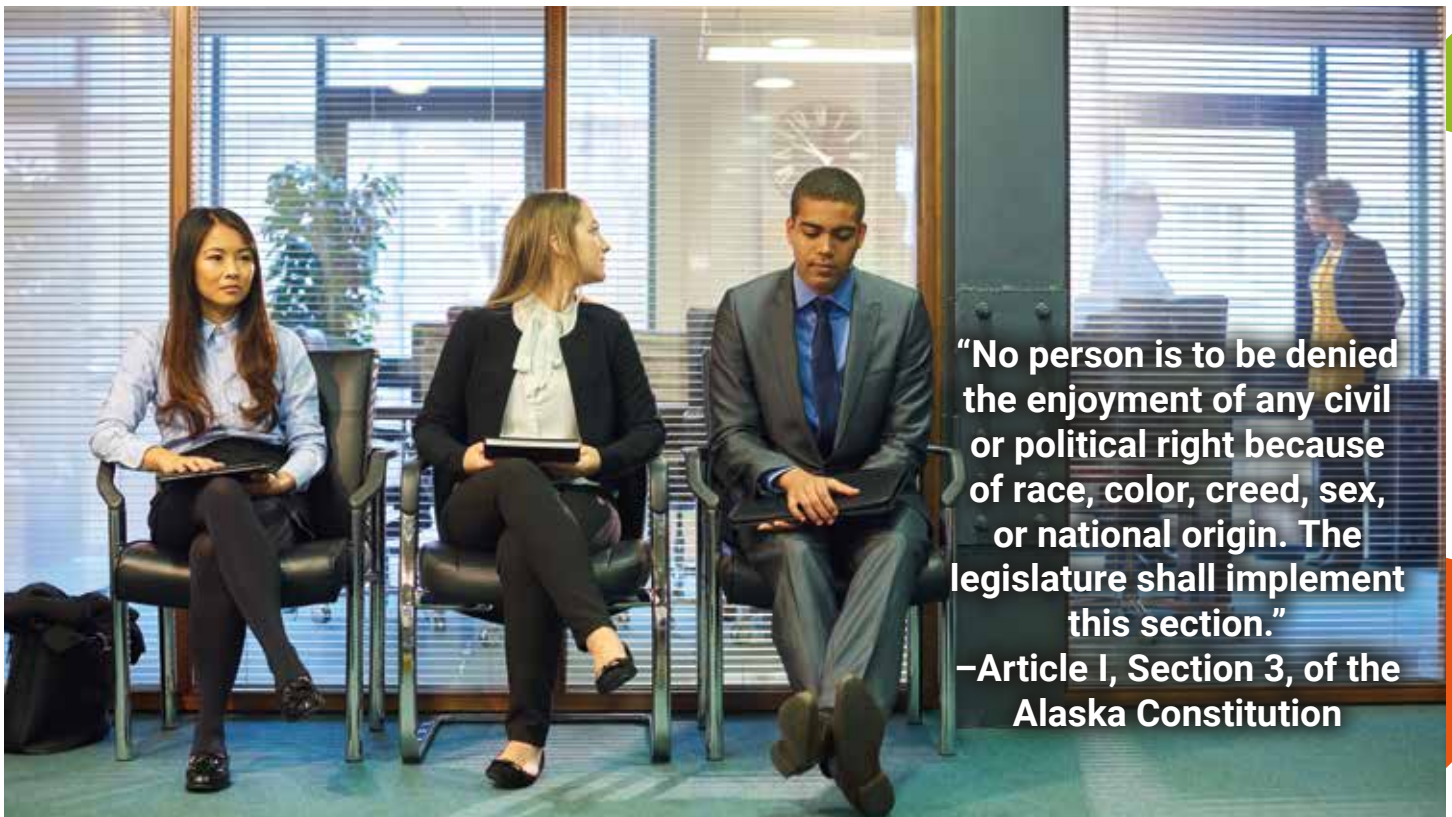
In **Gwen Slater v. Partners 4 Life Inc. dba Firehouse BBQ** (OAH No. 21-2546-HRC), Complainant Gwen Slater alleged that Firehouse BBQ discriminated against her based on her sex. Firehouse BBQ hired Complainant as a waitress and later promoted her to assistant manager. She alleged that one of the restaurant's owners subjected her to unwanted and offensive sexual contact and comments, as well as the display of sexual conduct, including pornographic material. Slater also asserted she informed her manager, as well as told the offending owner to stop, and that the sexual advances were unwelcome; however, the offensive sexual behavior continued. Complainant further alleged that Firehouse BBQ forced her to leave her employment because of the sexually charged hostile environment i.e., she was constructively discharged. Investigation by Commission staff found substantial evidence of both claims. Conciliation attempts failed and an Accusation was filed on November 23, 2021. Following a status conference on March 1, 2022, the Accusation was remailed to Respondent at his new address in Colorado. A Notice of Commencement was filed with OAH on December 9, 2021. Following multiple unsuccessful attempts to contact Complainant, the Commission entered a two-party settlement with Respondent entailing requirements that included sexual harassment training if Respondent should return to Alaska and open any business in the future. A Motion to Dismiss was filed with the Commission on April 12, 2022. After receiving the Order Granting Motion to Dismiss on April 18, 2022, the file was closed.



## 2022 Appeal Updates

In **Demetrie Alexander v. Alaska State Commission for Human Rights** (4FA-17-02348CI), the Appellant alleged that the Alaska Court System discriminated against him based on his race, Alaska Native, when it terminated his employment as a magistrate judge. The Commission found no substantial evidence of discrimination and closed the case. On August 9, 2017, Appellant appealed to the Alaska Superior Court. The court stayed the administrative appeal on February 28, 2018, after Appellant filed a civil action (4FA-18-01372CI) based on the same facts as those alleged to the Commission. Proposed trial dates were submitted in the second case on October 21, 2022. As of November 30, 2022, the appellate case with the Commission remains stayed.

In **Amber Vinegar v. State of Alaska, Department of Labor & Workforce Development, Division of Employment and Training Services** (Case No. 4FA-21-01770CI), the Appellant alleged she was discriminated against based on her age and race because she was subjected to different terms and conditions than other employees not of her age and race. Investigation found no substantial evidence of discrimination and the case was closed on May 20, 2021. An appeal was filed in superior court on June 30, 2021. The record on appeal was filed on October 12, 2021. Following multiple extensions, Appellant filed her excerpt of record on March 10, 2022, and an Amended Excerpt of Record on March 22, 2022. Appellant's motion to amend her Excerpt of Record was denied and the court dismissed the appeal on June 6, 2022. Appellant filed a Motion for Reconsideration on June 21, 2022. However, the record on appeal was returned to the Commission on August 8, 2022, and Complainant's appeal bond was returned to her on August 16, 2022.



**“No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin. The legislature shall implement this section.”**  
**–Article I, Section 3, of the Alaska Constitution**

## Substantial Evidence Cases

### **Note Regarding Substantial Evidence Findings:**

*Findings of Substantial Evidence remain unproven allegations against a Respondent. A Substantial Evidence finding is not proof of discrimination but is sufficient evidence to lead to an Accusation filing and a trial if conciliation efforts fail. Cases where the Executive Director finds Substantial Evidence of discrimination move into Conciliation, where the staff attempts to confidentially resolve the case before filing a public Accusation.*

## Active Conciliations

### **Sex-based discrimination at restaurant**

Complainant alleged she was discriminated against when she was sent home after two weeks of employment and was told not to come back because she was pregnant and too big to work. Investigation determined there was Substantial Evidence of discrimination on September 8, 2022. A Conciliation Agreement was approved on November 10, 2022, in which Complainant received a settlement of \$400. The Commission continues to monitor the remaining terms of the Agreement.

### **Race-based discrimination**

Complainant observed a sign in Respondent’s window stating Native identification was not accepted when purchasing tobacco. A complaint was filed with the Commission on March 30, 2020, and investigation found that the store employee refused to accept tribal identification cards issued by two Alaska Indian tribes. On March 22, 2022, a Substantial Evidence Determination of discrimination was issued. When efforts to conciliate failed, a Certification of Conciliation Failure was filed with the Commission on August 1, 2022. As the accusation was being drafted, opposing counsel requested a settlement. The Notice of Rescission was filed on September 6, 2022. However, no settlement was submitted to the Commission. A Certification of Conciliation Failure

was again filed with the Commission on December 27, 2022, and an accusation is anticipated to be filed in early 2023.

### **Race-based discrimination in a lobby**

Complainant, who is Black, and his companion, finished visiting a patient in a medical facility and were waiting in the lobby for a ride. Security personnel approached the Complainant and ordered him to leave the premises. Security staff refused to answer the Complainant when he asked what time the lobby closed. Instead, security handcuffed Complainant advising him he was under arrest and trespassed from the premises for one year. When the Complainant’s friend kept inquiring what Complainant had done, instead of answering, security handcuffed and arrested her as well. Security personnel did not approach or question any other patrons, none of whom were Black, in the lobby. The parties signed a Conciliation Agreement on November 11, 2021. Respondent’s nondiscrimination training has been completed. This file will remain open until May 4, 2023, to allow continued monitoring for any additional complaints filed against the facility.

### **Service animals must be allowed in restaurants**

A guest was denied service at a restaurant when the owner advised her no pets were allowed. After reassuring the owner her dog was a service animal, the owner advised it was his right to refuse service and told her to leave. Investigation found Substantial Evidence supporting her claim of disability discrimination. The parties reached a Conciliation Agreement, but the Complainant subsequently declined to sign the document so she could preserve her right to seek punitive damages in civil court. The Executive Director substituted as the Complainant to pursue the Commission’s public policy goals and a two-party Conciliation Agreement was approved on December 29, 2021. Although most terms of the Agreement have been met, due to the seasonal



status of its employees, a Third Amendment to Conciliation Agreement was approved on September 7, 2022, to allow training to be completed by June 30, 2023.

### Sexual harassment in the workplace

Complainant alleges Respondent subjected her to unwelcome comments and conduct of a sexual nature. Complainant further alleges after telling Respondent to stop, the behavior continued and forced Complainant to terminate their employment. A Resolution Conference was held on May 10, 2022; however, settlement discussions were unsuccessful. Investigation by Commission staff found substantial evidence to support Complainant's allegations, and a Substantial Evidence Determination was issued on July 26, 2022. A Conciliation Agreement was signed by both parties on September 12, 2022, and the Commission expects all terms of the agreement to be met by the end of May 2023.

## Pending Conciliations

### Discrimination based on sex

Complainant's mother filed a complaint for her minor daughter alleging she was sexually harassed by a co-worker during her first week of employment. After reporting the incidents, management spoke to the co-worker and placed him on leave. When he returned, the harassment continued. The second time Complainant reported the harassment, management informed her they didn't know what to do. A resolution conference was held on November 14, 2022, with both parties agreeing in principle to enter into a Pre-Determination Settlement Agreement. However, after the resolution conference, Complainant refused to continue, believing they were entitled to further financial compensation. A Substantial Evidence Determination followed. The Commission anticipates a two-party agreement to be signed in early 2023.

## Successful Conciliations and Administrative Closures

### Employee discriminated against based on age and disability.

After a complaint was filed claiming age discrimination, the Complainant withdrew her complaint when it was discovered a separate settlement had been reached between the parties in which she received a settlement of \$19,800. As a result, the Executive Director substituted as the Complainant to obtain policy and training goals. Following completion of the terms of the agreement, the file was closed on November 25, 2022.

### Hearing disability required reasonable accommodation in a place of public accommodation

A hearing-disabled passenger on a tour was provided a written summary of the passing sites when he inquired about the availability of assistive listening devices so he could hear the host's anecdotes. No assistive listening device was available. The parties signed a Conciliation Agreement on July 22, 2021, which included Respondent purchasing and installing assistive listening equipment. Upon completion of the agreement terms, a closing order was issued on June 27, 2022, and the file was closed.

### Race-based discrimination: Employee subjected to different terms & conditions of employment

An employee claimed harassment based on her race when she was not allowed to leave her workstation to use the restroom. Investigation revealed substantial evidence to believe Complainant identified as Latina/Hispanic, and that her employer treated non-English speaking Latino/Hispanic individuals less favorably than English speaking non-Latino/Hispanic employees. Investigation also revealed that as a Latina, Complainant was subjected to verbal abuse, and prohibited from wearing either prescription eyeglasses or prescription safety glasses. Additionally, unlike non-Latino/Hispanic employees, Complainant was not permitted to utilize the restroom as needed, which resulted in Complainant urinating on herself in public. Complainant filed verbal complaints with Respondent's human resources personnel, as well as filed an in-person complaint with the corporate office after the term of her employment contract ended. Ultimately, Complainant declined to sign the Commission's proposed Conciliation Agreement to explore potential civil remedies. On November 5, 2021, the Commission entered into a two-party agreement with Respondent to pursue public policy goals. When the 2022 fishing season opened, Respondent reported it was able to meet the final terms of the Agreement at its Alaska locations and the Closing Order was filed with the Commission on July 7, 2022.

### Race-based employee housing discrimination

An employee claimed discrimination based on race when she complained about poor housing conditions and was subsequently threatened with termination after the employer learned of her disability. Investigation found substantial evidence of discrimination and a settlement was reached between the parties on March 28, 2019; Complainant agreed to withdraw her complaint with the Commission, and Respondent agreed to conduct training. Training was completed on July 28, 2022, and the Closing Order was issued on August 22, 2022.

### Sex-based discrimination after promotion

A female employee filed a complaint claiming she was subjected to harassment and offensive comments of a sexual nature following her promotion. Investigation found substantial evidence of discrimination, including information that other females did not apply for openings due to fear of harassment. A Conciliation Agreement was approved on January 6, 2021. Upon approval of the public policy and completion of the required training, a final report was submitted, and a Closing Order was issued on December 2, 2022.

### Hearing disability required accommodation to order food

A deaf patron attempted to place a written order at the drive-through window of a fast-food restaurant but was denied service. Investigation revealed substantial evidence that Complainant attempted to place a written order as instructed at the drive-through order station. However, she was unsuccessful as the ordering process eventually took longer than commercially desired and the manager threatened to call the police. Complainant declined to sign the negotiated Conciliation Agreement so she could potentially pursue other civil remedies. The Executive Director substituted as the Complainant to pursue public policy goals. A Conciliation Agreement was approved on October 25, 2021. After all terms of the agreement were met, a closing order was issued on June 23, 2022, and the file was closed.

## Substantial Evidence Cases

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### Job applicant was treated as disabled

When reapplying for employment at a fast-food restaurant, the applicant advised she had been diagnosed with a viral blood infection. After providing a list of requirements necessary to be rehired, the restaurant told her they could not re-hire her because the U.S. Food and Drug Administration prohibited them from employing a person with such an infection. Investigation revealed her infection was not among those listed by the U.S. Food and Drug Administration as a pathogen that excluded her from working in the food industry. A Conciliation Agreement was approved on February 28, 2022. A First Amendment to Conciliation Agreement was approved on June 24, 2022, to facilitate effective and efficient employee training. Upon completion of the required training, a Closing Order was issued on November 28, 2022.

### Sexual harassment

An employee alleged she was subjected to unwelcome, harassing comments, as well as unwanted offensive sexual comments and touching by Respondent's owner. Investigation produced corroborating testimony supporting the claims. In addition, it found three other female employees had quit the same year for similar complaints. A determination of Substantial Evidence of discrimination was issued on June 30, 2021. A Conciliation Agreement was approved on March 17, 2022. Respondent completed all terms of the Agreement, and the file was closed on or about June 21, 2022.



### Discrimination due to on-the-job injury

A truck driver suffered an on-the-job neck injury. After medical treatment, she received a full release from the doctor to return to work, but Respondent refused to rehire Complainant as a truck driver. A complaint was filed with the Commission on December 13, 2018, and investigation found substantial evidence of discrimination. A Conciliation Agreement was approved on March 21, 2022. Complainant received a settlement check of \$14,000, and upon Respondent's satisfaction of the remaining terms and conditions of the Agreement, the file was closed on June 15, 2022.

### Less qualified applicant selected based upon race

An employee was told her position was being eliminated but she could apply for another position. A Substantial Evidence determination of discrimination was issued on June 2, 2021, after investigation revealed her qualifications exceeded the requirements of the position and she had been approved for hire by human resources; yet the new director selected another applicant of a different race who had less experience and poor references. The Complainant signed a separate settlement agreement with the employer in which she received \$10,000 and dismissed her complaint with the Commission. The Executive Director substituted as the Complainant to pursue public policy goals. The file was closed on August 22, 2022, after Respondent completed training.

### Service Animal not allowed in restaurant

A guest alleged her service animal was denied entry into Respondent's restaurant unless she provided "proof" it was a legitimate service animal. A Resolution Conference was held on August 10, 2022, but Complainant

refused to participate. Ultimately, although there was no approved agreement, Respondent voluntarily remedied its anti-discrimination policy, and the file was closed on October 31, 2022.

### Sex-based discrimination resulted in unreasonable employee dismissal

After a male employee declined his employer's request to move to a position for which he was not qualified and had no experience, he was told his current position had already been filled with a female employee. As a result, Complainant moved to a different community to pursue his intended occupation. He subsequently filed a complaint of discrimination based on his sex. Investigation found Substantial Evidence of the employer's preference for females, and a determination was issued on December 17, 2021. Attempts to conciliate failed because Complainant refused to participate after he learned that his new higher income effectively precluded a significant damages award, which resulted in Respondent declining to settle without Complainant's participation. The file was closed on March 23, 2022.

### Employer's personnel policy resulted in race-based discrimination

After approximately 17 years of employment, an employee was advised the employer was going in a different direction and he was terminated. Investigation found substantial evidence of discrimination when recommendations were made to terminate the employee and hire a replacement not of his race. Respondent asserted a bona fide business reason to terminate his employment, as well as asserted it had a reasonably viable defense that Complainant was a political appointee, policy maker; and therefore, not subject to anti-discrimination laws. A determination was issued on June 4, 2021. Following extensive research, it was determined that there was insufficient evidence to rebut Respondent's claim. The case was administratively closed on May 3, 2022.

### Race-based employee discipline

An employee alleged he was subjected to different terms and conditions than other employees not of his race. Investigation found that the Complainant was terminated for performance defects during a specific incident, while other employees not of his race involved in the same incident only received a verbal warning from their supervisor. The determination of Substantial Evidence was issued on June 3, 2021. Respondent asserted it had a bona fide non-discriminatory reason to terminate Complainant. Following extensive research, it was determined that there was insufficient evidence to rebut Respondent's claim. The case was administratively closed on May 3, 2022.

### Race-based employee discipline

An employee alleged she was subjected to different terms and conditions than other employees not of her race. Although she had a history of good performance ratings, her employer transferred her to a different department, placed her on probation for six months, and subsequently terminated her. Investigation failed to discover a legitimate, non-discriminatory reason for Complainant's termination. A Substantial Evidence Determination was issued on June 10, 2021. Respondent asserted it had a bona fide non-discriminatory reason to terminate Complainant. Following extensive research, it was determined that there was insufficient evidence to rebut Respondent's claim. The case was administratively closed on May 3, 2022.

### Retaliation: Reporting of potential discrimination is a protected activity

An employee claimed discrimination based on his race. The employee emailed his supervisor complaining of unwanted, offensive, and derogatory comments based on his religion, and was subjected to different terms and conditions than employees not of his race. Complainant was terminated shortly thereafter. Although no substantial evidence of discrimination was found on the underlying religious discrimination complaint, substantial evidence was found that the termination was motivated by the Complainant's opposing discrimination. The employer asserted the employee engaged in a romantic relationship with another employee that both unreasonably interfered with the Complainant's ability to perform his job, and negatively affected department morale. Respondent also asserted a reasonably viable defense that Complainant was a political appointee and policy maker and therefore, not subject to anti-discrimination laws. Research revealed there was insufficient evidence to rebut Respondent's claim. Nor was there sufficient evidence to establish retaliation. The case was administratively closed on May 3, 2022.

### Personnel hiring decision leads to race-based discrimination

A female applied for one of three vacancies and was selected by department management for one of the positions. Human resources failed to approve the hire and selected an applicant of a different race even though the selected applicant was less qualified based upon application test scores and references alone. Investigation found substantial evidence to believe the employer's hiring decision was based on race. A Substantial Evidence Determination was issued on June 3,

2021. Respondent asserted it had a bona fide non-discriminatory reason not to hire Complainant. Staff researched the issue; based upon the research findings, it was determined that there was insufficient evidence to rebut Respondent's claim. The case was administratively dismissed on May 3, 2022.

### Discrimination based on sex and race

An employee alleged she was discriminated against based on her sex and race when she was subjected to derogatory names, comments regarding lewd sexual acts, as well as unwanted and offensive sexual advances. Additionally, she raised concerns to her employer regarding racially discriminatory hiring practices. When Respondent did not acknowledge her reports, she filed two complaints with the Commission on March 7, 2018. The first alleging both sex and race-based discrimination, and the second complaint alleging retaliation for engaging in a protected activity. Investigation found that her supervisor failed to follow policy to address allegations of harassment, and there was a reasonable inference of retaliation for opposing discrimination. A determination of Substantial Evidence of discrimination was issued on May 19, 2021. The employer asserted a bona fide, non-discriminatory reason for terminating the Complainant, including that she engaged in a romantic relationship with another employee that both unreasonably interfered with the Complainant's job performance and department morale. Extensive research revealed there was insufficient evidence to rebut Respondent's claims; nor was there sufficient evidence to establish retaliation. The case was administratively closed on May 3, 2022.



## Resolution Conference Pre-Determination Settlement Agreements

### Note Regarding Pre-Determination Settlement Agreements:

Resolution conferences are now held as the first step in the investigation process to obtain preliminary facts from the parties and then attempt a settlement negotiation. A case settled at this stage did not undergo a complete investigation, nor has any finding been made. The following cases all resulted in Pre-Determination Settlement Agreements as a direct result of participating in a resolution conference.

### Allegation of sex discrimination in education

Complainant alleged sex discrimination when Respondent failed to consider her for a teaching position because it wanted a male teacher. Respondent asserted Complainant was not chosen for the position because of several in-district transfer requests. A resolution conference was held, and the parties agreed to monetary compensation of \$2,100 for Complainant's attorney fees, a private letter of apology to the Complainant, and discrimination training for managers and supervisors including non-discrimination in hiring practices. The Respondent completed all obligations in the agreement and the case was closed on September 19, 2022.

### Service animal and emotional support animal in housing

Complainant alleged physical and mental disability discrimination when Respondent attempted to evict Complainant for failing to pay a fee for an emotional support animal. Respondent asserted it did not know the animal was an emotional support animal and issued the Complainant a Notice to Correct when Complainant failed to submit a required animal registration form. The parties agreed to a settlement that included Respondent promptly replying to future tenant emails. The Respondent also agreed to clean the soiled areas on Complainant's balcony and the tenant's balcony located directly below the Complainant's balcony, at no cost or penalty to Complainant. The Complainant agreed to walk the service dog and emotional support dog separately and always maintain control of the dogs. The Complainant also agreed to not allow the dogs to eliminate waste in the rental unit without "potty pads" or similar devices. The case was closed on June 20, 2022.

### Disability discrimination claim

Complainant alleged physical disability discrimination when Respondent notified the Complainant it would not renew the Complainant's annual contract because the Complainant's disability affected their work performance. A non-renewal of the contract would negatively impact the Complainant's employment record, so the Complainant resigned. Additionally, the Complainant alleged that Respondent refused to rescind the resignation and engage in the interactive process to accommodate the disability. Respondent asserted at the time of the resignation, it had not determined whether to renew the contract because of Complainant's performance and conduct concerns. Respondent also asserted that under its policy, a resignation may not be withdrawn. In settling, Respondent agreed to compensate Complainant \$5,000 plus an additional \$2,000 for Complainant's attorney fees, and to eliminate two records from the Complainant's personnel file. Respondent also agreed that for unemployment filing purposes they would state that Complainant resigned and not to contest or challenge Complainant's claim of "constructive discharge." The Complainant agreed to delete all unauthorized work-related photographs. The case was closed on July 1, 2022.



### Allegation of race-based discrimination in public accommodation <sup>1</sup>

Complainant alleged racial discrimination when Respondent implied in online advertising that persons of the Complainant's race may not attend Respondent's otherwise public event. Respondent denied Complainant's allegation and asserted the event was intended to focus conversations about racial issues. To facilitate timely resolution prior to the event, Respondent took immediate affirmative steps to comply with AS 18.80.230 by changing the published language. Respondent also adopted a non-discrimination policy. After consideration, Complainant refused to sign the Pre-Determination Settlement. The Commission immediately completed investigating and issued a Substantial Evidence Determination noting the affirmative steps Respondent undertook pre-determination. Complainant refused to sign the proposed Conciliation Agreement due to his interest in seeking sanctions unavailable from the Commission. With public policy concerns addressed, the Executive Director dismissed the complaint on August 22, 2022.

### Service animal at sporting event

Complainant alleged physical disability discrimination when Respondent denied Complainant access to its public events unless it was provided with documentation that the service dog is an ADA-licensed or certified service dog. Respondent asserted that it received a complaint that the dog was being aggressive. A Resolution Conference was held, and the parties agreed to a settlement that included Respondent adopting a nondiscriminatory service dog policy and posting a "service animals welcome" sign. Respondent also agreed to discrimination and service animal training for employees and volunteers, and to have Commission pocket cards about service animals available for staff. The case was closed on August 9, 2022.

### Service Animal not allowed in restaurant

Complainant alleged their service animal was denied entry by restaurant staff. A Resolution Conference was held on October 17, 2022, and both parties entered into a Pre-Determination Settlement Agreement whereby the restaurant will undertake training, adopt a non-discrimination policy,

<sup>1</sup> Although this case did not result in a signed settlement agreement, it is included because the process resulted in a rapid case resolution with Respondent addressing all concerns covered by AS 18.80.

post a sign indicating that service animals are welcome, and allow service animals for disabled patrons. The Commission will monitor the terms of the agreement pending successful completion of all terms.

#### **Allegation of sex discrimination at a restaurant**

While investigating a different complaint, it became apparent that Respondent potentially had a larger issue with subjecting its female employees to unwelcome comments and conduct that were sexual in nature, which created a sustained hostile work environment. The Executive Director brought a complaint to address this concern. Respondent initially denied the allegations. The case pre-dated the Resolution Conference implementation, but the opportunity was offered to Respondent toward the end of May. Respondent admitted there were some issues and agreed to a policy review and to provide training to all its employees. Training included a provision for annual and new-employee training. The agreement was reached on June 10, 2022, and after satisfying all the conditions it had agreed upon, a closing order was issued on June 28, 2022.

#### **Claim that public accommodation failed to accommodate religions and disabilities**

It came to the Executive Director's attention that a business was discriminating against patrons based upon religion and disability by requiring both a mask and proof of a COVID-19 vaccine without any accommodations. Respondent denied the allegations citing a direct threat defense based upon the nature of the business. At the Resolution Conference, the Executive Director agreed that there was some genuine direct threat concern, and Respondent agreed to draft new policies approved by the Commission to ensure that the religious and disability needs of Respondent's patrons were balanced with the genuine direct threats identified. This included tele-appointment options and accepting proof of a recent negative COVID-19 test in lieu of a vaccine, among other policy changes. A Closing Order was issued on June 24, 2022.

#### **Physical disability discrimination claim based upon illness symptoms**

Complainant, who has a physical disability, experienced associated symptoms and notified the Respondent employer. Because the disability symptoms are like COVID-19 symptoms, Respondent placed Complainant on medical leave. Complainant alleged that Respondent failed to engage in the interactive process required to determine if a reasonable accommodation exists for the disability. During a Resolution Conference, the parties agreed to restore 14 hours of Complainant's sick leave and 19.56 hours of vacation leave. The case was closed on November 8, 2022.

#### **Religion discrimination claim from COVID-19 vaccination requirement**

Complainant alleged religious discrimination when Respondent denied Complainant's religious exemption request for Respondent's COVID-19 vaccination requirement, and then rescinded its employment offer to the Complainant. Respondent asserted the Complainant did not qualify for a religious exemption because it did not believe the Complainant's religious beliefs to be sincerely held. A Resolution Conference was held, and the parties agreed to a settlement that included Respondent removing from Complainant's personnel file any reference of the exemption request, the denial of employment, and any record of the complaint filed with the Commission. The Respondent also agreed to make the Complainant eligible for hire. The Complainant agreed not to discuss the settlement agreement. The case was closed on November 10, 2022.

#### **Claim of public accommodation physical disability discrimination**

Physically disabled Complainant who uses a service animal required roadside assistance. The towing operator cited a company policy forbidding pets inside the tow truck and there were no exceptions. Respondent denied the allegation and asserted that service animals are allowed inside the tow truck cabs. During a Resolution Conference, Respondent agreed to adopt a non-discrimination policy, conduct employee training regarding the legal requirements for service animals, and include the policy in its new-hire orientation documents. The case was closed on May 18, 2022.

#### **Allegation of sex discrimination in the workplace**

Complainant alleges they were subjected to unwanted comments of a sexual nature, which caused a hostile work environment. A Resolution Conference was held on May 26, 2022, wherein both parties entered into a Pre-Determination Settlement Agreement with Respondent compensating Complainant \$1,000, adopting a non-discrimination policy, and training all employees. Due to the seasonal nature of Respondent's business, the Commission anticipates all terms of the agreement will be met by February 2023.

#### **Disabled patron denied access due to unavailability of wheelchair ramp**

Complainant alleges Respondent did not have a wheelchair access ramp readily available and therefore Complainant was unable to enter the premises. Before a Resolution Conference could take place, Complainant withdrew her complaint and the Executive Director substituted for the Complainant to further public policy goals. A two-party Pre-Determination Settlement Agreement was approved by the Executive Director on November 30, 2022, with Respondent agreeing to adopt a non-discrimination policy, posting signage at relevant locations regarding the existing wheelchair ramp, and training all employees. The Commission will continue monitoring terms of the agreement.

#### **Pregnancy discrimination claim in the workplace**

Complainant alleges Respondent, who hired Complainant knowing she was pregnant, terminated her employment over concerns related to the pregnant employee working in a marine environment. A Resolution Conference was held on November 7, 2022, and both parties entered into a Pre-Determination Settlement Agreement wherein Respondent agreed to adopt a non-discrimination policy and train all employees. Due to the seasonal nature of Respondent's business, all terms of the agreement are anticipated to be completed by late May 2023.

#### **Transient lodging disability discrimination claim**

Complainant alleged that Respondent discriminated against her because of her mental disability when Respondent asked for documentation that her dog was a service animal; that Respondent told her the documentation could be "easily faked" and denied Complainant an accommodation. Respondent denied the allegation and stated that Complainant became agitated when asked a lawful question about training and then left the premises with the blank application. A Resolution Conference was held. Respondent admitted it had no written policies regarding service animals. Although Complainant did not attend the conference, both parties ultimately signed a Pre-Determination Settlement Agreement wherein Respondent agreed to develop and disseminate policies approved by the Commission. A Closing Order was issued on December 29, 2022.

## Resolution Conference

from page 13

### Allegation of workplace age discrimination

Complainant, who worked for 10 months and was terminated, claimed that younger staff was treated better when applying policies such as workplace training, workday timeliness, leave requests, lunch breaks, etc. Respondent denied the allegations and provided documentation of multiple performance issues in addition to its attempts at coaching for improvement. During a Resolution Conference, the parties settled for Respondent giving Complainant \$500 and a letter apologizing that Complainant felt unheard. A closing order was issued on May 4, 2022.

### Workplace disability discrimination claim

Complainant alleged that Respondent discriminated against her because of her physical disability when it failed to engage in the interactive process and then terminated her employment. Respondent denied the allegations. A Resolution Conference was held where it was determined that the Complainant did not have a qualifying disability. Nevertheless, the parties agreed that Respondent would pay the Complainant \$7,500 and the Complainant would withdraw/dismiss pending actions against Respondent before the Commission, a workman's compensation appeal, and a private civil action, with the payment largely covering the Complainant's legal fees. The Commission accepted the agreement despite direct evidence in Respondent's favor as Respondent believed it was in its best interest to utilize the Commission's resolution process to permanently resolve all outstanding matters with the Complainant and obtain a complete release of liability. A Closing Order was signed on April 8, 2022.



### Employee claims discrimination based on disability.

Complainant alleges Respondent discriminated against her based on her physical disability when her employment was terminated. Complainant asserts she was on approved leave due to surgery related to her disability and was released to work by her physician. When Complainant inquired about her upcoming schedule so she could reschedule a dental appointment, Respondent terminated her employment citing excessive absences and to avoid what was seen as an emerging pattern. Complainant disagreed with that conclusion. A Resolution Conference was held on November 7, 2022, in which Respondent agreed to pay Complainant \$6,898.00 in back pay. Anti-discrimination training for Respondent's managers, supervisors, and employees is expected to be completed by January 31, 2023.

### Rental discrimination claim based on sex and race

Complainant alleged she was discriminated against based on her sex and race when she was evicted from the rental property on the basis that the owner wanted to assume the unit. She later learned the unit was rented to a Caucasian male. A Resolution Conference was held, and the Complainant received \$2,000 in settlement. The case was closed on October 5, 2022.

### Housing access for an emotional support animal

Complainant alleged Respondent failed to provide accommodation for

her Emotional Support Animal (ESA) when the Complainant applied for housing. A Resolution Conference was held August 16, 2022, wherein both parties entered into a Pre-Determination Settlement Agreement that allows Complainant to live in the housing with her ESA subject to reasonable requirements. Respondent submitted an updated ESA policy, fulfilling their obligations. On October 4, 2022, a Closing Order was issued, and the file was closed with the Commission.

### Allegation that new hire treated as disabled

Complainant alleged Respondent treated them as disabled after the Complainant disclosed a prior mental health disability as a part of the new hire process. Complainant was dismissed without stating a reason and Respondent transported Complainant from the job site. A Resolution Conference was held on September 9, 2022, wherein both parties entered into a Pre-Determination Settlement Agreement requiring Respondent to compensate Complainant \$4,000. After meeting all terms of the settlement agreement, a Closing Order was issued on November 4, 2022, and the file was closed.

### Disability discrimination allegation for emotional support animal security deposit

The Complainant alleged mental disability discrimination when Respondent retained \$600 as a "non-refundable pet fee" and \$600 as a "pet deposit," for Complainant's two emotional support animals and her roommate's single pet. A Resolution Conference was held, and the parties agreed to a settlement of \$625 in monetary compensation to the Complainant. The case was closed on September 8, 2022.

### Claim that employer failed to engage in the interactive process

An employee alleged she was terminated for no reason following her request to participate in discussions for assistance regarding her disability. The parties attended a Resolution Conference on July 1, 2022, that resulted in a Pre-Determination Settlement Agreement. Complainant received a settlement of \$7,000 and upon completion of the remaining terms of the agreement, a closing order was issued on August 11, 2022.

### Accessibility issue for websites

Complainant alleged physical disability discrimination because Respondent does not have websites that meet accessibility guidelines for use by the blind and visually impaired. A Resolution Conference was held, and the parties agreed to a settlement that included Respondent adopting a policy that lowers the technical barriers to accessibility for individuals with disabilities. The case was closed on October 25, 2022.

### Allegation that store did not allow disability access

Complainant alleged that Respondent was discriminating against her and all physically disabled persons because it was out of compliance with ADA parking and building access requirements. Respondent admitted to the deficiencies. A Pre-Determination Settlement Agreement was approved on May 13, 2022, following a Resolution Conference. Respondent agreed to modify two store locations to provide designated disability parking spaces with corresponding curb cuts for ramp access. Respondent successfully fulfilled the agreement terms; therefore, a Closing Order was issued, and the file closed on October 24, 2022.

### Inverse marital discrimination claim in rental housing

Upon his response to a rental notice, Respondent inquired about Complainant's family status. When Respondent was advised it would be he and his girlfriend, Complainant was told that Respondent preferred only married couples or single persons. A Resolution Conference was

held on June 29, 2022, after which a Pre-Determination Settlement Agreement was approved. Complainant received a settlement of \$4,500, Respondent reviewed Alaska law associated with housing discrimination, and both parties agreed to refrain from all future disparaging and slanderous comments. The file was closed on or about August 10, 2022.

#### Disability discrimination claim when service animal denied entry to restaurant

Complainant alleged that Respondent discriminated against him when it refused his service animal access to its restaurant. Respondent denied the allegation and asserted the dog was behaving as a pet—that the Complainant allowed it to sit on a chair and eat food off the table. At a Resolution Conference, the Complainant admitted that his dog required additional training and that Complainant did not know how to train his animal to behave in public as a working animal should. Complainant agreed to acquire professional training for his dog. Respondent agreed to allow the animal back into its establishment after Complainant provided documentation of the completed training. Parties agreed that providing

documentation was for this matter only. The Closing Order was issued on September 19, 2022.

#### Sex discrimination allegation in the workplace

An employee alleged she was treated in a hostile manner, subjected to unwelcome comments of a sexual nature, and was not compensated equally compared to male employees. Respondent denied the allegation. Both parties attended a Resolution Conference held on July 25, 2022, and shortly after, both parties entered into a Pre-Determination Settlement Agreement. Complainant received a settlement of \$13,000. All terms of the settlement were met, and the file was closed with the Commission on September 16, 2022.

#### Claim of religious discrimination at work

Complainant alleged that Respondent subjected her to harassment regarding her religion and after she complained the harassment became worse. Complainant felt she had no choice but to resign because the environment was intolerable. Respondent denied the allegations. At a Resolution Conference, the parties agreed that Complainant would be paid \$864, which was the amount she would have made if given a two-week resignation notice. Respondent agreed to receive training about discrimination in the workplace. A Closing Order was issued on November 3, 2022.

**“It is determined and declared as a matter of legislative finding that discrimination against an inhabitant of the state because of race, religion, color, national origin, age, sex, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood is a matter of public concern and that this discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, safety, and general welfare of the state and its inhabitants.” –AS 18.80.200(a)**



# OUTREACH

- Clerk of Courts Conference presentation, April 22, 2022
- National Federation for the Blind, Alaska Chapter, and the Alaska Division of Elections, meeting regarding voter accommodations for 2023 special primary and special general/regular primary elections, May 13, 2022
- State and national media coverage, June 16-17, 2022
- Anchorage Juneteenth Festival booth, Anchorage, June 18-19, 2022
- Pride Rise & Shine: Community Activism and Education Fair booth, June 25, 2022
- Statewide radio ad campaign on 23 public radio stations statewide, June-August, 2022
- Kenai Peninsula State Fair booth, August 11-13, 2022
- Alaska State Fair booth, August 19 and 26, 2022
- Press release for October meeting/outreach in Sitka, October 11, 2022
- KCAW interview, October 14, 2022
- First Alaskans Institute Elders & Youth Conference, Lunch & Learn presentation, October 18, 2022
- Alaska Day Celebration booth, Sitka, October 18, 2022
- Alaska State Trooper Academy presentation, October 18, 2022
- Alaska Federation of Natives Annual Convention booth, October 20-22, 2022
- National Federation for the Blind Alaska Chapter Annual Convention presentation, November 4, 2022
- Palmer Rotary Club presentation, November 10, 2022
- Goldeneye Media campaign launched November, 2022 (ongoing into 2023)
  1. 113,000 plays through streaming services such as iHeart Radio and Pandora
  2. 1,600 radio ads on KFQD, KWHL, KMXS, KHAR, KBRJ, KEAG
  3. 201,000 television views
  4. 164,438 Facebook reactions
  5. 113,231 display ads
  6. 23,549 email views
  7. 12,625 LinkedIn exposures
  8. (Over 65% of those who engaged with the ads or clicked on links were between the ages of 18-34.)
- Press release for December meeting/outreach in Fairbanks, November 29, 2022
- KSUA interview, December 8, 2022
- UAF booth, December 13, 2022
- Fairbanks Diversity Council presentation, December 13, 2022
- Press release with year-end summary, December 16, 2022
- Distributed over 4,500 "pocket cards" regarding service animals to the alcohol service industry, 2022
- Distributed 84 copies of Resolution 2022-6 to Alaska healthcare providers
- Distributed 104 copies of Resolution 2022-7 to Alaska childcare providers



Top Left: ASCHR pocket cards funded by the EEOC.

Bottom Left: ASCHR handouts.

Above: ASCHR booth at the 2022 AFN event.





# Alaska State Commission for Human Rights

## MISSION

To eliminate and prevent discrimination for all Alaskans

## VISION

An Alaska free of discrimination

## GUIDING PRINCIPLES

- Integrity in all we do
- An organization built on mutual respect
- Data-driven and accountable
- Promoters of equality for all Alaskans
- Meaningful application of resources
- Continuous improvement
- Respectful representation of the constituents we serve
- Enforcement as a tool, not a goal
- Integrate education into all aspects of our work

## PURPOSE STATEMENT

"Discrimination not only threatens the rights and privileges of the inhabitants of the state, but also menaces the institutions of the state and threatens peace, order, health, safety, and general welfare of the state and its inhabitants. Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination. It is also the policy of the state to encourage and enable physically and mentally disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment." AS 18.80

## 2019-2023 Strategic Plan

### GOAL 1

*Conduct timely investigations that strengthen the enforcement of Alaska anti-discrimination laws under AS 18.80*

- Implement case collaboration procedures that introduce staff lawyers into the case early in the process to aid in identifying the legal theories prior to developing the investigation plan.
- Identify impediments to closing cases at 180 days from assignment and implement solutions.
- Develop reporting structures that access relevant data in the case management system to measure progress toward the 180 day goal.
- Develop and implement an intranet or wiki for easy access to relevant information by all staff members.
- Identify and apply best practices in both policy and procedures.
- Continue to implement technology to increase productivity

### GOAL 2

*Continue and expand our role as public advocates for the elimination and prevention of discrimination*

- Develop and implement plan for statewide outreach with educational, training and public service components.
- Conduct systemic investigations and prepare white papers with findings to share with leadership and other organizations
- Work with the State Legislature to add non-profits to ASCHR's jurisdiction in an effort to include protections for 44,000 currently unprotected workers
- Create a training resource center
- Prepare communications plan to reach a variety of demographics throughout Alaska

### GOAL 3

*Recognizing that people are our greatest asset, create an environment where staff feels appreciated and valued.*

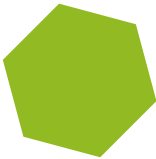
- Develop an employee succession plan.
- Create opportunities for advancement.
- Provide training & professional development opportunities.
- Increase Staff/Commission Interaction.
- Improve inter-agency and intra-agency communication.
- Enhance teambuilding opportunities.
- Provide continued training to Commissioners on human rights law and relevant court cases.

Filings by Basis		
	Single	Multiple
Race	28	14
Physical Disability	28	1
Sex	25	10
Mental Disability	21	6
Age	12	4
Religion	10	3
Retaliation	3	1
Pregnancy	2	0
Retaliation for Filing	2	0
Parenthood	1	0
National Origin	1	1
Marital Status	1	0
<b>Total Filings</b>	<b>134</b>	


\*Some complaints alleged more than one basis and/or issue

Filings by Issue		
	Single	Multiple
Fired	57	27
Terms and Conditions	26	12
Failure to Hire	9	0
Failure to Accommodate	12	0
Failure to Promote	0	0
Harassment	2	0
Other	3	0
Sexual Harassment	3	1
Denied Service	17	6
Failure to Rent	1	0
Eviction	4	1
<b>Total Filings</b>	<b>134</b>	

\*Some complaints alleged more than one basis and/or issue



Filings by Type	
Employment	95
Public Accommodation	21
Government Practices	9
Housing	9




Filings by Complainants Age	
20 year and under	7
21 - 40 years	49
41 - 60 years	46
61 years and older	30

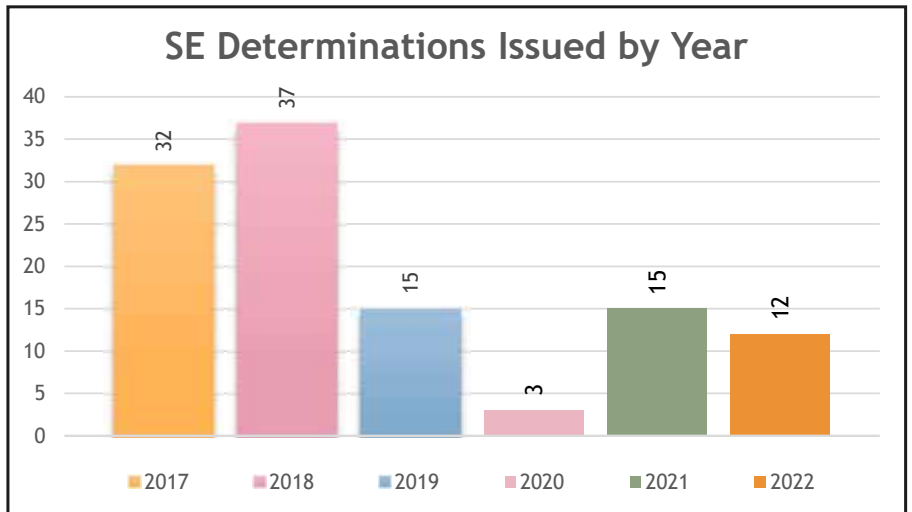
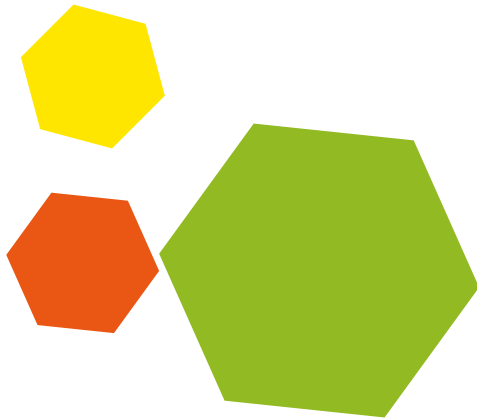
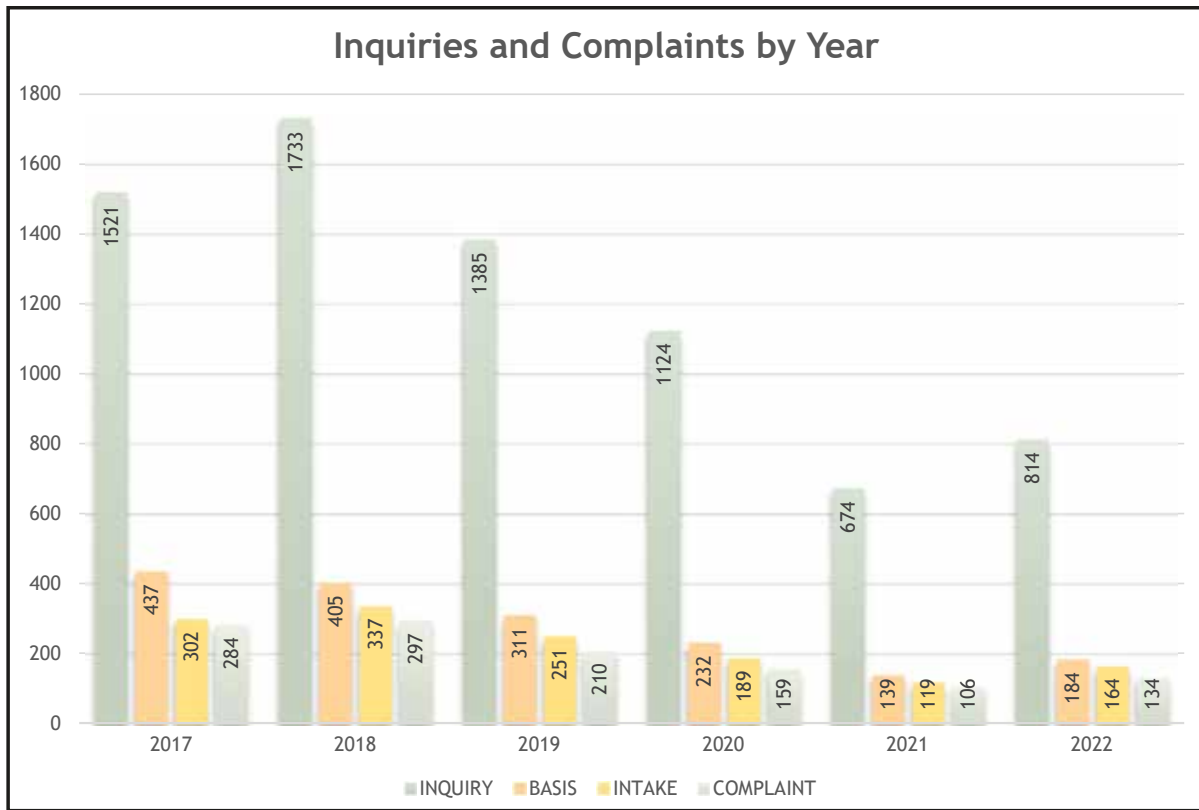
Filings by Complainants Gender	
Male	49
Female	85

ANALYSIS OF 2022 CLOSURES

REASON FOR CLOSURE	
<b>NOT SUBSTANTIAL EVIDENCE</b>	<b>92</b>
<b>ADMINISTRATIVE</b>	<b>30</b>
Complaint Withdrawn	17
Complainant Not Available	1
Failure of Complainant to proceed	2
Administrative Dismissal	10
<b>CONCILIATION AND SETTLEMENT</b>	<b>39</b>
Pre-determination Settlement	29
Substantial Evidence - Conciliation Finalized	10
<b>HEARING</b>	<b>1</b>
Administrative Dismissal by Hearing Unit	0
Prehearing Settlement	1
<b>Total Closures</b>	<b>162</b>



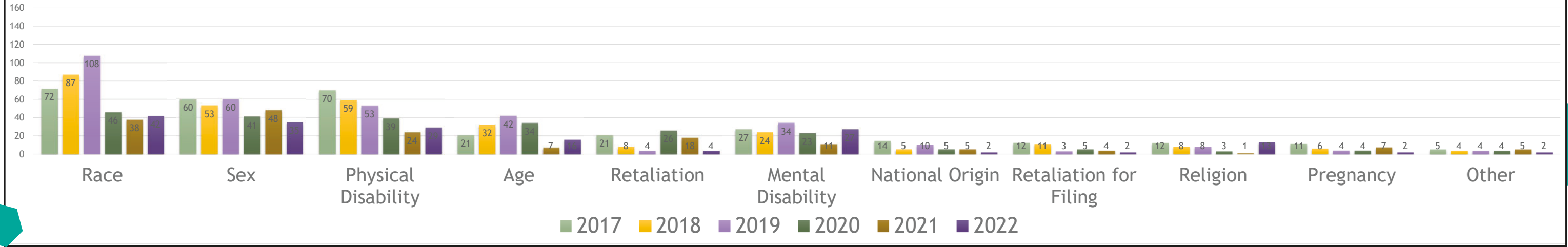
Filings by Complainants Race	
Caucasian	30
Unknown	73
Black	11
Native	11
Hispanic	2
Asian	2
Other	5



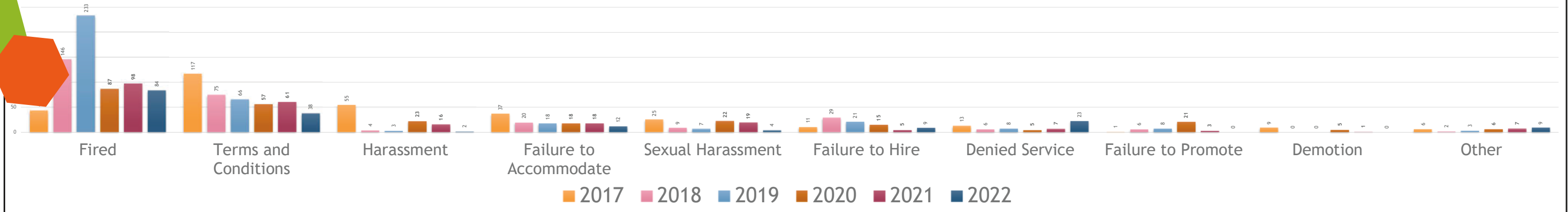
Summary of Closures (2017-2022)

Category of Closure	2017		2018		2019		2020		2021		2022	
	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC
Mediation	19	0	22	1	20	0	0	1	0	3	1	2
Administrative	27	0	30	1	36	0	18	1	24	3	30	2
Not Substantial Evidence	233	3	165	48	197	6	144	15	151	28	92	12
Conciliation and Settlement	39	1	14	1	24	0	5	0	2	1	39	1
Hearing	20	0	21	0	12	0	3	3	3	0	0	0
<b>Subtotal</b>	<b>338</b>	<b>4</b>	<b>252</b>	<b>51</b>	<b>289</b>	<b>6</b>	<b>170</b>	<b>20</b>	<b>180</b>	<b>35</b>	<b>162</b>	<b>17</b>
<b>TOTAL</b>	<b>405</b>		<b>452</b>		<b>342</b>		<b>190</b>		<b>215</b>		<b>179</b>	

Filings by Basis Comparison



Filings by Issue Comparison





THE STATE  
*of* ALASKA

GOVERNOR MICHAEL J. DUNLEAVY

## Office of the Governor

COMMISSION FOR HUMAN RIGHTS

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### RESOLUTION 2022-2

**WHEREAS**, section 14(c) of the Fair Labor Standards Act allows employers to discriminate against people with disabilities by allowing employers to pay less than the federal minimum wage to workers who have disabilities for the work being performed; and,

**WHEREAS**, the subminimum wages are for mundane tasks that do not typically transfer into skills granting the disabled employee other employment opportunities, and reinforces stigmatic misconceptions and stereotypes that disabled workers are less capable; and,

**WHEREAS**, employers increasingly stopped relying on section 14(c) and are voluntarily withdrawing their certificates; and,

**WHEREAS**, in 2016, both Republicans and Democrats called to end subminimum wages for people with disabilities; and,

**WHEREAS**, in her Letter of Transmittal accompanying the U.S. Commission on Civil Rights 2020 Statutory Enforcement Report titled Subminimum Wages: Impacts on the Civil Rights of People with Disabilities, the Chair noted that the U.S. Department of Labor repeatedly found section 14(c) providers limiting people with disabilities from realizing their full potential while allowing providers and associated businesses to profit from their labor, which is contrary to section 14(c)'s purpose; and,

**WHEREAS**, a congressional committee recommended in 2016 that section 14(c) be phased out, and a 2018 report by the National Council on Disability recommended phasing out section 14(c); and,

**WHEREAS**, the State of Alaska eliminated the state-level equivalent to section 14(c) in 2018 because its experience for the prior two decades showed that workers with disabilities can succeed in jobs earning minimum wage or more; and,

**WHEREAS**, the Governor's Council on Disabilities and Special Education, the State Vocational Rehabilitation Committee, the Statewide Independent Living Council, and the Alaska Workforce Investment Board all supported eliminating Alaska's subminimum wage exemption; and,

**WHEREAS**, eliminating the Alaska minimum wage exemption brought employment practices into alignment with the Alaska Employment First Act of 2014 which requires vocational services help people with disabilities to become gainfully employed at or above the minimum wage; and,

**WHEREAS**, the Alaska Human Rights Act declares that discrimination against an Alaskan because of physical or mental disability is a public concern and that this discrimination not only threatens the rights and privileges of the inhabitants of the state but also menaces the institutions of the state and threatens peace, order, health, and general welfare of the state and its inhabitants; and,

**WHEREAS**, the Alaska Human Rights Act declares that it is the policy of the state to eliminate and prevent discrimination in employment because of physical or mental disability, and to encourage physically and mentally disabled persons to participate fully in the social and economic life of the state to engage in remunerative employment; and,

**WHEREAS**, the Alaska State Commission for Human Rights is the agency charged with enforcing the Alaska Human Rights Act; and,

**WHEREAS**, the Alaska State Commission for Human Rights finds that section 14(c) remains a discriminatory barrier for people with physical and mental disabilities; and,

**WHEREAS**, the Transformation to Competitive Integrated Employment Act, introduced as S. 3238 and H.R. 2373, eliminates that barrier by prohibiting the Secretary of Labor from issuing Special Wage Certificates to new applicants and by bringing wages for disabled persons within the auspices of the federal minimum wage.

**NOW, THEREFORE, BE IT RESOLVED**, that the Alaska State Commission for Human Rights:

1. finds section 14(c) of the Fair Labor Standards Act to be an outdated discriminatory law; and,
2. supports the Transformation to Competitive Integrated Employment Act, S. 3238 and H.R. 2373; and,
3. calls on Congressman Don Young to co-sponsor H.R. 2373 or similar legislation; and,
4. calls on Senator Lisa Murkowski and Senator Dan Sullivan to co-sponsor S. 3238 or similar legislation; and,
5. asks that the Alaska congressional delegation to support the Transformation to Competitive Integrated Employment Act and any similar legislation that repeals section 14(c) and/or otherwise eliminates the 14(c) certificate program and the authority for an employer to pay subminimum wage to a disabled person on account of the person's disability.

Copies of this resolution shall be forwarded to the offices of Alaska's two United States Senators, the Office of the At Large Congressional District of Alaska, and the Office of the

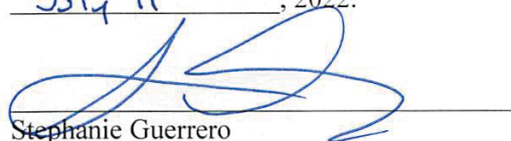
Page 3

Governor. Additionally, the resolution shall be forwarded once the seat held by former Representative Don Young is filled for the remainder of the 117<sup>th</sup> Congress, 2<sup>nd</sup> Session, and for that congressperson's successor if the successor is a different person.

**ADOPTED** at Anchorage, Alaska, this 11 day of July, 2022

  
Zackary Gottshall  
Chairperson  
Alaska State Commission for Human Rights

I hereby certify that the foregoing Resolution 2022-2 is a true and accurate copy of the language adopted by the Commission on July 11, 2022.

  
Stephanie Guerrero  
Acting Secretary  
Alaska State Commission for Human Rights



THE STATE  
of **ALASKA**  
GOVERNOR MICHAEL J. DUNLEAVY

## Office of the Governor

COMMISSION FOR HUMAN RIGHTS

800 A Street, Suite 204  
Anchorage, Alaska 99501-3669  
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TTY/TDD: 711 for Alaska Relay  
Fax: 907.278-8588

### RESOLUTION 2022-3

**WHEREAS**, in 1868, after the Civil War, the Fourteenth Amendment to the Constitution gave citizens “equal protection” under the law; and,

**WHEREAS**, the Alaska Territorial Legislature passed the Alaska Equal Rights Act of 1945 at the urging of Elizabeth Peratrovich, which made it illegal to discriminate in places of public accommodation based on race, and that all Alaskans shall have full “and equal” enjoyment of public places and businesses; and,

**WHEREAS**, Elizabeth Peratrovich gave an impassioned speech where she stated, “I would not have expected that I, who am barely out of savagery, would have to remind gentleman with five thousand years of recorded civilization behind them, of our Bill of Rights;” and,

**WHEREAS**, the term “human rights” was commonly used to refer to the categories of discriminatory conduct in the era following World War II, with the Universal Declaration of Human Rights proclaimed by the United Nations General Assembly in Paris on December 10, 1948; and,

**WHEREAS**, the modern “civil rights era” started in the mid-1950s, particularly sparked by the Supreme Court Decision *Brown v. Board of Education* in 1954; the arrest of Rosa Parks for refusing to give up her bus seat to a white man in Montgomery, Alabama, in 1955; and the “Little Rock Nine” who were black students who were met with extreme hostility when they tried to attend a formerly segregated school in 1957; and,

**WHEREAS**, President Eisenhower signed the Civil Rights Act into law in 1957; and,

**WHEREAS**, the Alaska Legislature created the Alaska State Commission for Human Rights (“ASCHR”) in 1963 when the term “human rights” remained *en vogue*; and,

**WHEREAS**, President Johnson signed the Civil Rights Act of 1964 into law guaranteeing equal employment for all; and,

**WHEREAS**, roughly half of the Equal Employment Opportunity Commission’s Fair Employment Practices Agency use the term “human rights” in their titles, while the others typical refer to “equal” rights or “civil” rights; and,



**WHEREAS**, the Universal Declaration of Human Rights contains provisions related to criminal due process, privacy, travel, asylum, deprivation of property, freedom of speech, health, education, and other provisions that fall well outside ASCHR’s jurisdiction; and,

**WHEREAS**, Alaskans are often confused about ASCHR’s statutory function in fulfilling Article I, Section 3, of the Alaska Constitution, which is the section itself titled “Civil Rights;” and,

**WHEREAS**, the public has less perceived confusion about the Equal Employment Opportunity Commission’s function is through enforcing Title VII of the Civil Rights Act of 1964; and,

**WHEREAS**, Alaskans sometimes contact ASCHR asking about their “human rights” to food, clean water, and fresh air, which rarely involve civil rights or equal rights discrimination claims; and,

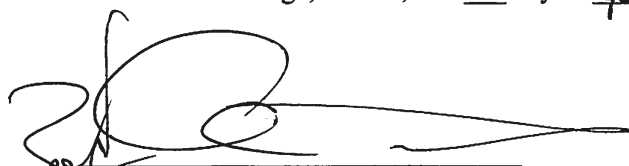
**WHEREAS**, ASCHR believes that changing the name to accurately reflect its function in a post-Civil Rights Era context will serve to help educate and inform the public about ASCHR’s legal mandate; and,

**WHEREAS**, most ASCHR publications are digital and are easily modified, therefore changing the name will cost little or nothing.

**NOW, THEREFORE, BE IT RESOLVED**, that the Alaska State Commission for Human Rights supports the Office of the Governor changing the name to incorporate “civil rights” or “equal rights” or “equal protection” of “equal opportunity,” and similarly renaming the Alaska Human Rights Act, AS 18.80 *et seq.*, as an effort to rebrand the agency in a manner that more closely aligns with its actual function given modern vernacular, and to avoid citizen confusion.

A copy of this resolution shall be forwarded to the Office of the Governor.

**ADOPTED** at Anchorage, Alaska, this 17 day of July, 2022



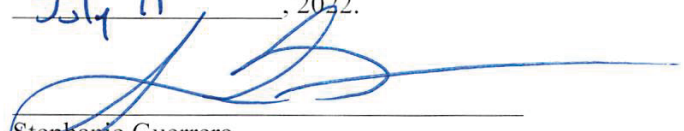
Zackary Gottshall  
Chairperson  
Alaska State Commission for Human Rights

I hereby certify that the foregoing Resolution

Page 3

2022-3 is a true and accurate copy of the  
language adopted by the Commission on

July 11, 2022.

  
\_\_\_\_\_  
Stephanie Guerrero  
Acting Secretary  
Alaska State Commission for Human Rights



THE STATE  
of ALASKA

GOVERNOR MICHAEL J. DUNLEAVY

## Office of the Governor

COMMISSION FOR HUMAN RIGHTS

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### RESOLUTION 2022-4

**TITLE: Employment Jurisdiction over Non-Profit Organizations**

**PURPOSE: To request the Alaska Legislature to change the definition of employer in AS 18.80 to exclude only non-profit organizations that are not social welfare clubs 501(C)4 or social and recreation clubs 501(C)7.**

**WHEREAS**, the Alaska Human Rights Law, AS 18.80, drives the Alaska State Commission for Human Rights' ("ASCHR" or "the Commission") mission to eliminate and prevent discrimination in Alaska; and,

**WHEREAS**, "employer" is defined in the Alaska Human Rights Law, AS 18.80.300(5) as "a person, including the state and a political subdivision of the state, who has one or more employees in the state but does not include a club that is exclusively social, or a fraternal, charitable, educational, or religious association or corporation, if the club, association or corporation is not organized for private profit;" and,

**WHEREAS**, an exemption for religious organizations is already provided for in 6 AAC 30.985 which reads, "[a]ny organization operated for charitable or educational purposes and supervised or controlled by or in connection with a religious organization is not prohibited from limiting admission to or giving preference to persons of the same religion or denomination or otherwise making a hiring decision that will promote the religious principles for which it is established or maintained;" and,

**WHEREAS**, the Alaska Human Rights Law, AS.18.80, does not currently take into account that as of 2018 there were 5,765 non-profits in the State of Alaska with 44,000 employees generating \$3.89 billion in total annual income; and,

**WHEREAS**, the majority of these employees are non-jurisdictional under the current law and are not afforded the same protections as other Alaskans; and

**WHEREAS**, the Alaska State Commission for Human Rights cannot eliminate and prevent discrimination to all of Alaska's citizens under current law.

Page 2

**NOW, THEREFORE, BE IT RESOLVED**, that the Alaska State Commission for Human Rights:

1. Calls on the Alaska State Legislature to revise the Alaska Human Rights Law, specifically AS 18.80.300(5), so that employer is defined as follows for the purposes of AS 18.80:


“employer means a person, including the state and a political subdivision of the state, who has one or more employees in the state but does not include an organization or club that is exclusively social or fraternal and is not organized for private profit;”

Copies of this resolution shall be forwarded to the Office of the Governor and all members of the Alaska State Legislature.

**ADOPTED** at Anchorage, Alaska, this 11 day of July, 2022

  
 Zackary Gottshall  
 Chairperson  
 Alaska State Commission for Human Rights

I hereby certify that the foregoing Resolution  
 2022- is a true and accurate copy of the  
 language adopted by the Commission on  
July 11, 2022.

  
 Stephanie Guerrero  
 Acting Secretary  
 Alaska State Commission for Human Rights



THE STATE of ALASKA

GOVERNOR MICHAEL J. DUNLEAVY

Office of the Governor

COMMISSION FOR HUMAN RIGHTS

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RESOLUTION 2022-5

WHEREAS, the State of Alaska regularly procures technology with interfaces for the public, such as registration kiosks at the Division of Motor Vehicles, voting tablets used by the Division of Elections, and computer terminals set up for the public at some Department of Labor locations; and,

WHEREAS, the state’s Americans with Disabilities Act Compliance Program’s policy statement provides that “no qualified individual with a disability shall be excluded, by reason of such disability, from participation in or be denied the benefits of the service, programs, or activities of a state agency; or be subjected to discrimination by any such agency;” and,

WHEREAS, AS 18.80.255 makes it unlawful for the state “to refuse or deny to a person any local, state, or federal funds, services, goods, facilities, advantages, or privileges because of physical or mental disability;” and,

WHEREAS, the state’s procurement officers do not always consistently consider accessibility when soliciting and purchasing hardware and software that requires a public interface.

NOW, THEREFORE, BE IT RESOLVED, that the Alaska State Commission for Human Rights calls on the Governor to notify all State of Alaska procurement officers and other state employees with purchasing authority to consider accessibility for those with physical or mental disabilities, as is required by state policy and state statute, when procuring technology that requires a public interface.

Copies of this resolution shall be forwarded to the Office of the Governor and all members of the Alaska Legislature.

ADOPTED at Sitka, Alaska, this 17th day of October, 2022

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Zackary Gottshall
Chairperson
Alaska State Commission for Human Rights

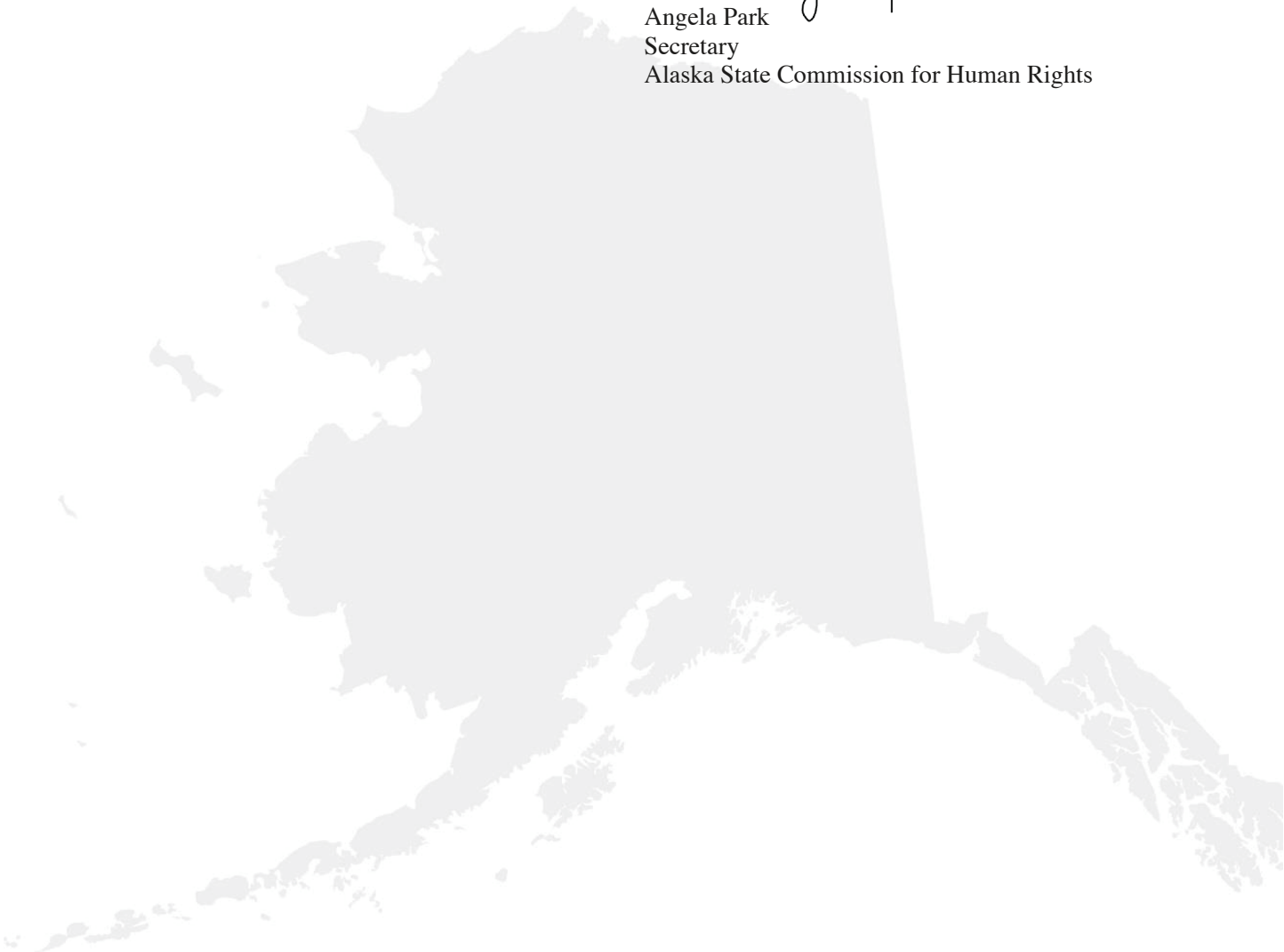
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Page 2

I hereby certify that the foregoing Resolution  
2022-5 is a true and accurate copy of the  
language adopted by the Commission on  
October 17, 2022.



\_\_\_\_\_  
Angela Park  
Secretary  
Alaska State Commission for Human Rights





THE STATE  
of ALASKA

GOVERNOR MICHAEL J. DUNLEAVY

Office of the Governor

COMMISSION FOR HUMAN RIGHTS

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**RESOLUTION 2022-6**

**WHEREAS**, according to the Centers for Disease Control and Prevention (citing the 2020 Behavioral Risk Factor Surveillance System), 111,809 adults in Alaska have a disability, which equals 21% or approximately 1 in 5 adults in Alaska; and,

**WHEREAS**, the Alaska Department of Health, Division of Public Health, published a fact sheet (“Healthcare for Alaskans with Disabilities”) stating that Alaskans with disabilities experience health disparities caused in part by physical barriers to care, communication differences or insensitivity to communication differences, a lack of comfort by health care providers, a lack of availability of providers, and a focus on the patient’s disability rather than the whole person; and,

**WHEREAS**, the Healthcare for Alaskans with Disabilities fact sheet goes on to state that people with disabilities have limited access to healthcare providers due to the lack of providers within a community, the limited number of providers willing to accept public insurance, waitlists, providers with limited disability-specific knowledge, and staff/provider turnover; and,

**WHEREAS**, the Healthcare for Alaskans with Disabilities fact sheet states that people with disabilities experience delays in the healthcare system that negatively impact care due to difficulties navigating the healthcare system, and problems associated with information technology and communication; and,

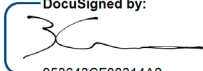
**WHEREAS**, the Alaska Department of Health, Division of Public Health, published another fact sheet (“Healthcare Providers and Alaskans with Disabilities”) that also points out that successful visits require 40% more time for patients with disabilities; providers who asked about accommodations are more likely to provide them, but only 47.8% ask at scheduling or intake; only 22.3% of providers have alternate formats for health-related forms or materials; 48.4% of providers reported no disability-related training within the last 5 years; and that providers could improve coordination of patient care by including people with disabilities in decisions related to accessibility and soliciting feedback from disabled patient.

**NOW, THEREFORE, BE IT RESOLVED**, that the Alaska State Commission for Human Rights calls on all healthcare providers operating within the State of Alaska to provide greater access to communication methods for patients with disabilities, which may require accommodations for deaf and hearing-impaired patients, and accounting for additional time in meeting with a disabled patient who will have a communication barrier. The Commission

further calls on healthcare providers to proactively discuss with patients whether the patient requires a communication accommodation and solicit feedback from disabled patients on how to better serve people with disabilities.

Copies of this resolution shall be forwarded to the Alaska State Medical Association and the directors of all major healthcare institutions in Alaska.

**ADOPTED** at Sitka, Alaska, this 17th day of October, 2022

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\_\_\_\_\_  
Zackary Gottshall  
Chairperson  
Alaska State Commission for Human Rights

I hereby certify that the foregoing Resolution 2022-6 is a true and accurate copy of the language adopted by the Commission on October 17, 2022.

  
\_\_\_\_\_  
Angela Park  
Secretary  
Alaska State Commission for Human Rights





THE STATE  
of ALASKA

GOVERNOR MICHAEL J. DUNLEAVY

Office of the Governor

COMMISSION FOR HUMAN RIGHTS

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## RESOLUTION 2022-7

### Access to childcare for disabled children

**WHEREAS**, parents frequently experience hardships trying to find access to childcare; and,

**WHEREAS**, those hardships are compounded when a child has a disability; and,

**WHEREAS**, according to the U.S. Census Bureau, the percentage of children with a disability in the United States increased from 3.9% in 2008 to 4.3% in 2019; and,

**WHEREAS**, in 2019, disability rates in the U.S were highest among American Indian and Alaska Native children at 5.9%; and,

**WHEREAS**, children in poverty were more likely to have a disability than children above the poverty threshold in both 2008 and 2019; and,

**WHEREAS**, in 2019, there were approximately 7000 children in Alaska with a disability; and,

**WHEREAS**, parents of disabled children are often turned away by childcare programs or find that the facility will accept the child but charge an exorbitant fee, which sometimes forces one or both parents to reduce their work hours or leave the workforce; and,

**WHEREAS**, according to a 2020 report from the Center for American Progress, the intentional or unintentional discrimination against people with disabilities further compounds the childcare crisis; and,

**WHEREAS**, that report goes on to state that half of the nation lives in “child care deserts” where the number of children under age 5 far exceeds the number of available childcare slots, and childcare openings are frequently in programs that are inaccessible to children with disabilities; and,

**WHEREAS**, childcare facilities often operate on very thin margins, and although the Americans with Disabilities Act requires facilities to make reasonable modifications to integrate disabled children and prohibits providers from excluding children with disabilities unless the care requires fundamentally altering the program, the cost of modifications or the alteration of the program often gives the center a reason to exclude disabled children; and,

**WHEREAS**, the report describes how 34% of parents with disabled children experience difficulty finding care compared to 25% of all families, and the difficulty is typically reported as being a lack of available slots; and,

**WHEREAS**, even when slots are available, parents are concerned about a childcare provider's knowledge or experience serving disabled children, such as deaf children, who need consistent exposure to American Sign Language for important language and social development; or providers who willingly violate the principle of inclusion by barring disabled children from specific activities or inappropriately holding older disabled children back with younger peers.

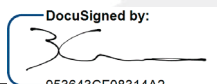
**WHEREAS**, there are inadequate resources available to children with disabilities, particularly those with neurodevelopmental, cognitive, and speech delay to help provide services in person on a consistent basis, effectively impacting the child's ability to learn and thrive or develop skills necessary to function independently; and,

**WHEREAS**, school bus drivers are not allowed to help a child or physically assist a child with a disability in and out of the bus during bus pick up and drop off, exposing that child to accidental fall and injury on a repeated basis.

**NOW, THEREFORE, BE IT RESOLVED**, that the Alaska State Commission for Human Rights calls on all childcare providers operating within the State of Alaska to provide equal access to care for children with disabilities. The Commission further calls on policymakers to address investment and reform to the childcare industry to support working parents who help drive the state's economy.

Copies of this resolution shall be forwarded to licensed childcare providers, members of the Alaska Legislature, and the Governor of Alaska.

**ADOPTED** at Fairbanks, Alaska, this 13th day of December, 2022

DocuSigned by:  


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Zackary Gottshall  
Chairperson  
Alaska State Commission for Human Rights

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Page 3

I hereby certify that the foregoing Resolution  
2022-7 is a true and accurate copy of the  
language adopted by the Commission on  
December 13, 2022.

  
\_\_\_\_\_  
Angela Park  
Secretary  
Alaska State Commission for Human Rights





THE STATE  
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

**Office of the Governor**

COMMISSION FOR HUMAN RIGHTS

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**RESOLUTION 2022-8**

**Requesting the Alaska Legislature change the due date for  
the annual report as codified in AS 18.80.150**

**WHEREAS**, AS 18.80.150 requires the Alaska State Commission for Human Rights (“ASCHR” or the “Commission”) to “report annually to the governor on civil rights problems it has encountered in the preceding year . . . [and] provide the Legislative Affairs Agency with 40 copies of the report during the week preceding the convening of the annual legislative session for library distribution;” and,

**WHEREAS**, the Commission cannot begin analyzing its case data for the prior year until January 1; and,

**WHEREAS**, the Alaska Legislature typically convenes during the third week in January; and,

**WHEREAS**, that time frame only gives the Commission staff approximately 10 business days to produce and deliver the report; and,

**WHEREAS**, AS 18.80.060(a)(6) requires the Commission to “make an overall assessment, at least once every three years, of the progress made toward equal employment opportunity by every department of State government; results of the assessment shall be included in the annual report made under AS 18.80.150;” and,

**WHEREAS**, including the assessment every three years requires examining the state’s equal employment opportunity (“EEO”) data, which the state does not possess until January 1; and,

**WHEREAS**, the three-year assessment requires the Commission’s staff to review the data and discuss it with the executive branch cabinet members, administrative services directors, and high-level human resources employees; and,

**WHEREAS**, the executive branch leadership is typically unavailable to review its own EEO data during the first two weeks of January due to pressing executive branch priorities associated with the nascent legislative session, let alone discuss this data with Commission staff; and,

**WHEREAS**, the Commission staff found scheduling the interviews for the last three-year assessment took two full months; and,

**WHEREAS**, the Commission upgraded the production quality of its annual report starting in 2016, and staff finds that it takes approximately one week to turn the raw text and data into a high quality publication; and,

**WHEREAS**, once the Commission approves the draft, staff finds that it takes several days for the printer to deliver the copies; and,

**WHEREAS**, since approximately 1980, Commission records indicate that the report was typically printed in February or March, with the three-year assessment reports pushing publication into April; and,

**WHEREAS**, the Commission finds that meeting the annual report's statutory deadline is virtually impossible given the reliance on external publishers and printers, and is particularly challenging during state EEO assessment years; and,

**WHEREAS**, there are more than 40 members of the Alaska Legislature, and when the Commission sent only 40 copies to the Legislative Affairs Agency in 2020 it asked the Commission to send at least 20 additional copies for distribution to each legislative office.

**NOW, THEREFORE, BE IT RESOLVED**, that the Alaska State Commission for Human Rights calls on the Alaska Legislature to amend AS 18.80.150 to change the date for the annual report to approximately mid-February, and grant the Commission greater time for staff to analyze and interview the appropriate executive branch leaders about each department's EEO data during those assessment year.

**BE IT FURTHER RESOLVED**, that the Commission suggests the following language for legislative discussion in amending AS 18.80.150:

The commission shall report annually to the governor on civil rights problems is has encountered in the preceding year, and may recommend legislative action. The commission shall provide the Legislative Affairs Agency with 60 [40] copies of the report **by the 30th day of each legislative session, except those years during which the commission undertakes an overall assessment required by AS 18.80.060(a)(6) in which case the commission may deliver that portion of the annual report containing the overall assessment by May 1,** [DURING THE WEEK PRECEDING THE CONVENING OF THE ANNUAL LEGISLATIVE SESSION] for library distribution. The commission shall make copies of the report available to the public and notify the legislature that the report is available.

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Page 3

Copies of this resolution shall be forwarded to the Alaska Legislature and the Governor.

**ADOPTED** at Fairbanks, Alaska, this 13th day of December, 2022

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\_\_\_\_\_  
Zackary Gottshall  
Chairperson  
Alaska State Commission for Human Rights

I hereby certify that the foregoing Resolution  
2022-8 is a true and accurate copy of the  
language adopted by the Commission on  
December 13, 2022.

  
\_\_\_\_\_  
Angela Park  
Secretary  
Alaska State Commission for Human Rights

# HUMAN RIGHTS COMMISSIONERS

William P. Craig, Sitka  
Rebecca N. Carrillo, Juneau  
Zachary Gottshall, Anchorage  
Lonzo Henderson, Anchorage  
Mae Marsh, Fairbanks  
Jessie Ruffridge, Soldotna  
Vacant Seat, term expires 3/1/2023

## HUMAN RIGHTS COMMISSION

907-274-4692 | 800-478-4692 | [humanrights.alaska.gov](http://humanrights.alaska.gov)



This publication was released by the Office of the Governor, Alaska State Commission for Human Rights, as required by AS 18.80.150. This publication was printed in Anchorage, Alaska at a cost of \$14.43 each.