

Alaska State Commission for Human Rights

2021 Annual Report



HUMAN RIGHTS COMMISSION

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HUMAN RIGHTS COMMISSION

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William P. Craig



Jessie Ruffridge



Kyle N. Foster



Rebecca N. Carrillo

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COMMISSIONERS

- William P. Craig**, *Interim Chairperson*
- Jessie Ruffridge**, *Interim Vice-Chairperson*
- Kyle N. Foster**
- Rebecca N. Carrillo**
- Vacant Seat, Term Expires 3/1/2026**
- Vacant Seat, Term Expires 3/1/2025**
- Vacant Seat, Term Expires 3/1/2023**

COMMISSION STAFF

Administration

- Robert Corbisier**
Executive Director
- Toyia Del Valle**
Administrative Officer
- Stormy Powers**
Acting Commission Secretary

Legal

- Helen T. Hickmon**
Human Rights Advocate
- Keoki Kim**
Human Rights Attorney
- Carolyn Thomas**
Paralegal
- Sarah Bylsma**
Law Office Assistant

Investigations

- Nanette Gay**
Investigations Director
- Or'Lanthia Lloyd**
Investigator
- Angleica Lynn-Regier**
Investigator
- Donna Nass**
Investigator
- Antoinette Rust**
Investigator
- Jocelyn Thammavongsa**
Investigator

Front and rear cover photos courtesy of Ed Boudreau. Mr. Boudreau is a retired Air Force veteran who resides in Eagle River with his wife and son. He is a landscape photographer currently exploring and capturing all the beauty Alaska offers. You can see other works at his gallery on JBER and online at www.edboudreauphotography.com.



The Honorable Michael J. Dunleavy, Governor of Alaska
 The Honorable Peter Micciche, President of the Senate
 The Honorable Louise Stutes, Speaker of the House

While COVID-19 continues to dominate the headlines as we start 2022, discrimination case numbers continue trending downward. Some of this trend is due to increased scrutiny implemented several years ago to screen out cases at the intake stage that are clearly not jurisdictional, but the impact that the COVID-19 pandemic and ensuing changes in the workplace is still being determined. Discrimination claims often become secondary concerns when the workplace is undergoing a larger shift. Jobs mostly recovered from the March 2020 layoffs, but in 2021 the economy saw a record number of people voluntarily leave the workforce through retirement, needing to stay home for childcare and remote learning, pandemic-related health issues, or general dissatisfaction with their jobs sparked by the pandemic. The migration to remote work is having permanent impacts, and with fewer personal interactions the opportunities for discrimination may be reduced. Employees are seeking better pay and benefits along with the ability to enjoy professional development while working from their homes and are quick to leave jobs to find these perks. Because the demand for labor exceeds the supply, workers facing discrimination may simply chose to find a better job rather than complaining to a human rights/civil rights agency. The workforce is transforming, and how this transformation ultimately impacts workplace discrimination claims is still unfolding.

These job trends have touched the Alaska State Commission for Human Rights ("ASCHR"). While we hired a third attorney in 2021, promoted two other employees, and filled an administrative position, the agency lost two experienced investigators to higher paying federal positions (where 60% of federal employees continue to telework), and the Commission has looked unsuccessfully for a new Secretary since June, with applicants either rejecting the offer due to current employers increasing compensation, deciding that government work was not competitive, or simply "ghosting" by failing to respond to the offer.

ASCHR also saw successes in 2021. Improving ASCHR's office space continued as a theme, with the Commission's number one priority being to obtain a different lease location. The Commission invoked its contractual right for interior updates to obtain a minor renovation at the lessor's expense. The lessor undertook the renovation in the shared common areas, and we are awaiting a schedule for ASCHR's private office spaces.

One of ASCHR's biggest accomplishments for 2021 was completing the assessment of state EEO data across all executive

branch departments. Alaska law requires this to be done every three years, but this year was a learning experience for ASCHR's newer staff. Additionally, the staff met with officials from and analyzed each department, whereas prior efforts only took a more in-depth view of a handful of select departments.

One of ASCHR's historical criticisms is the time it takes to complete an investigation and close a case. To that end, the Commission adopted a regulatory change that should improve average case processing times by giving the Commission's investigators an additional tool to obtain case facts early and help facilitate a settlement between the parties. Even if an early settlement cannot be obtained, the ability to get information from the parties up front will be invaluable to quickly issuing case determinations.

Mindful of state budget issues, ASCHR implemented a new case management system at a cost savings. The new system was vetted by ASCHR's professionals and included the IT staff. The system is more user friendly and integrates more seamlessly with other digital systems. ASCHR has already seen an increase in efficiencies just in terms of how emails and documents are stored and accessed.

On the disability discrimination front, as Interim Chairperson I am particularly pleased to report that the Commission adopted a resolution endorsing a draft statewide website accessibility policy to address issues for the visually impaired. We hope the Governor and his cabinet take this issue to heart and implement a system-wide standard to facilitate visually impaired Alaskans full access to the State's web-based services.

Lastly, to head-off discrimination claims before they happen, the Commission published a series of guidance documents on its website primarily aimed to educate employers and human resources professionals about discrimination issues. The staff worked hard on these documents and has been diligent about updating them and expanding them to include trending topics such as COVID-19 discrimination issues and LGBTQ+ issues. The Commission invites you to review these documents yourself at <https://humanrights.alaska.gov/human-rights-commission-annual-reports/> under the "Other ASHCR Publications" heading.

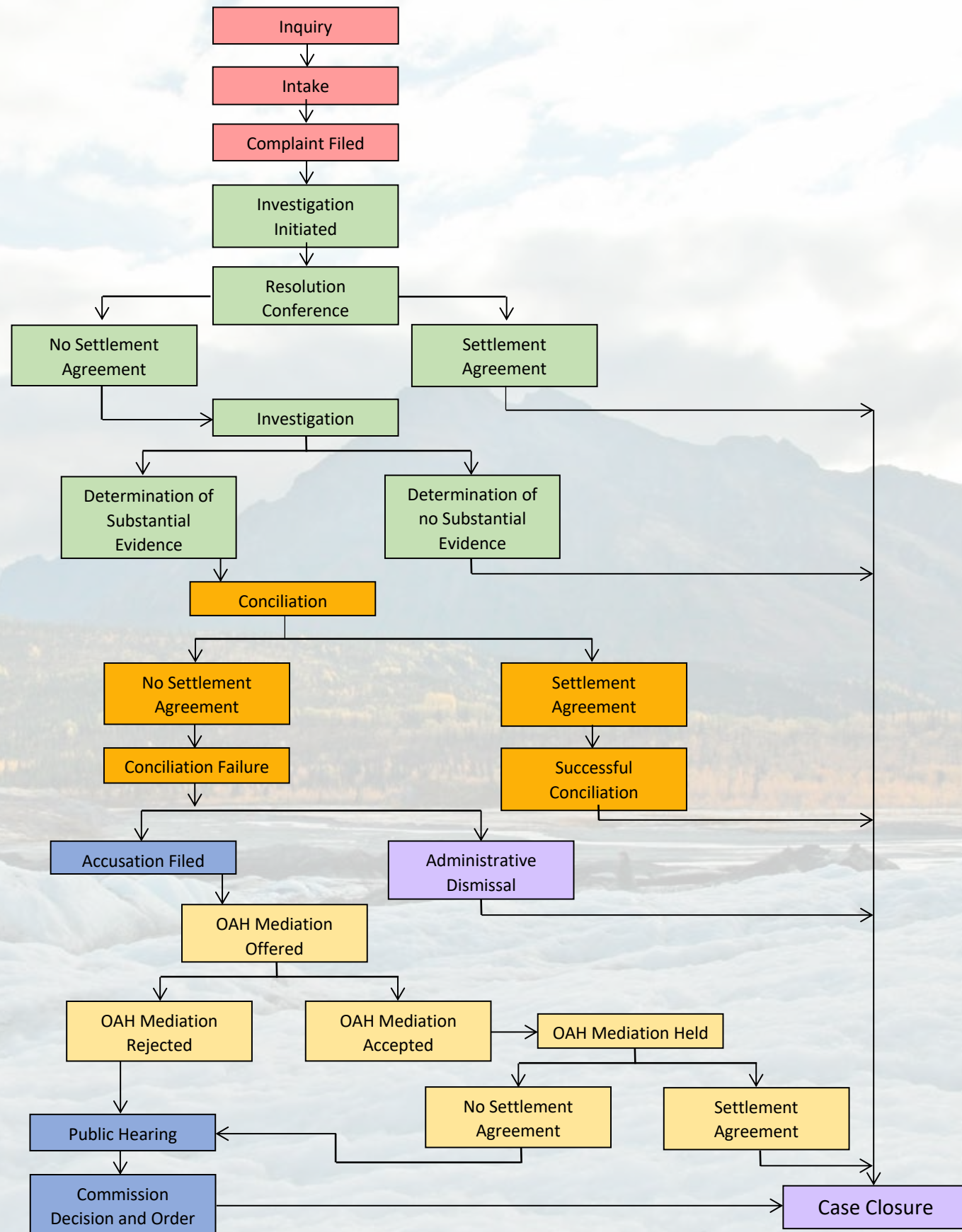
Sincerely,

William Craig
Interim Chairperson

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

Complaint Resolution Process

Resolution Conference portion pending final regulation promulgation as of January 20, 2022



ALASKA STATE COMMISSION FOR HUMAN RIGHTS

STAFF REPORT OF AGENCY ACTIVITIES

January 1 through December 31, 2021

Public Hearing Cases

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. Conciliation attempts failed. Commission filed an Accusation on May 10, 2021. A hearing has been scheduled to begin July 25, 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 at the school and 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 to pursue the Commission’s public policy concerns. Conciliation failed a second time, and an Accusation was subsequently filed. A hearing is scheduled to begin August 8, 2022.

In **Jetta Haynes v. Lily’s Family Restaurant** (OAH No. 16-1507-HRC), 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 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 moved for and received a Final Judgment from the 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 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. The process server notified the Commission no funds were located. Complainant was notified on April 22, 2021, that the Commission exhausted all collection remedies, and the file was closed.

In **Laura Hill v. ABC Motor Home & Car Rental, Inc.** (OAH No. 20-0324-HRC), a female supervisor filed a complaint with the Commission alleging she was discriminated against based on her sex and her employer retaliated against her for reporting sexual harassment of another employee by a male supervisor. An investigation found substantial evidence supporting the complaint. Respondent requested mediation but when it was unsuccessful an Accusation was filed with the Commission on March 25, 2020. The parties reached a settlement on March 23, 2021, in which Complainant received a confidential monetary amount. The Commission closed the file on August 3, 2021, upon Respondent’s completing the remaining settlement terms.

In **Joseph Locke v. Peter’s Sushi Spot** (OAH No. 21-1681-HRC), 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

Public Hearing Cases
from page 5

owner that Complainant was able to continue working, when Complainant arrived for his next scheduled shift, he found other employees covering his shift. Investigation by Commission staff found substantial evidence of Locke's claim against Peter's Sushi Spot. Conciliation attempts failed, so the Commission staff filed an Accusation on June 23, 2021. The parties attended a mediation conference on October 7, 2021. Although a mediation agreement has not been reached as of December 31, 2021, negotiations are continuing.

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 O'Sullivan 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 nightshift, 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

2021 Appeal Updates

In **Bobby J. Hickman v. Alaska State Commission for Human Rights** (3HO-19-00016CI), Appellant alleged his employer terminated him following an on-the-job injury. Investigation found that Appellant was released to return to work with no restrictions and that the termination was due to a violation of personnel regulations. The Commission found no substantial evidence and the case was closed December 19, 2018. On January 15, 2019, Appellant appealed the determination. On November 25, 2020, the court issued a Decision and Order on Administrative Appeal affirming the Commission's finding of no substantial evidence of discrimination. The Commission closed its file on or about January 25, 2021.

In **Kimberly Stone v. ASCHR and State of Alaska, Department of Natural Resources** (4FA-21-01547CI), Appellant alleged she was subjected to different terms and condition than younger employees. Following the Commission's investigation, it was determined there was no substantial evidence of discrimination. Stone filed an appeal on April 23, 2021 but failed to pay agency costs to prepare the record on appeal. A motion to dismiss for nonpayment of costs was filed on December 20, 2021, following multiple failed attempts to collect these costs. As

for the nightshift despite O'Sullivan's attempt to reassure the owner of her ability to handle unsafe situations. Investigation by Commission staff found substantial evidence of the claim. Conciliation attempts failed. Commission staff filed an Accusation on September 7, 2021, and later amended it on October 19, 2021. A hearing has been scheduled to begin July 21, 2022.

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, so the Commission staff filed an Accusation on November 23, 2021. A hearing has not yet been scheduled.

of December 31, 2021, the motion remained pending.

In **Demetrie Alexander v. Alaska State Commission for Human Rights** (4FA-17-02348CI), 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. As of December 31, 2021, the appellate case remains stayed while the private civil action is ongoing.

In **Colleen Roque v. Alaska State Commission for Human Rights** (3AN-20-08540CI), Appellant alleged she was discriminated against based on sex and age; her temporary employment was terminated shortly after inquiring into receiving benefits afforded permanent employees. Investigation found no substantial evidence, and the case was closed September 15, 2020. On

■ See Page 11, Appeal Updates

Filings by Basis

	Single	Multiple
Race	25	13
Physical Disability	18	6
Age	7	0
Sex	34	14
Mental Disability	8	3
Retaliation	3	15
Pregnancy	5	2
Religion	1	0
Retaliation for Filing	3	1
Parenthood	1	1
National Origin	1	4
Marital Status	0	3
Total Filings	106	

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

Filings by Issue

	Single	Multiple
Fired	56	42
Terms and Conditions	20	41
Failure to Hire	4	1
Failure to Accommodate	4	14
Failure to Promote	1	2
Harassment	5	11
Other	3	4
Sexual Harassment	7	12
Denied Service	5	2
Demotion	1	0
Total Filings	106	

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

Filings by Type

Employment	93
Public Accommodation	8
Government Practices	1
Housing	4

Filings by Complainant's Age

20 year and under	2
21 - 40 years	44
41 - 60 years	33
61 years and older	16

Filings by Complainant's Gender

Male	46
Female	54

Filings by Complainant's Race

Caucasian	48
Black	14
Native	10
Other	2
Asian	4
Hispanic	5
Unknown	23

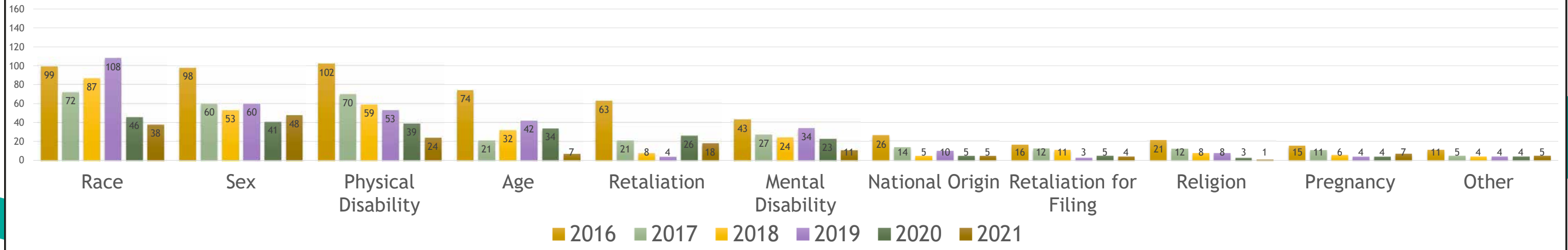
ANALYSIS OF 2021 CLOSURES

REASON FOR CLOSURE	
NOT SUBSTANTIAL EVIDENCE	151
ADMINISTRATIVE	24
Complaint Withdrawn	19
Lack of Jurisdiction	1
Failure of Complainant to proceed	2
Administrative Dismissal	2
CONCILIATION AND SETTLEMENT	2
Substantial Evidence - Conciliation Finalized	2
HEARING	3
Administrative Dismissal by Hearing Unit	2
Prehearing Settlement	1
Total Closures	180

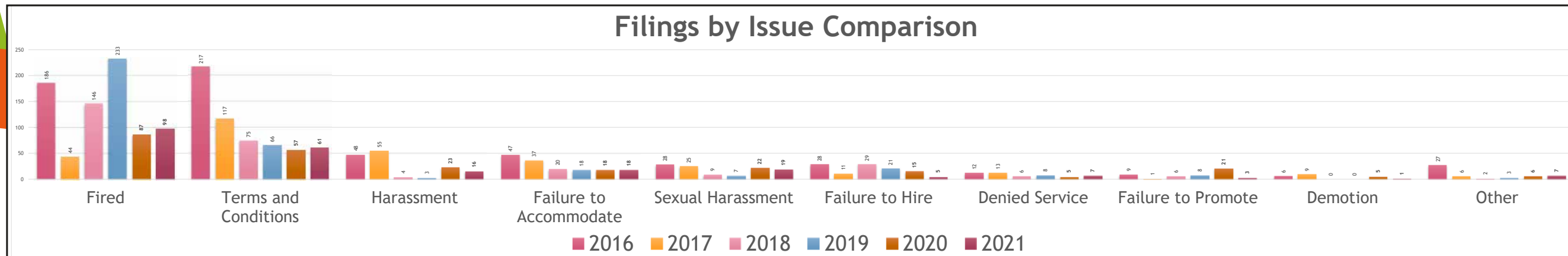
Summary of Closures (2016-2021)

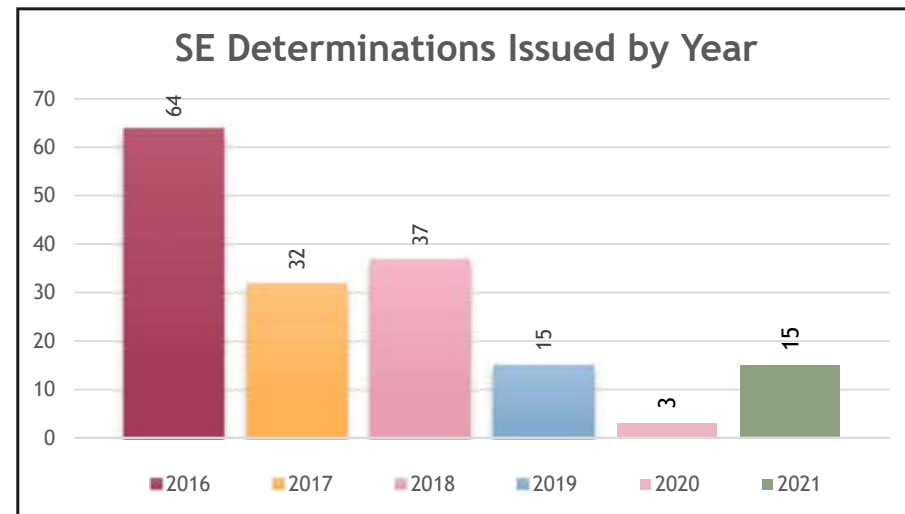
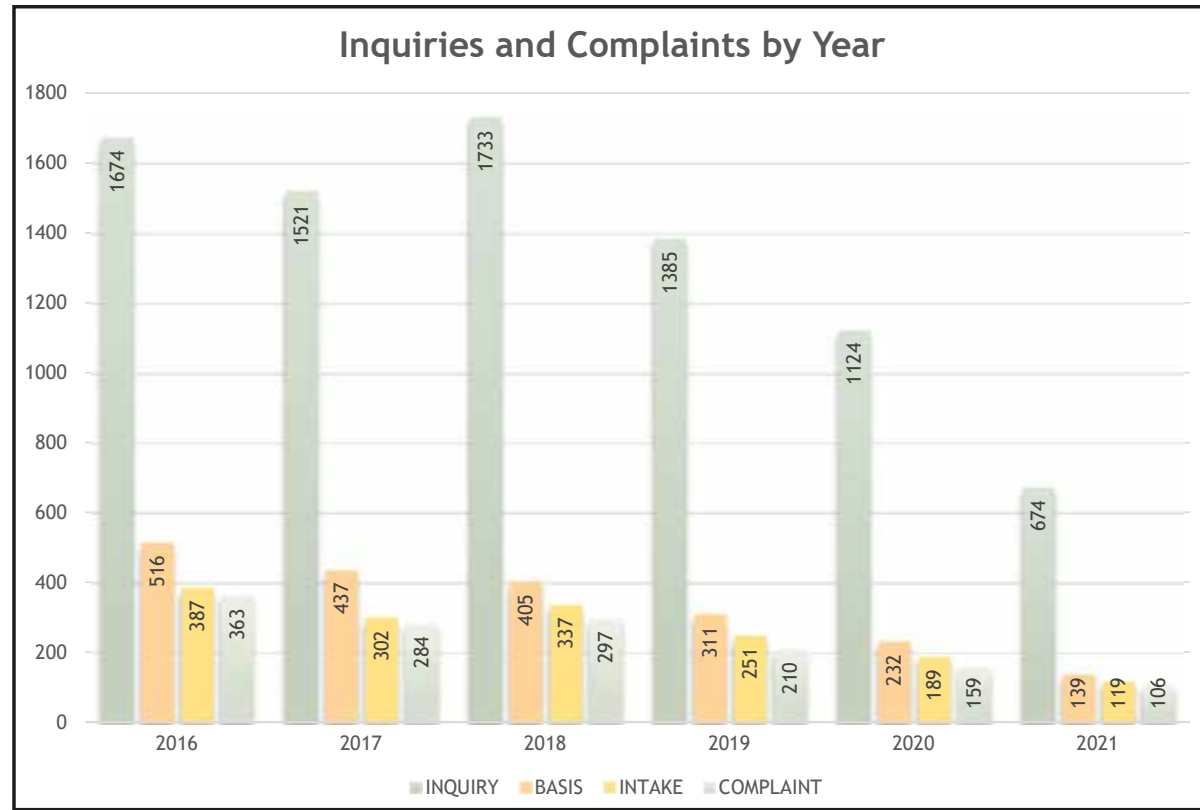
Category of Closure	2016		2017		2018		2019		2020		2021	
	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC
Mediation	28	0	19	0	22	1	20	0	0	1	0	3
Administrative	35	3	27	0	30	1	36	0	18	1	24	3
Not Substantial Evidence	301	33	233	3	165	48	197	6	144	15	151	28
Conciliation and Settlement	28	4	39	1	14	1	24	0	5	0	2	1
Hearing	22	0	20	0	21	0	12	0	3	3	3	0
Subtotal	414	40	338	4	252	51	289	6	170	20	180	35
TOTAL	405		452		342		295		190		215	

Filings by Basis Comparison



Filings by Issue Comparison





Appeal Updates

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October 13, 2020, Appellant appealed the Commission's determination. Appellant moved to dismiss in response to the cost associated with preparing the record. An Order granting the motion was issued on February 18, 2021.

In **Amber Vinegar v. State of Alaska, Department of Labor & Workforce Development, Division of**

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 staff attempt to confidentially resolve the case before filing a public Accusation.

FINAL CONCILIATIONS

Race-based discrimination in a lobby

Complainant and his companion, whom were Black, finished visiting a patient in a medical facility and were waiting in the lobby for another friend to pick them up. Security personnel approached Complainant and ordered him to leave the premises. Security staff refused to answer 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 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. The Commission continues to monitor the terms of the agreement.

Hearing disability required reasonable accommodation in 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. After filing a complaint with the Commission, the parties conciliated the case with the tour company purchasing and installing assistive listening equipment and training all personnel. The Commission continues to monitor the terms of the agreement.

Employment and Training Services (Case No. 4FA-21-01770CI), 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 May 20, 2021. An appeal was filed in superior court on June 30, 2021. The record on appeal was filed on October 12, 2021. Appellee's brief is due in January 2022.

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, prohibited from wearing either prescription eyeglasses or prescription safety glasses, and 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 local human resources personnel, as well as filed an in-person complaint with the out of state corporate office after the term of her employment contract. Ultimately, Complainant declined to sign the Commission's proposed Conciliation Agreement so she could explore potential civil remedies in either state or federal court. On November 5, 2021, the Commission entered into a two-party agreement with Respondent to pursue its public policy goals of training and for the employer to adopt an effective non-discrimination policy. The Commission is monitoring the terms of the agreement.

Surgical procedure to address a disability required reasonable accommodation

An employee alleged that when she notified her supervisor that she required surgery for a physical disability, the employer advised she would be terminated, if she had the surgery. When she complained to the human resources department, she was granted three of the six weeks of leave that her physician recommended. Complainant had surgery and prepared to return to work early anyway. When she contacted Respondent regarding her return, Respondent nonetheless terminated her. The

■ See Page 12, Substantial Evidence Cases

Substantial Evidence Cases

from page 11

Commission found substantial evidence of discrimination. The parties came to terms of conciliation which were met, and the Commission closed the file on April 14, 2021.

Voting required disability accommodation

When an Alaska resident requested a voting machine to accommodate his visual impairment in a government election, he was told no such equipment was available and he was denied the right to vote. After much research, testing, and renegotiating terms of a Conciliation Agreement, the government completed installation of Americans with Disabilities Act compliant voting equipment at all applicable polling locations for the October 2021 election. After completing all terms of the agreement, the case was closed on November 1, 2021.

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 in principle but the Complainant ultimately declined to sign the document so she could preserve her ability to seek punitive damages in civil court. The Executive Director substituted as the complainant to pursue public policy goals of training, and adoption of an effective non-discrimination policy. A Conciliation Agreement was approved on December 29, 2021. The Commission continues to monitor the terms of the agreement.

Race-based government employee housing discrimination

An employee of a local government claimed discrimination based on her race when after complaining of poor housing conditions, she was 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, in which complainant agreed to withdraw her complaint with the Commission. The Commission continues to monitor the terms of the agreement.

Hearing disability required accommodation to order food

A deaf patron who attempted to place a written order at the drive-through window of a fast-food restaurant was denied service. Investigation revealed substantial evidence to believe the Complainant attempted to place a written order as instructed by a sign posted 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 of training and for the employer to adopt an effective non-discrimination policy, and a Conciliation Agreement was approved on October 25, 2021. The Commission continues to monitor the terms of the agreement.

Sex-based discrimination after promotion

A female employee at an incarceration facility 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 January 6, 2021. The Commission continues to monitor the terms of the agreement.

ACTIVE CONCILIATIONS

Employee reorganization was a pretext for disability discrimination

After working for a company over 20 years, when Complainant requested an accommodation due to a medical condition, she was terminated claiming it was due to financial reorganization. Respondent required that she sign a settlement agreement. Complainant eventually had brain surgery for her condition, and later had to be reminded of the settlement agreement she had signed. When conciliation attempts failed, Complainant withdrew her complaint to pursue a civil lawsuit for damages. The Executive Director substituted as the Complainant to pursue public policy goals of training and for the employer to adopt an effective non-discrimination policy. Attempts to conciliate the matter are ongoing.

Job applicant was treated as disabled

When reapplying for employment at a fast-food restaurant, the applicant advised that 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. Attempts to settle this matter are ongoing.

■ See Page 13, Active Conciliations

Active Conciliations

from page 12

Manager showed employee explicit sexual images

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 and shown 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 to pursue public policy concerns of training, and for the employer to adopt an effective non-discrimination policy, on November 5, 2021. Attempts to conciliate continued as of December 31, 2021.

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. This constructive discharge forced Complainant to move 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 December 17, 2021. Attempts to conciliate continued as of December 31, 2021.

Employer's personnel policy resulted in race-based discrimination

After approximately 17 years of employment, a male 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. A determination was issued June 4, 2021 and attempts to conciliate continued as of December 31, 2021.

Less qualified applicant selected based upon race

A female employee was told her position was being eliminated but she could apply for another position to be eligible for promotion. Investigation found substantial evidence of discrimination when it 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, which included an agreement to dismiss her complaint. The Executive

Director substituted as the Complainant to pursue public policy goals of training and for the employer to adopt an effective non-discrimination policy. Attempts to conciliate continued as of December 31, 2021.

Race-based employee discipline

Following a complaint from an employee alleging he was subjected to different terms and conditions as other employees not of his race, investigation found that the complainant was terminated for performance defects during a specific incident. Yet, other employees, not of his race, involved in the incident only received a verbal warning from their supervisor. The determination of substantial evidence was issued June 3, 2021, and efforts to conciliate continued as of December 31, 2021.

Race-based employee discipline

Although an employee 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 June 10, 2021, and efforts to conciliate continued as of December 31, 2021.

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. Complainant was then terminated. 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. Although no substantial evidence of discrimination was found on the underlying race-based complaint, substantial evidence was found that the termination was motivated by the complainant's opposing discrimination. Efforts to conciliate continued as of December 31, 2021.

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 resource 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. Investigation found substantial evidence to believe the employer's hiring decision was based on race. A substantial evidence determination was issued June 3, 2021. As of December 31, 2021, efforts to conciliate remained ongoing.

■ See Page 14, Active Conciliations

Outreach

The Commission started off 2021 optimistic about outreach and connecting with workers from vulnerable populations and protected classes. As the entire world continued to endure the COVID-19 pandemic the Commission staff participated in the following in-person and virtual events in 2021:

- Juneau Human Rights Commission presentation, March 23, 2021
- NEA-Alaska presentation, March 30, 2021
- UAF Rural Alaska Community Environmental Job Training Program graduation presentation, April 13, 2021
- Facebook ad campaign, May 19 - July 8, 2021
- Small Business Administration, Business Power Hour Workshop Series, May 20, 2021
- Identity Inc., and Identity Health Clinic presentation, June 15, 2021
- Joint ASCHR/EEOC e-newsletter article, July 2021
- The Society for Human Resource Management Conference, Sept. 22 - Sept. 23, 2021
- Alaska Bar Association, Employment Law Section meeting, October 6, 2021
- National Federation of the Blind, Alaska Chapter Conference presentation, October 15, 2021
- Paws for Purple Hearts open house, November 13, 2021
- Service animal pocket card targeted at the service industry sent to the Alaska Cabaret, Hoteliers, Restaurant and Retailers Association ("CHARR") resulted in partnership with CHARR posting the card for its members to utilize
- New guidance documents published on ASCHR website throughout 2021 which resulted in partnership with the Alaska Small Business Development Center and a print newspaper citation
- Staff also participated in the following staff training opportunities:
 - EEOC Fair Employment Practice Agency Annual Conference, July 19 - July 21, 2021
 - EEOC webinar: Drafting a Pilot Proposal, February 17, 2021
 - EEOC/NERC COVID-19 Vaccine Guidance training, March 15, 2021
 - EEOC New Investigator Training, August 2021
 - International Association of Human Rights Agencies, December 7-8, 2021

Active Conciliations

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Sexual harassment

A bartender alleged she was subjected to unwelcome, harassing comments, as well as unwanted and offensive sexual comments and touching. 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 June 30, 2021. As of December 31, 2021, efforts to conciliate remained ongoing.

Sexual harassment

A bartender alleged she was subjected to unwelcome, inappropriate comments of a sexual nature, as well as subjected to unwanted physical contact during her first two weeks of employment. Investigation revealed substantial evidence to believe the allegations. A determination was issued June 30, 2021. As of December 31, 2021, efforts to conciliate remained ongoing.

NOTEWORTHY NON-COMMISSION SETTLEMENTS

Sex-based discrimination

An employer provided its upper-tier male supervisors with particular certifications but denied the same certification to a female employee with a doctoral degree and was generally otherwise more qualified than her male colleagues. When she complained about the disparate treatment, she was immediately placed on leave based upon her lack of the higher certification, that the employer itself denied her. Shortly after filing her Complaint with the Commission, the employer offered a settlement wherein the Complainant was required to withdraw her Complaint and resign her position in exchange for \$110,000 plus up to \$20,000 in relocation expenses.

Sex-based discrimination

An employee complained of discrimination when she discovered that her male counterparts were paid more than she. Several months later, the employee applied for a director-level position for which she claims she was qualified. The employer refused to interview her and appointed a lesser-qualified male on an interim basis while it continued to advertise for applicants to the director position. The employee then filed a second Complaint with the Commission for retaliation based upon the employer's failure to consider her after she earlier complained of sex-based discrimination. While the Commission was investigating the cases, the employer settled with the employee for \$80,000 with the employee agreeing to resign from her job and withdraw her cases with the Commission.

PRE-ACCUSATION DISMISSALS

Service animal concerns addressed by place of public accommodation

A patron was denied entrance to a place of public accommodation with her service animal. A substantial evidence Determination was issued. The business owner agreed to update the corporate nondiscrimination policy, and voluntarily placed service animal posters at the entrances to the business. Upon completion of the agreed terms, the file was closed on September 15, 2021.

Service animal concerns addressed by place of public accommodation

A patron was denied entrance to a business with her service animal. A substantial evidence determination was issued. The business updated the corporate nondiscrimination policy, handed out pocket cards to all employees for quick reference regarding service animals, and service animal notices were posted at the entrance to the facility. The file was closed on July 28, 2021.



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

Alaska State Commission for Human Rights

2020-2023 Strategic Plan

GOAL 1

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

- Implement case collaboration 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
- 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

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.
- 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
- Conduct systemic investigations and prepare white papers with findings to share with leadership and other organizations
- 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.
- Improve inter-agency and intra-agency communication.
- Create opportunities for advancement.
- Enhance teambuilding opportunities.
- Provide training & professional development opportunities.
- Provide continued training to Commissioners on human rights law and relevant court cases.
- Increase Staff/Commission Interaction.

HUMAN RIGHTS COMMISSIONERS

William P. Craig, Interim Chairperson, Sitka
Jessie Ruffridge, Interim Vice-Chairperson, Soldotna
Kyle N. Foster, Anchorage
Rebecca N. Carrillo, Juneau
Vacant Seat, term expires 3/1/2026
Vacant Seat, term expires 3/1/2025
Vacant Seat, term expires 3/1/2023

HUMAN RIGHTS COMMISSION

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