HAWAIʻI CIVIL RIGHTS COMMISSION

2018-2019 Annual Report

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Contents

Mission Statement 2
Overview 2
The State of Hawai‘i’s Constitutional Civil Rights Mandate 2
Looking Forward: Continuing Focus On Strengthening Civil Rights Law Enforcement and Expanding the HCRC Mediation Program 2
Fair and Effective Enforcement – History and Structure of the HCRC 4
An Effective and Uniform Enforcement Scheme 4
A Fair Administrative Process 5
Civil Rights Law Enforcement: State & Federal Law 6
Mediation Program 6
Public Education & Outreach 8
Caseload Statistics 11
Intake 11
Closures 12
Employment Cases 14
Real Property Transactions (Housing) Cases 15
Public Accommodations Cases 17
Access to State and State-Funded Services Cases 17
Cause Cases 18
Case Settlements 18
HCRC Warning Letters 21
Case Decisions 21
Contested Cases 21
Appeals 22
Legislation 22
Appendix 23
Overview 23
Administrative Procedure 23
HCRC Commissioners 30
HCRC Staff 33

Mission Statement

The mission of the Hawai‘i Civil Rights Commission is to eliminate discrimination by protecting civil rights and promoting diversity through enforcement of anti-discrimination laws and education.

Overview

The State of Hawai‘i’s Constitutional Civil Rights Mandate

Article I, Section 5 of the Hawai‘i Constitution is the foundation of our state civil rights laws. It provides that: “No person shall … be denied the enjoyment of the person’s civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.” There is no counterpart to this civil rights mandate in the U.S. Constitution.

Looking Forward: Continuing Focus On Strengthening Civil Rights Law Enforcement and Expanding the HCRC Mediation Program

In Fiscal Year (FY) 2019-2020 and going forward, the Hawai‘i Civil Rights Commission (HCRC) will continue to focus its efforts on strategic use of staffing and resources to strengthen civil rights law enforcement. To the extent possible, more enforcement resources will be dedicated to investigation, conciliation, and litigation of strong “cause” cases, where there is reasonable cause to believe that unlawful discrimination has occurred, while continuing to work toward disposition of all complaints. These focused efforts will be supported by enforcement staff training to increase and improve skills and knowledge required to enhance effectiveness and productivity.

From 2008-2015, the HCRC focused on rebuilding capacity after losing 8 of 30 permanent positions and 3 of 11 permanent investigator positions due to the recession, budget cuts, and reduction in force (RIF). During this period, loss of staffing directly resulted in loss of capacity to timely and effectively investigate discrimination complaints. The investigation caseload grew from 271 cases at the end of FY 2007 to a high of 527 at the end of FY 2012. The size and age of the investigation caseload had a negative effect on timely and effective investigation and enforcement. Older cases are more difficult to investigate, conciliate, and litigate.

While lost capacity has not been restored, an emphasis has been placed on better use of available resources. Concerted efforts have been made to reduce the size of the investigation caseload, to be in a better position to dedicate more resources to strong cases that should be investigated, with notices of reasonable cause issued, conciliated, and litigated.

For most of FY 2019, the HCRC continued to face staffing challenges, even with the addition of new investigators, 3 of 8 investigator positions were vacant at various times due to experienced investigators retiring or leaving, either for

attorney jobs or to relocate out of state. As a result, the HCRC operated at a 63% investigation capacity for much of the year. By the end of the fiscal year, one vacancy was filled and recruitment to fill two vacancies was initiated. With the filling of remaining vacancies, HCRC investigations should be operating at full capacity at some point in FY 2020, contingent on orientation and training of the new investigators.

Despite the challenges imposed by lower investigation capacity due to vacancies during FY 2019, the HCRC continued efforts to maintain and develop strong enforcement, with a strategic emphasis on dedicating resources to priority cases, taking incremental steps toward strengthening civil rights law enforcement, allowing for better use of finite resources for effective and efficient investigation, conciliation, and litigation of discrimination complaints.

Continued emphasis on strengthened enforcement in FY 2019 yielded 10 reasonable cause determinations, and 10 conciliation settlement agreements in cause cases, with monetary settlements totaling $391,485. In addition to these conciliation settlements in cause cases, the HCRC closed 59 cases based on settlements prior to an investigative finding in FY 2019 with monetary relief totaling $513,475, including pre-determination settlements obtained through HCRC investigators and settlements between the parties ($201,450), as well as investigative settlements obtained through the HCRC mediation program ($312,025). Collectively the HCRC's known monetary settlements for FY 2019 totaled $786,275. In addition to monetary relief, the HCRC seeks and obtains non-monetary affirmative relief in all settlements to which the HCRC is a party, to stop discriminatory conduct, prevent future harm, and avoid future violations of law.

Also in FY 2019, in *Hoshijo on behalf of the complaint filed by Kiona E. Boyd vs. Jeffrey David Primack*, Docket No. 18-001-H-S, a case in which the Complainant was evicted from her housing based on her gender identity, the Commission issued a final decision and awarded complainant $95,000 in damages, including $20,000 in punitive damages.

Going forward, the HCRC will continue to build on these efforts, to increase, marshal, and dedicate staff time and resources on strong cause cases to the extent possible, in order to strengthen civil rights law enforcement.

During FY 2019, HCRC enforcement efforts were bolstered by the HCRC Mediation Program.

Since 1999 the Hawai'i Civil Rights Commission ("HCRC") has had a very successful voluntary mediation program, through which mediators help complainants and respondents discuss, clarify, and settle HCRC discrimination complaints. All types of complaints filed with the HCRC were eligible for voluntary mediation, except for fair housing complaints, due to stringent case processing requirements imposed by a cooperative agreement with the Department of Housing and Urban Development (HUD).

In 2016 the HCRC began to explore the possibility of expanding its mediation program to include fair housing complaints. Drawing on HUD's guidance and utilizing HUD training funds, the HCRC conducted extensive research on a number of model fair housing mediation programs, including making site visits to sister agencies in Arizona and California. After much deliberation and planning, the HCRC launched its housing mediation pilot program, with the first mediation taking place in March 2017. In contrast to the HCRC's existing procedure of referring non-housing complaints to third-party mediators, it was decided that fair housing mediations in the pilot program would be conducted in-house by the HCRC mediation program specialist.

The fair housing mediation pilot program was a great success, allowing parties to achieve just resolution without resort to enforcement (investigation, conciliation, and litigation). During FY 2019, the HCRC continued development of the fair housing mediation program, establishing it as an ongoing program that is no longer a "pilot" program, while increasing capacity to effectively coordinate and expand the existing mediation program for non-housing cases. This will result in just resolution of more cases through mediation, and increase effective and efficient use of existing enforcement resources.

Fair and Effective Enforcement – History and Structure of the HCRC

The HCRC was organized in 1990 and officially opened its doors in January 1991. For twenty-eight years the HCRC has enforced state laws prohibiting discrimination in employment (HRS Chapter 378, Part I), housing (HRS Chapter 515), public accommodations (HRS Chapter 489), and access to state and state-funded services (HRS §368-1.5). The HCRC receives, investigates, conciliates, and adjudicates complaints of discrimination.

The HCRC currently has four (4) uncompensated volunteer Commissioners, with one vacancy. They are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and commitment to preserve the civil rights of all individuals. The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes.

An Effective and Uniform Enforcement Scheme

Prior to the establishment of the HCRC, jurisdiction over state anti-discrimination laws was split among several state departments. Enforcement was limited and sporadic. State prosecution of discrimination complaints was virtually non-existent. Nearly all aggrieved were left with litigation of individual lawsuits as their only recourse. For complainants who could not afford private attorneys to seek remedies in court, there was no administrative process to adjudicate their claims. As a result, few employment discrimination cases were brought to court under state law, and there were few court interpretations of state law.

The intent of the legislature in creating the HCRC was "...to establish a strong and viable commission with sufficient ... enforcement powers to effectuate the State's commitment to preserving the civil rights of all individuals."[1]

The cornerstone of the HCRC statutory scheme was the establishment of a uniform procedure "...designed to provide a forum which is accessible to anyone who suffers an act of discrimination."[2]

A Fair Administrative Process

The HCRC is committed to, and its procedures are structured to ensure fairness to both complainants and respondents. The HCRC is divided into two separate and distinct sections: a) the enforcement section, which receives, investigates, and prosecutes discrimination complaints; and b) the adjudication section, which conducts hearings, issues orders and renders final determinations on discrimination complaints filed with the HCRC.

The Commissioners have delegated HCRC enforcement authority to the Executive Director. The Commissioners have authority to adjudicate and render final decisions based on the recommendations of their hearings examiners, and oversee the adjudication section through their Chief Counsel.

The Commissioners, Chief Counsel, and hearings examiners are not involved in or privy to any actions taken by the Executive Director in the investigation and pre-hearing stages of the HCRC process. Likewise, the Executive Director and enforcement section are not permitted to communicate ex parte with the Commissioners, Chief Counsel or hearings examiners about any case.

The HCRC investigates discrimination complaints as a neutral fact-gatherer. At the conclusion of an investigation, a determination is made whether or not there is reasonable cause to believe unlawful discrimination has occurred.

The law requires filing of a complaint with the HCRC in most (but not all) cases before filing a discrimination lawsuit in state court.[3] Otherwise, the state courts will dismiss a lawsuit for failure to exhaust administrative remedies. This requirement reduces court caseloads by eliminating claims which are non-jurisdictional, or non-meritorious, or complaints that are closed or settled through the HCRC administrative process. As a result, the great majority of cases filed

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[1] 1989 House Journal, Standing Committee Report 372

[2] Id.

[3] Pursuant to HRS § 378-3(10) an employee may file a direct civil action for sexual harassment. Similarly, pursuant to HRS § 515-9(b), an aggrieved person may file a direct civil action for fair housing complaints. While the statutes allow these direct civil actions in these cases, only a small number are filed; the great majority of complaints are still filed with the HCRC.

with the HCRC are resolved, reach disposition, and are closed without resort to the courts.

Civil Rights Law Enforcement: State & Federal Law

Federal fair employment and fair housing laws are enforced by the U.S. Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD) Office of Fair Housing and Equal Opportunity (FHEO), respectively. Pursuant to work share and cooperative agreements, both EEOC and HUD rely on the HCRC to investigate complaints filed under both state and federal law ("dual-filed" complaints). Both EEOC and HUD contracts require maintenance of state effort and dedication of state resources for investigation of dual-filed complaints.

While Hawai‘i and federal fair employment and fair housing laws are similar, they are not identical. Hawai‘i has more protected bases than federal law, and there are substantial differences in the definition of "employer" and the statute of limitations for filing charges of employment and housing discrimination. In addition to these jurisdictional differences, Hawai‘i law provides stronger protections against pregnancy discrimination and sexual harassment in employment.

The greater protections in Hawai‘i law are attributable to the strong civil rights mandate contained in the Hawai‘i State Constitution, HCRC statutes, HCRC rules, HCRC Commission and state court decisions. In contrast, federal court interpretations of federal civil rights laws have historically resulted in narrower protections against discrimination. The issue of state versus federal standards is an important one, particularly in states like Hawai‘i that have a strong commitment to equal opportunity and non-discrimination.

Mediation Program

The HCRC's voluntary mediation program completed its twentieth full year on June 30, 2019. The program enjoyed a productive year, with much focus on the continued successful growth of the HCRC's pilot program for the mediation of housing complaints.

Complainants, respondents and the HCRC, with the strong support of the Commissioners, want prompt and fair resolutions to discrimination complaints. To help accomplish this goal, the HCRC developed its voluntary mediation program, a process in which neutral third persons (often a team of two co-mediators with at least one attorney-mediator) help the parties discuss, clarify and settle complaints.

The HCRC voluntary mediation program uses trained community mediators who are unbiased and do not rule on the merits of the complaint. The HCRC provides the mediators with the basic facts of each case needed to understand the dispute. The mediators then assist the parties to reach voluntary agreements.

These agreements may include apologies, policy changes, monetary settlements, or other appropriate solutions. Mediation can save time, money and resources. It also can eliminate the stress of litigation and allow the parties to explain their side of the case and to control the process of resolving the disputes in a non-adversarial manner.

The HCRC works with trained, senior mediators from the Mediation Centers of Hawaiʻi (MCH), a statewide network of community non-profit mediation centers. MCH utilizes a facilitative approach to mediation. MCH mediators receive training on civil rights laws and settling disputes by HCRC and MCH staff on a regular basis. The HCRC Program Specialist - Mediation Coordinator facilitates the process by explaining, encouraging, referring, and reviewing mediation and its benefits to the parties. There are mediation centers on Oahu (Mediation Center of the Pacific), Maui (Mediation Services of Maui), east Hawaiʻi (Kuʻikahi Mediation Center in Hilo), the West Hawaiʻi Mediation Center in Kailua-Kona, and Kauai (Kauai Economic Opportunity, Inc. Mediation Program). The centers charge fees on a sliding scale for the sessions, which can be waived or reduced if there is financial hardship.

Private mediation is also available if the parties choose. Private mediations generally utilize an evaluative approach, in which the law and possible damages are emphasized. Private mediation is an important part of the HCRC mediation program. Parties are free to select commercial private mediators who charge market rates or private mediators from the Access ADR program, a reduced fee program of the MCP.

Mediation can occur at any stage of the intake, investigation, conciliation, or hearing process. Mediation is first offered when the complaint is accepted. At this early stage disputes are often easier to resolve because the facts are fresh, damages may not have accumulated, and the positions of the parties may still be fluid. However, parties may voluntarily choose mediation at any time during the HCRC investigative, conciliation or hearing process.

Since the inception of the HCRC's mediation program, all types of complaints have been eligible for voluntary mediation except for housing complaints. After much research and planning, at the end of FY 2017 the HCRC launched a pilot program to offer the mediation of housing complaints for the first time. Since then the pilot program has flourished under the leadership of the HCRC's Program Specialist - Mediation Coordinator, Sharon Ferguson-Quick, who has personally conducted in-house mediations of a significant number of housing complaints.

Ms. Ferguson-Quick mediated her first housing complaint in March 2017, and from that date through the end of FY 2019, she mediated a total of 28 housing complaints. Of those 28 housing complaints, 20 were successfully resolved through mediation, and 11 of those were closed within 100 days of filing. The proven effectiveness and achievability of these initial housing mediations have enabled the HCRC to remove the program's "pilot" status and to incorporate

housing mediations as a standard component of the HCRC's overall mediation system. In the coming fiscal year the HCRC intends to continue the efforts to develop and expand the mediation program even further.

In viewing all the mediation-related events throughout FY 2019, 30 cases were referred into mediation, and 45 mediations were completed (dispositions). Of the 45 dispositions, 30 resulted in mediated settlements (66.7%), and 15 cases resulted in no agreement (33.3%). Of the mediated settlements, 19 were in employment cases, and 17 of those were dual-filed with the EEOC. The 11 other mediated settlement were in housing cases, and 10 of those were dual-filed with HUD.

The total disclosed monetary value of mediated agreements was $312,025 with a wide variety of affirmative relief as well. During this period the HCRC had 11 mediation settlements; Mediation Center of the Pacific had 12 settlements; West Hawai‘i Mediation Center had 3 settlements; and Ku‘ikahi Mediation Services (Hilo) and Kauai Economic Opportunity, Inc. had 1 settlement each. There were also 2 settlements with private mediators.

The primary bases of discrimination of the 30 settlements were as follows: Disability - 12; Sex - 5 (including 2 based on sexual harassment and 1 based on pregnancy); Age - 4; Race - 3; Retaliation - 2; Arrest and Court Record - 1; Color - 1; National Origin - 1; and Sexual Orientation - 1. Many of the completed mediations also included charges on other protected bases.

Although monetary settlements were achieved in most agreements, almost all mediated agreements also involved some form of non-monetary affirmative relief. Examples of non-monetary relief include:

1) frank discussion of disputes, which often lay the groundwork for eventual settlement or restoration of the prior employment relationship;
2) reinstatement and/or restoration of employee benefits;
3) formal or informal apologies (by either or both sides);
4) increasing hours for part-time employees;
5) providing neutral or positive references for former employees;
6) removal of inappropriate negative comments in employee records;
7) provision of reasonable accommodations;
8) changing shifts when practicable;
9) policy revisions and postings; and
10) clarification of communications between employer and employee, leading to more productive working environments.

Public Education & Outreach

In addition to enforcing anti-discrimination laws, the HCRC is committed to preventing and eliminating discrimination through public education. The HCRC Commissioners and staff maintained or assisted in a number of civil rights public

education efforts, working with civil rights, business, labor, professional, and non-profit organizations, on new and continuing initiatives.

During FY 2019 the HCRC continued to be an active participant in the fair housing committee, comprised of representatives from the housing departments of each county and the State, HUD Honolulu Field Office, Hawai‘i Public Housing Authority, Hawai‘i Housing Finance and Development Corporation, Legal Aid Society of Hawai‘i, Hawai‘i Disability Rights Center, and other housing-related private and public entities. The committee met to learn and discuss the latest fair housing cases, legal issues, and recent developments in fair housing from a federal, state and local perspective, to corroborate on local fair housing issues and concerns, and to work together to promote fair housing throughout the islands.

During FY 2019 the HCRC continued to work with HUD, state and county housing agencies, community fair housing organizations, non-profit and for-profit organizations, and businesses to co-sponsor fair housing trainings on the Islands of Hawai‘i, Kauai, Maui, and Oahu. Representative trainees in the housing area have included members of the Board of Realtors, Property Managers Association, National Association of Residential Property Managers, Community Associations Institute (CAI) Hawai‘i, Hawai‘i Center for Independent Living (HCIL), landlords, tenants, homeless veterans, emergency shelter and transitional housing management/staff, case management staff, housing assistance/referral management/staff, and various property management companies and community associations. An estimated 500+ people took advantage of these informative and free trainings.

During FY 2019 the HCRC also conducted outreach and/or participated in the following:

- Pro Bono Fair at the William S. Richardson School of Law, University of Hawai‘i
- Annual Martin Luther King, Jr. Holiday Parade and Festival
- Statewide Fair Housing Month events, including proclamations by the offices of Governor Ige and Mayor Caldwell
- Local radio, television, and online media appearances
- Project E4 Mobile Law Clinic at the Kuhio Park Terrace Community Center
- Panel on Government Attorneys at the William S. Richardson School of Law, University of Hawai‘i
- Civil rights presentation for medical provider staff of the Medical-Legal Partnership for Children in Hawai‘i (Kokua Kalihi Valley)

The HCRC website is part of a consolidated website that includes all divisions of the Department of Labor & Industrial Relations. The HCRC relies on the DLIR webmaster for maintenance and updating of the HCRC website, as well as ongoing efforts to improve user-friendliness of the site. The webmaster's detailed monthly index indicates that the site continues to attract broad public interest, particularly to those pages on administrative rules, case decisions, and the mediation program.

Caseload Statistics

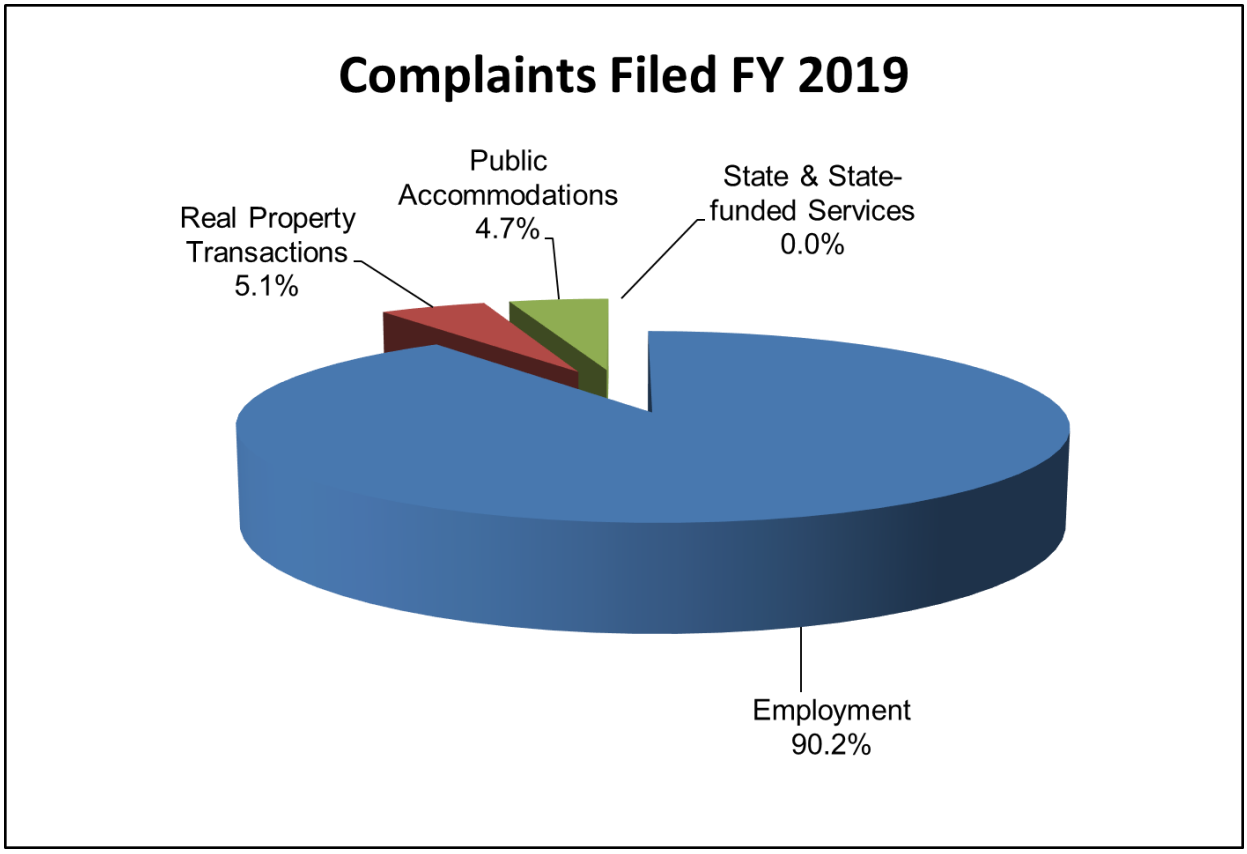
During FY 2019, the HCRC continued its emphasis on maintaining efficiency without sacrificing effective law enforcement.

Intake

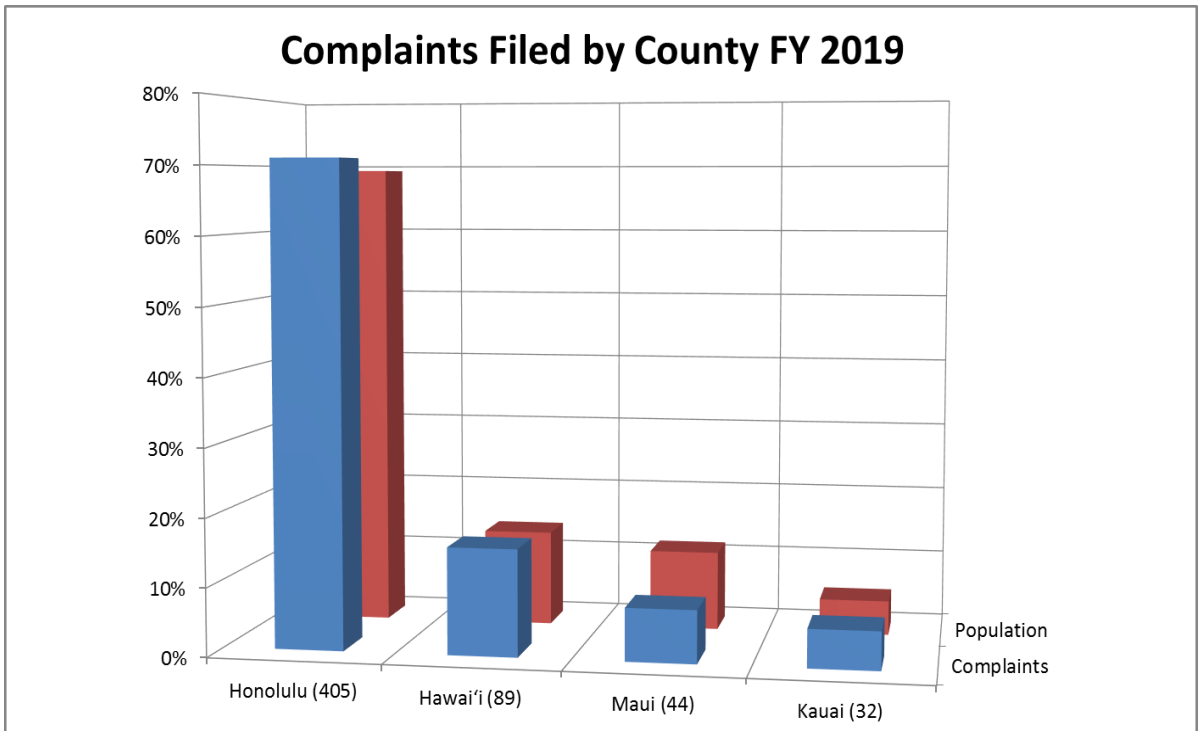
During FY 2019, the HCRC received 2560 telephone and walk-in inquiries. HCRC investigators completed 494 intakes, and 571 discrimination complaints were filed with the HCRC, an average of 47.6 complaints a month.

Of the 571 complaints that were filed with the HCRC, 291 complaints originated with HCRC investigators (averaging 24.2 per month), and another 280 cases originated with the federal EEOC or HUD. These 280 cases were dual-filed under state law with the HCRC.

The 571 cases included 515 employment cases, 27 public accommodations cases, 29 real property transactions (housing) cases, and 0 access to state and state-funded services complaints. The other inquiries and intake interviews did not lead to filed charges due primarily to: a) lack of jurisdiction; b) failure to correlate the alleged act(s) with the protected bases; or c) the complainant's decision not to pursue the complaint.



The 571 complaints accepted by the HCRC consisted of 405 Honolulu County complaints, 89 Hawai‘i County complaints, 44 Maui County complaints, and 32 Kauai County complaints. The number of complaints filed from each county was consistent with its proportion of resident population in the state (Honolulu County 69.3%; Hawai‘i County 14.0%; Maui County 11.7%; and Kauai County 5.1%).



	Honolulu (405)	Hawai‘i (89)	Maui (44)	Kauai (32)
Complaints	71.1%	15.6%	7.7%	5.6%
Population	69.3%	14.0%	11.7%	5.1%

Closures[4]

HCRC investigators and attorneys closed 260 cases during FY 2019 (a slight increase from 258 cases in FY 2018) for an average closure rate of 21.7 cases

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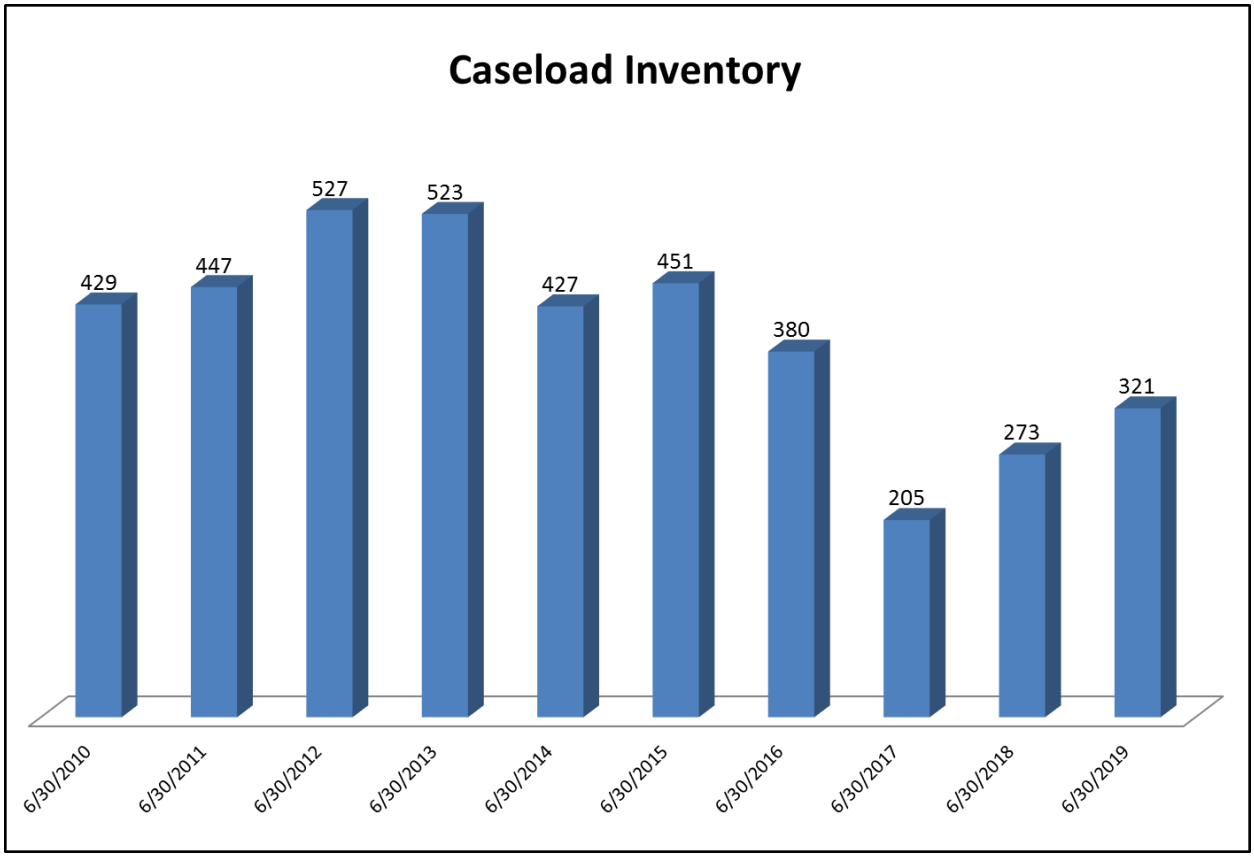
[4] Analysis and Explanation of Closure Data

This closure data does not reflect the number of completed investigations that result in cause determinations. Generally, the reason for this distinction is that cases are not closed upon issuance of a notice of cause, but are conciliated, and, if conciliation fails, are docketed for hearing.

Historically, there is a relationship between the number of cause cases and predetermination settlements/resolutions between parties—the larger the number of notices of cause, the smaller the number of settlements/resolutions, and vice versa. Typically, cause determinations and settlements/resolutions constitute between 15-25% of the total of those cases that are either investigated to a cause/no cause determination or settled or resolved by predetermination settlement or resolution between the parties.

per month, up from 21.5 cases per month in FY 2018. HCRC investigations resulted in cause determinations in 10 cases, down from 29 cause determinations in FY 2018. As of June 30, 2019, there were 321 cases pending with HCRC investigators; on June 30, 2018, there were 273 pending cases.



The average period for case closure by investigators was 341 days, as compared to 329 days for FY 2018, 405 days for FY 2017, and 473 days for FY 2016. A review of this fiscal year shows the following reasons for investigative closures:

During FY 2019, HCRC investigations resulted in 10 cause determinations, and 69 cases were closed on the basis of pre-determination settlement or resolution between parties. 130 cases were closed on the basis of no-cause determinations upon completion of investigation. The ratio of cause determinations and predetermination settlements/resolutions (79) to those cases that are either investigated to a cause/no cause determination or settled or resolved by predetermination settlement or resolution between the parties (209) for this fiscal year is 37.8%.

Merit Closures

Result	**No. of Cases**	**% of Subtotal**	**% of Total Closures**
Resolved by Parties	31	14.62%	11.92%
Pre-Determination Settlements	38	17.92%	14.62%
Cases Resolved by Attorneys	13	6.13%	5.00%
No Cause Determinations	130	61.32%	50.00%
Subtotal	**212**	**100.0%**	**81.54%**

Non-Merit Closures

Result	**No. of Cases**	**% of Subtotal**	**% of Total Closures**
Complainant Elected Court Action	26	54.17%	10.00%
Complaint Withdrawn	8	16.67%	3.08%
Administratively Closed	4	8.33%	1.54%
No Significant Relief Available	3	6.25%	1.15%
Complainant Failed to Cooperate	7	14.58%	2.69%
Subtotal	**48**	**100.00%**	**18.46%**
Total Number of Closures	**260**		**100.00%**

Employment Cases

H.R.S. Chapter 378, Part I prohibits discriminatory employment practices based on race, sex (including gender identity or expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, domestic or sexual violence victim status, credit history or credit report, assignment of income for child support obligations, National Guard participation, and breast feeding/expressing milk. Examples of such practices are outlined in H.R.S. §378-2. A complaint can contain more than one basis for the alleged discriminatory conduct, but for statistical purposes each complaint is identified by only one designated “primary basis”.

The HCRC has a work-share agreement with the EEOC. Under the work-share agreement, a case is filed with both agencies where there is concurrent jurisdiction. However, only the intake agency conducts the investigation, thereby eliminating duplicate enforcement activity. During the fiscal year a total of 515 employment cases were accepted by the HCRC. The HCRC was the intake agency for 240 of these cases, and the HCRC dual-filed another 275 cases originating with EEOC**.** Of the HCRC-originated cases, 78.3% were also filed with EEOC.

Of the 515 employment complaints filed, the primary bases most cited were disability, in 130 cases (25.2%); retaliation, in 79 cases (15.3%); and sex, in 77 cases (15.0%). Of the sex discrimination complaints, 24 (31.2% of all sex cases) alleged sexual harassment as the primary basis, and 10 (13.0% of all sex cases) were primarily based on pregnancy.

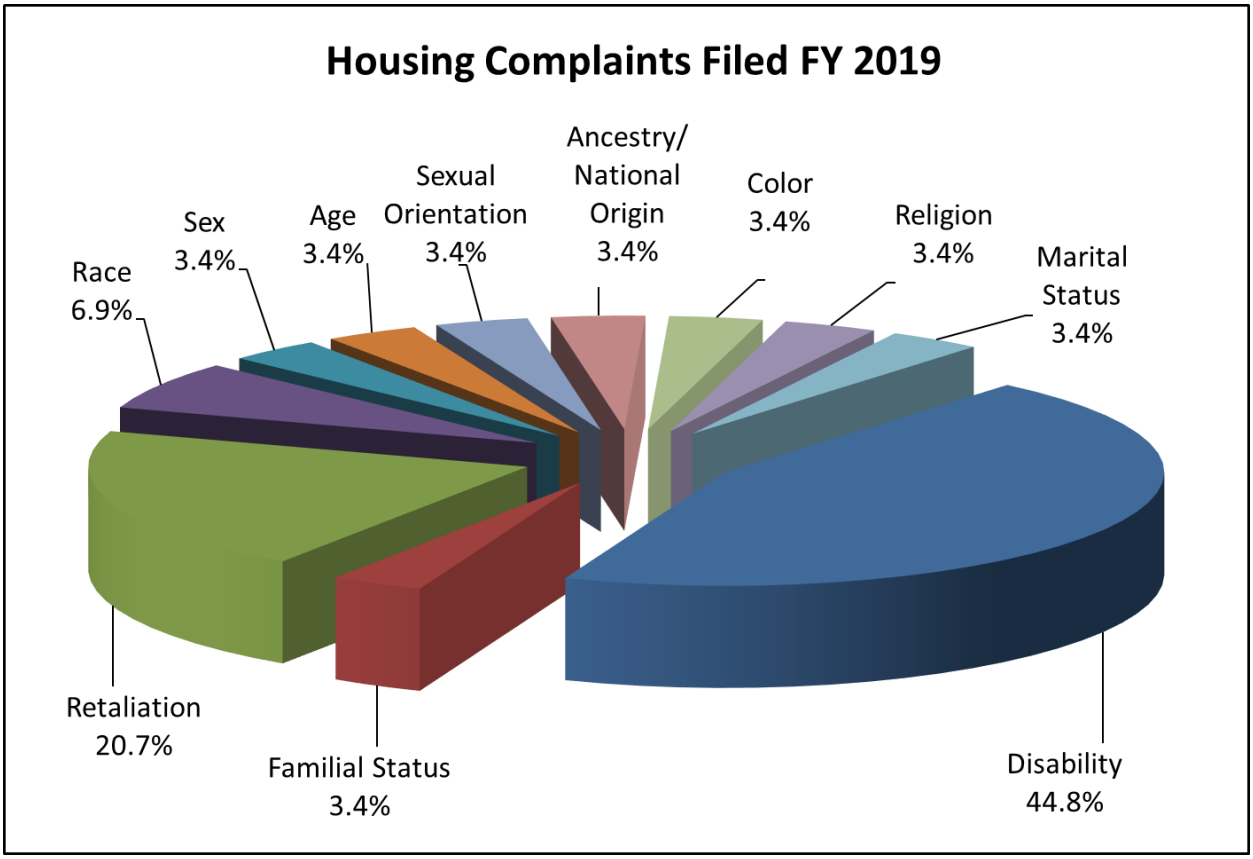
The next most cited primary bases were age, in 69 cases (13.4%); ancestry/national origin, in 53 cases (10.3%); race, in 50 cases (9.7%); arrest and court record, in 23 cases (4.5%); color, in 14 cases (2.7%); religion, in 6 cases (1.2%); breastfeeding and sexual orientation, in 4 cases each (0.8%); and marital status, and domestic or sexual violence victim status, in 3 cases each (0.6%). There were no cases primarily based on child support obligations, credit history or credit report, or National Guard participation.

The case closure period averaged 348 days for the 194 employment cases that were closed or caused by HCRC investigators during FY 2019.

Real Property Transactions (Housing) Cases

During FY 2019, the HCRC accepted 29 cases of housing discrimination. The primary basis most cited was disability, in 13 cases (44.8%); followed by retaliation, in 6 cases (20.7%); race, in 2 cases (6.9%); and age, ancestry/ national origin, color, familial status, marital status, religion, sex, and sexual orientation, in 1 case each (3.4%). There were no cases primarily based on HIV infection.

Housing case closures averaged 224 days for the 36 cases closed or caused during FY 2019.

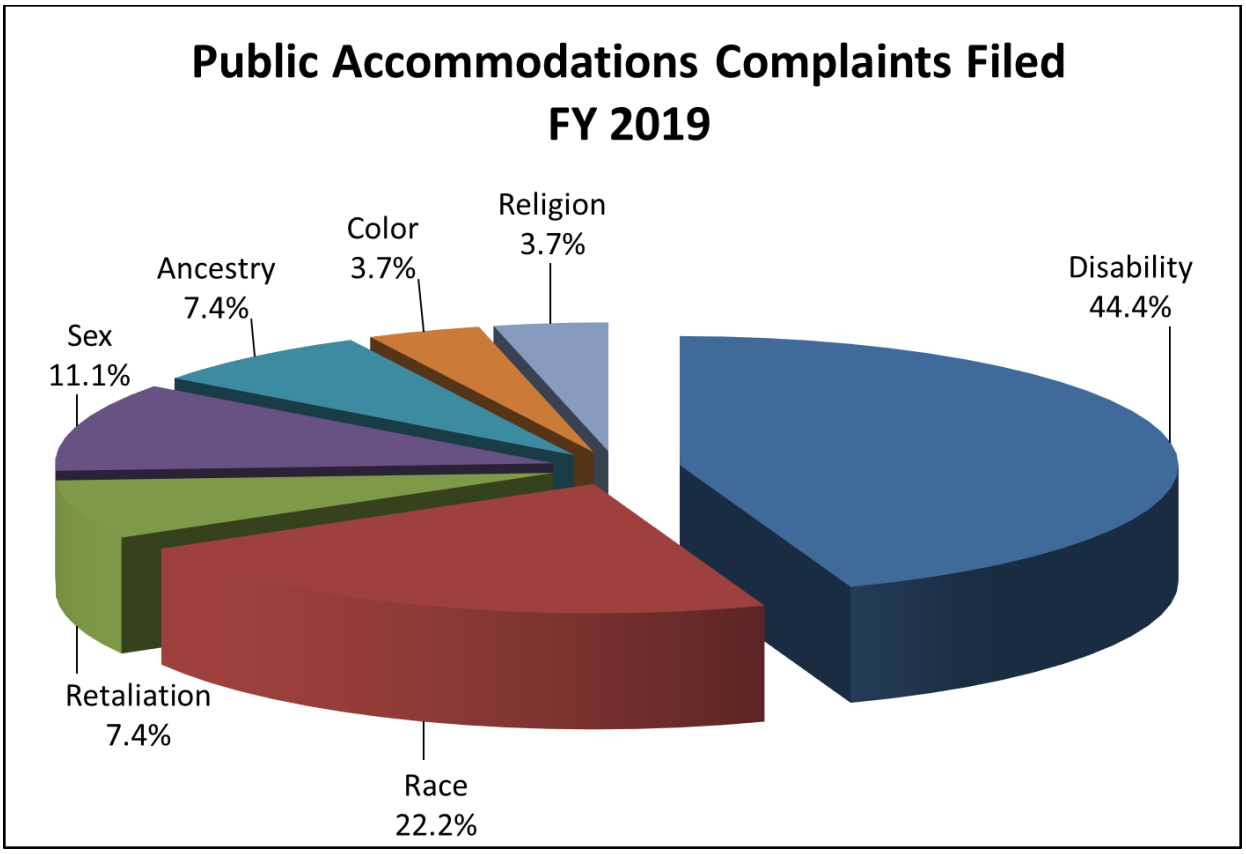

Housing Complaints Filed FY 2019
Ancestry/ National Origin 3.4%
Sexual Orientation 3.4%
Color 3.4%
Sex 3.4%
Age 3.4%
Religion 3.4%
Race 6.9%
Marital Status 3.4%
Retaliation 20.7%
Familial Status 3.4%
Disability 44.8%

Public Accommodations Cases

H.R.S. Chapter 489 prohibits unfair discriminatory practices that deny, or attempt to deny a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation on the basis of race, sex, sexual orientation, color, religion, ancestry, or disability. Public accommodations include retail stores, restaurants, theaters, sports arenas, public transportation, healthcare providers, hotels, and banks.

During the fiscal year, 27 new cases of public accommodations discrimination were accepted. Of these, the primary basis most cited was disability, in 12 cases (44.4%); followed by race, in 6 cases (22.2%); sex, in 3 cases (11.1%); ancestry and retaliation, in 2 cases each (7.4%); and color and religion, in 1 case each (3.7%). There were no cases primarily based on sexual orientation.

Public accommodations case closures averaged 444 days for the 27 cases closed or caused during FY 2019.



Access to State and State-Funded Services Cases

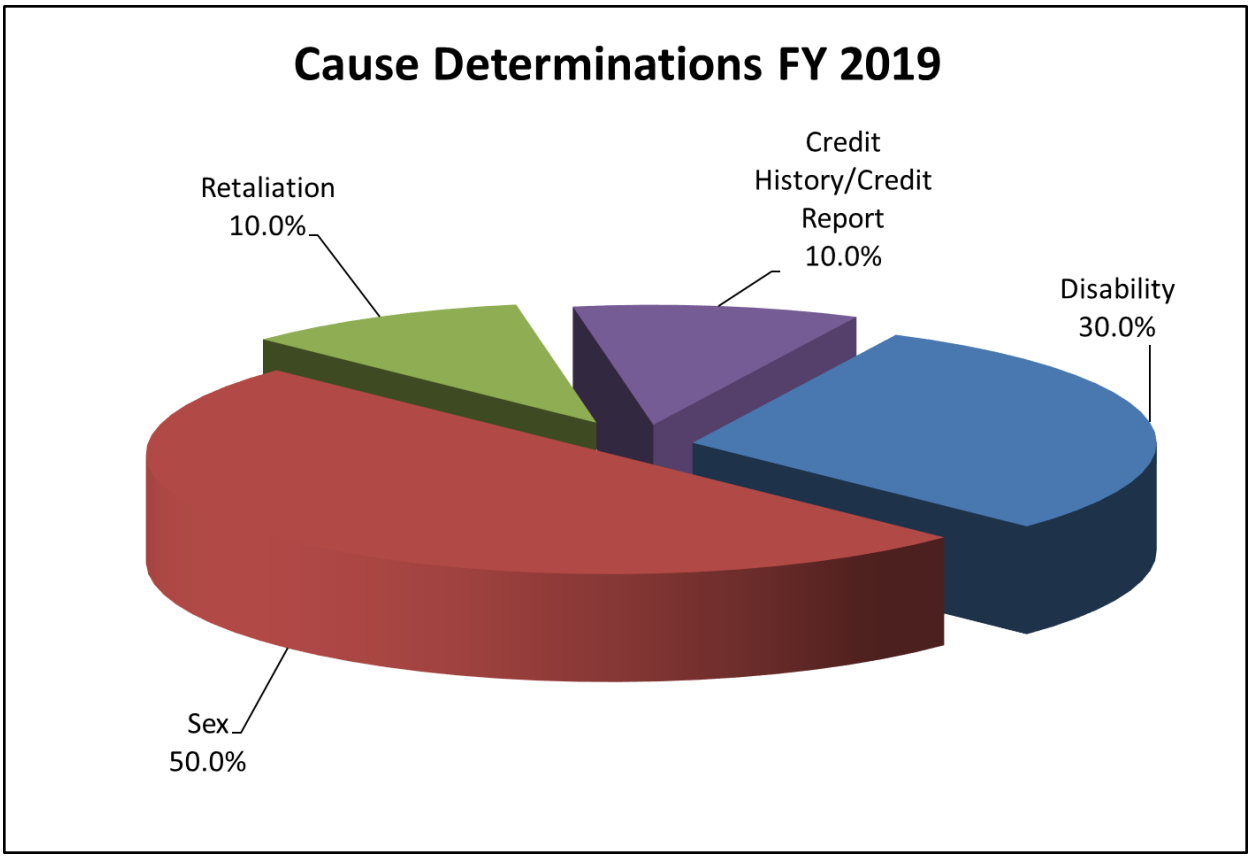
H.R.S § 368-1.5 prohibits state agencies, or any program or activity receiving state financial assistance from excluding from participation, denying benefits or otherwise discriminating against persons with disabilities (the only protected class under this statute).

During FY 2019, there were no cases filed under § 368-1.5. There also were no cases filed under § 368-1.5 that closed during the fiscal year.

Cause Cases

When an investigation results in a recommendation that there is reasonable cause to believe that discrimination has occurred, the case is assigned to an HCRC enforcement attorney for legal action. In FY 2019, 10 recommendations for cause were brought forward for legal action. Of these cases, 5 (50%) were employment cases, 4 (40%) were housing cases, and 1 (10%) was a public accommodations case.

Of the 10 investigations with a cause recommendation, the primary basis most cited was sex, in 5 cases (50%); followed by disability, in 3 cases (30%); and credit history or credit report, and retaliation, in 1 case each (10%).



Case Settlements

The HCRC promotes and encourages settlement during all stages of the complaint process. Through pre-determination settlements, mediation, and conciliation, the HCRC obtains relief and resolves complaints while avoiding unnecessary litigation. These settlements provide closure for the parties and

conserve HCRC investigation and litigation resources for complex or precedent setting cases.

During FY 2019 the HCRC continued to successfully obtain monetary relief through settlement of complaints. In the 10 cause cases that were settled, HCRC attorneys obtained monetary settlements totaling $272,800. Of the 59 cases settled prior to an investigative finding, 12 of those cases involved confidential settlements, the terms of which were not disclosed to the HCRC. Of the remaining 46 cases settled prior to an investigative finding, monetary relief totaled $513,475. This figure includes pre-determination settlements obtained through HCRC investigators and settlements between the parties ($201,450), as well as investigative settlements obtained through the HCRC mediation program ($312,025). Collectively the HCRC's known monetary settlements for FY 2019 totaled $786,275. Since the settlement terms are unknown for 12 closed cases, the actual total figure for all monetary settlements in FY 2019 is probably significantly higher than $786,275.

In addition to monetary relief, significant affirmative relief was obtained. The HCRC seeks affirmative relief for four basic reasons: to enforce civil rights laws, stop discriminatory conduct, prevent future harm to complainants, and assist respondents in avoiding future violations. HCRC settlements and conciliation agreements routinely contain various types of affirmative relief including the development and implementation of non-discrimination policies, employee and supervisor training on non-discrimination policies, posting non-discrimination policies, and publishing notices informing the public of the HCRC's role in enforcing state non-discrimination laws.

In some instances, non-monetary relief can be an important element of a settlement. For example, some complainants have received a letter of apology pursuant to the terms of a settlement. A simple apology sometimes goes a long way towards healing the rift between a complainant and respondent, and this form of relief is often not available as a court ordered remedy. Some cases were resolved when an employer, housing provider, or public accommodation corrected an unlawful discriminatory policy or practice after notice of the violation. During FY 2019, a significant number of employers, housing providers, and public accommodations voluntarily agreed to correct unlawful employment applications, leave policies, or house rules.

The following are illustrative of the HCRC cases that were resolved through conciliation or mediation and describe the relief obtained during FY 2019:

- The complainant in a public accommodations case alleged that she was discriminated against due to her race and color. Specifically, she alleged that while she was shopping at a major retail store, an employee said she would have to leave but would not provide a reason. She further alleged that when pressed, a security guard told her that a store manager had said she looked like one of a group of females who had previously shoplifted from the store. The complainant asserted that she had no connection to the group of alleged

shoplifters, and that the only reason she was forced to leave was that the respondent's employees had profiled her on the basis of her race and color. The case was resolved prior to an investigative finding through a pre-determination settlement. The terms included payment of $13,000 to the complainant and mandatory non-discrimination training for all management personnel at all of the respondent's retail locations on Oahu.

- The complainant in an employment case was working for the respondent, a restaurant, and alleged that a co-worker subjected her to several incidents of verbal and physical sexual harassment, which she reported to company management. The complainant asserted that the respondent failed to take immediate and appropriate corrective action, and then terminated her in retaliation for her reporting the harassment. The case was resolved prior to an investigative finding through a pre-determination settlement. The terms included a payment of $10,000 to the complainant and mandatory anti-harassment training for the respondent's employees.

- The complainant in a housing case was attempting to rent a residence for his family, which included two minor children. He alleged that the respondent property owners refused to rent to him because of the minor children; i.e., on the basis of familial status. The HCRC investigated the case and issued a Notice of Cause. Thereafter, the case was settled for a payment of $10,500 to the complainant, the respondents' creation and implementation of a non-discrimination policy, distribution of the policy to current and future tenants, and mandatory non-discrimination training for the respondents.

- The complainant in a public accommodations case was seeking a photographer for his upcoming same-sex wedding. He alleged that the respondent, a photography business, denied him services on the basis of his sex. The case was resolved prior to an investigative finding through a pre-determination settlement. The terms included a payment of $3,000 to the complainant, a letter of apology from the respondent, and the respondent's agreement to review the State's public accommodations laws.

- The complainant in an employment case alleged that the respondent subjected him to an unlawful pre-employment inquiry and failed to hire him. The HCRC investigated the case and issued a Notice of Cause, finding that the respondent had engaged in a pattern and practice of unlawful pre-employment inquiries and unlawfully rescinded a conditional offer of employment made to the complainant, both on the basis of arrest and court record. Thereafter, the case was settled for a payment of $33,000 to the complainant, the respondent's adoption of a non-discrimination policy, mandatory non-discrimination training for the respondent's managers and supervisors with an emphasis on arrest and court record, and the respondent's agreement to pay for and produce 3,500 copies of the HCRC's brochure on arrest and court record discrimination in employment.

- A complainant in a housing case alleged that the respondent housing providers refused to rent to him on the basis of his disability and use of an assistance animal. Prior to an investigative finding the case was successfully mediated through the HCRC's housing mediation pilot program. The terms of the mediated settlement included a payment of $51,000 to the complainant, the respondents' adoption of a non-discrimination policy, posting of a non-discrimination poster on the respondents' property, and mandatory non-discrimination training for the respondents.

HCRC Warning Letters

In an effort to prevent future or recurring problems, the HCRC provides respondents with "warning letters" advising them of potentially unlawful practices that the HCRC discovers during the course of its investigation of claims against the respondent. In those instances when the HCRC investigation does not result in a recommendation of reasonable cause on the claims filed, and the HCRC investigator finds evidence of other unlawful practices (such as a discriminatory written policy, employment application, or conduct in the workplace that could rise to the level of unlawful harassment if repeated), the HCRC will advise the respondent of the potential violations and provide the respondent information about how it can correct the possible violation of the law. Warning letters have resulted in policy and application form changes, as well as discrimination prevention training for employees and managers.

Case Decisions

Contested Cases

The Commission issued a final decision in *Hoshijo on behalf of the complaint filed by Kiona E. Boyd vs. Jeffrey David Primack*, Docket No. 18-001-H-S, a case in which the Complainant was evicted from her housing based on her gender identity. Mr. Primack also made discriminatory statements and threats against Ms. Boyd. The final order included a total award of $95,000.00 for Ms. Boyd, including $20,000.00 in punitive damages, and mandatory training for the housing provider.

A housing case docketed in the previous fiscal year, *Hoshijo on behalf of the complaint filed by Stowers v Mallorie K. Jeong Trust and Mallorie K. Jeong, as an individual*, settled during FY 2019. Settlement included a $6,000 award to the complainant and affirmative relief including a new housing policy and required training for the housing manager.

Appeals

In *Cervelli v. Aloha Bed & Breakfast, 142 Hawai‘i 177, 415 P.3d 919 (2018)*, the Hawai‘i Intermediate Court of Appeals affirmed a state circuit court decision granting plaintiffs' motion for partial summary judgment and denying defendant's motion for summary judgment, holding that application of state law prohibiting discrimination in places of public accommodation, in a case where a bed and breakfast owner refused lodging to a lesbian couple, did not violate constitutional rights to privacy, intimate association, or free exercise of religion. Aloha Bed & Breakfast appealed, and during FY 2019 both the Hawai‘i Supreme Court and the United States Supreme Court denied certiorari in the case. The case was remanded to the Circuit Court.

Legislation

Two bills were passed and enacted into law in 2019 which amended statutes enforced by the Hawai‘i Civil Rights Commission. A third bill addressing discrimination against transgender and non-binary individuals was also enacted. One resolution requesting consultation with the HCRC was also passed by the Senate.

Act 154, H.B. No. 1009, Relating to Movie Theaters, amends H.R.S. § 489-9(a), to restore the statutory requirement originally enacted as a provision of Act 39, L. 2015, that covered movie theaters provide open captioning during at least two showings per week of each motion picture that is produced and offered with open captioning. The Act eliminated the option for theaters to provide "[a] personal closed captioning system by means of lightweight eyewear for a motion picture that is produced and offered with closed captioning content," in lieu of open captioning. The Act makes the open captioning requirement permanent by repealing the statutory "sunset" (repeal) date of January 1, 2020.

Act 178, H.B. No. 710, Relating to Employment Practices, adds reproductive health decisions to the list of categories that are protected against discriminatory employment practices in H.R.S. 378-2, and defines "reproductive health decision" as "the use or attempted use of any legal drug, device, or medical service intended to prevent or terminate a pregnancy, or the use or attempted use of any assisted reproductive technology."

Act 148, H.B. 1165, Relating to Gender Identification, requires a license or state identification card to include a person's full legal name, date of birth, gender designation, residence address, and license number. The measure also specifies three options of gender designation options, M, F or X. The Act goes into effect in 2020.

S.R. No. 8 requests the Department of Human Services (DHS), in consultation with the Hawai‘i Civil Rights Commission (HCRC) and the Disability and Communication Access Board (DCAB), to examine the implementation of Act 217, L. 2018, regarding misrepresentation of service animals.

Appendix

Overview

The Hawai‘i Civil Rights Commission (HCRC) was established under Act 219, L. 1988, and Acts 386 and 387, L. 1989.

The HCRC’s enabling statute, H.R.S. Chapter 368, declares that discrimination because of race, color, religion, age, sex (including gender identity and expression), sexual orientation, national origin, ancestry, or disability in employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy. Certain bases are not protected under all HCRC laws.

The HCRC exercises jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment (H.R.S. Chapter 378, Part I), housing (H.R.S. Chapter 515), public accommodations (H.R.S. Chapter 489), and access to state and state-funded services (H.R.S. § 368-1.5). Under its statutory mandate, the HCRC receives, investigates, conciliates, litigates, and adjudicates complaints of discrimination, providing a uniform procedure for the enforcement of the state’s discrimination laws.

The HCRC has five (5) uncompensated volunteer Commissioners (one position is currently vacant) who are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and their commitment to preserve the civil rights of all individuals.

The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes. During FY 2019 the HCRC had 27 positions (23 permanent and 4 temporary), divided into separate enforcement and adjudication sections.

Administrative Procedure

Before the HCRC accepts a complaint of discrimination, a complaining person must allege that:

1) She or he has been subjected to unlawful discrimination[5] because of a protected basis,[6] and,

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[5] "Unlawful discrimination" may occur in any of the following ways:

a. Disparate Treatment – this is the usual form of discrimination; it occurs when individuals are treated in an unequal manner because of a "protected basis." Examples of disparate (unequal) treatment include: firing an employee because of her race, her age, or because she is pregnant; refusing to serve a person because of his race or his disability; refusing to rent to a person because of her race; or refusing to rent to a family because it has young children.

b. Reasonable Accommodation – this is the second most common way that discrimination appears; it occurs when an individual is denied a "reasonable accommodation" designed to allow an individual to have equal access or equal benefits. Examples of failure to accommodate include: refusing to allow a seeing impaired customer into a taxicab because he is accompanied by a seeing-eye dog; refusing to allow a pregnant cashier to sit on a stool so that she can work while pregnant; or refusing to make exceptions to a condominium association's "no pets" house rule to allow a disabled resident to keep a service animal.

c. Disparate Impact -- the least common way that discrimination appears; however, when discrimination occurs in this form, it may impact the greatest number of people. Disparate impact occurs when a policy, practice, or test that has a "disparate impact" on persons with a particular "protected basis." Examples of disparate impact include: a pre-employment test that includes a number of questions that are not job related but have the effect of disqualifying a large number women, or men, or any other protected basis.

[6] "Protected basis" is the criteria upon which it is unlawful for a respondent to discriminate. Protected bases vary depending on the statute involved:

a. State Funded Services (HRS Chapter 368) The only protected basis is disability.

b. Employment (HRS Chapter 378, Part I) The protected bases on which an employer, employment agency, or labor organization may not discriminate are: race, sex (which includes gender identity and expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, domestic or sexual violence victim status, credit history or lactating employees.

c. Public Accommodations (HRS Chapter 489) The protected bases on which a public accommodation may not discriminate are: race, sex (which includes gender identity and expression), sexual orientation, color, religion, ancestry, or disability.

d. Housing (HRS Chapter 515) The protected bases on which an owner, a real estate broker or any person engaging in a real estate transaction, may not discriminate are race, sex (which includes gender identity and expression), sexual orientation, color, religion, marital status, familial status, ancestry, disability, age or HIV (human immunodeficiency virus) infection.

2) The unlawful discrimination occurred within the previous 180 days.[7]

Where appropriate, after a complaint is filed with the HCRC, the parties are offered an opportunity to voluntarily mediate the complaint through the HCRC Mediation Program. If the parties agree to mediate, the HCRC mediation coordinator refers the parties to a community mediation center, which schedules and holds mediation sessions. Parties may alternatively choose to hire a private mediator.

In cases not referred to mediation, or those in which mediation is unsuccessful, an HCRC investigator conducts an objective, fact-finding investigation. HCRC investigators are impartial and gather evidence to allow the Executive Director to make a determination in each case. The HCRC investigator collects, reviews, analyzes documents, and contacts and interviews witnesses. Some witnesses may be identified by the complainant or by the respondent, and some are independent witnesses, including experts, who are identified by the investigator, by other witnesses, or are discovered during the course of the investigation. In many cases, the investigator also attempts to settle the complaint prior to an investigative determination (pre-determination settlement).

After an HCRC investigation is completed, H.R.S. 368-13(b)-(c) requires the Executive Director to determine whether reasonable cause exists to believe that discrimination has occurred. Where no reasonable cause is found, the Executive Director dismisses the complaint and issues a right to sue letter to the complainant. Where a determination of reasonable cause is recommended, the complaint is assigned to an HCRC enforcement attorney for legal review and final recommendation to the Executive Director.

Upon the issuance of a finding of reasonable cause to believe that unlawful discrimination has occurred, the HCRC enforcement attorney attempts to conciliate or settle the complaint.[8] If conciliation is unsuccessful, the complaint is docketed for

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[7] Complaints filed with the HCRC usually involve a discrete act, such as termination, eviction, demotion, or involve acts that are ongoing and constitute a continuing violation. An example of a "continuing violation" is sexual harassment that began more than 180 days before the complaint is filed, but continued or ended less than 179 days before the complaint is filed. When discrimination involves a discrete act, such as termination, the HCRC can only accept a complaint within 180 days of that complained action.

[8] During FY 2019, of all 260 investigative and attorney case closures, 10.0% (26) were closed on the basis of the complainant electing court action. The remaining cases (234) were closed on the following bases: in 50.0% of the cases (130), the Executive Director found no cause and dismissed the complaint, 26.5% (69) of the investigation cases were settled prior to a cause determination or were resolved by the parties, 5.0% (13) of the cases were resolved by staff attorneys, and the remaining 8.5% of the cases (22) were closed because the complaint was withdrawn, the complainant failed to cooperate, no significant relief was available, or due to administrative closure.

a contested case hearing. An HCRC enforcement attorney presents the case in support of the complaint before an impartial hearings examiner. The respondent (represented by themselves or by counsel or representative of their choice) is also given the opportunity to present his/her case at the hearing. Generally, a complainant may intervene in the contested case process as a party and also be represented by counsel or other representative of their choice.

After the completion of the contested case hearing, the hearings examiner issues a proposed decision based on the evidence. The five-member Commission Board then reviews the proposed decision and the hearing record. The parties may file written exceptions and support statements and present oral arguments to the Board. The Commission Board then accepts, rejects, or modifies the proposed decision, issues a final decision and order, and awards remedies, if appropriate. This decision is legally binding. If any party disagrees with the decision, she/he has 30 days to file an appeal to the State Circuit Court. Furthermore, a Respondent who appeals a decision of the Commission Board is entitled to a jury trial on any claims that form the basis for an award of common law damages.[9]

The HCRC enforcement and administrative hearing process is more cost effective than litigation in court. It provides for the investigation of complaints and access to justice for those who lack the resources to pursue their claims in court. This is particularly important in employment discrimination cases, where employees have often lost their source of income through termination and have little or no control over the evidence needed to prove discrimination.

The HCRC enforcement and adjudication process also funnels cases away from the courts, saving judicial resources and associated costs. Complainants who file suit in court must first exhaust administrative remedies by filing a complaint with the HCRC. The primary reason for this requirement is to prevent the courts from being overburdened with non-jurisdictional or non-meritorious complaints, or with complaints that can be closed or settled in the HCRC's administrative process. In fact, the great majority of complaints filed with the HCRC are resolved or disposed of without resort to the courts.[10]

Although only a small number of cases are brought to administrative hearing and result in final Commission decisions, these cases are important because they create a body of legal precedent. Case law precedents, in Hawai'i and across the United States, provide the basis for anti-discrimination principles, such as the doctrine of sexual harassment. Case law also establishes standards that define

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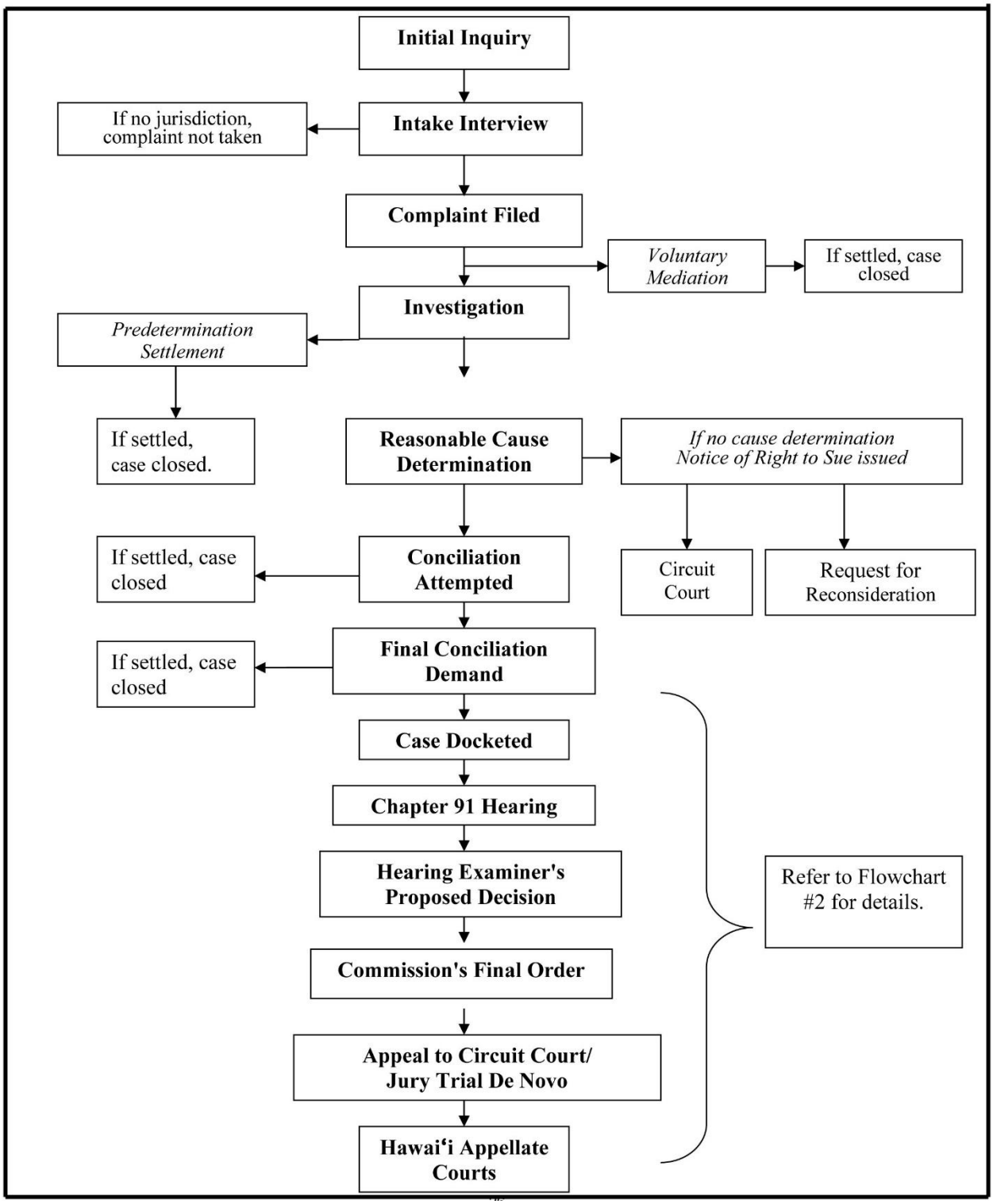
[9] The HCRC enforcement, hearing and appeal procedures are illustrated in Flowchart # 1. In *SCI Management Corporation, et. al. v. Darryllynne Sims, et. al.,* 101 Hawai'i 438, 71 P.3d 389 (2003), the Hawai'i Supreme Court held that "a respondent who appeals a final order of the HCRC, pursuant to HRS § 368-16, is entitled to a jury trial on any claims that form the basis for an award of common law damages by the HCRC." This does not apply to respondents in housing cases, who can elect to take the case to circuit court after a finding of reasonable cause under HRS §515-9.

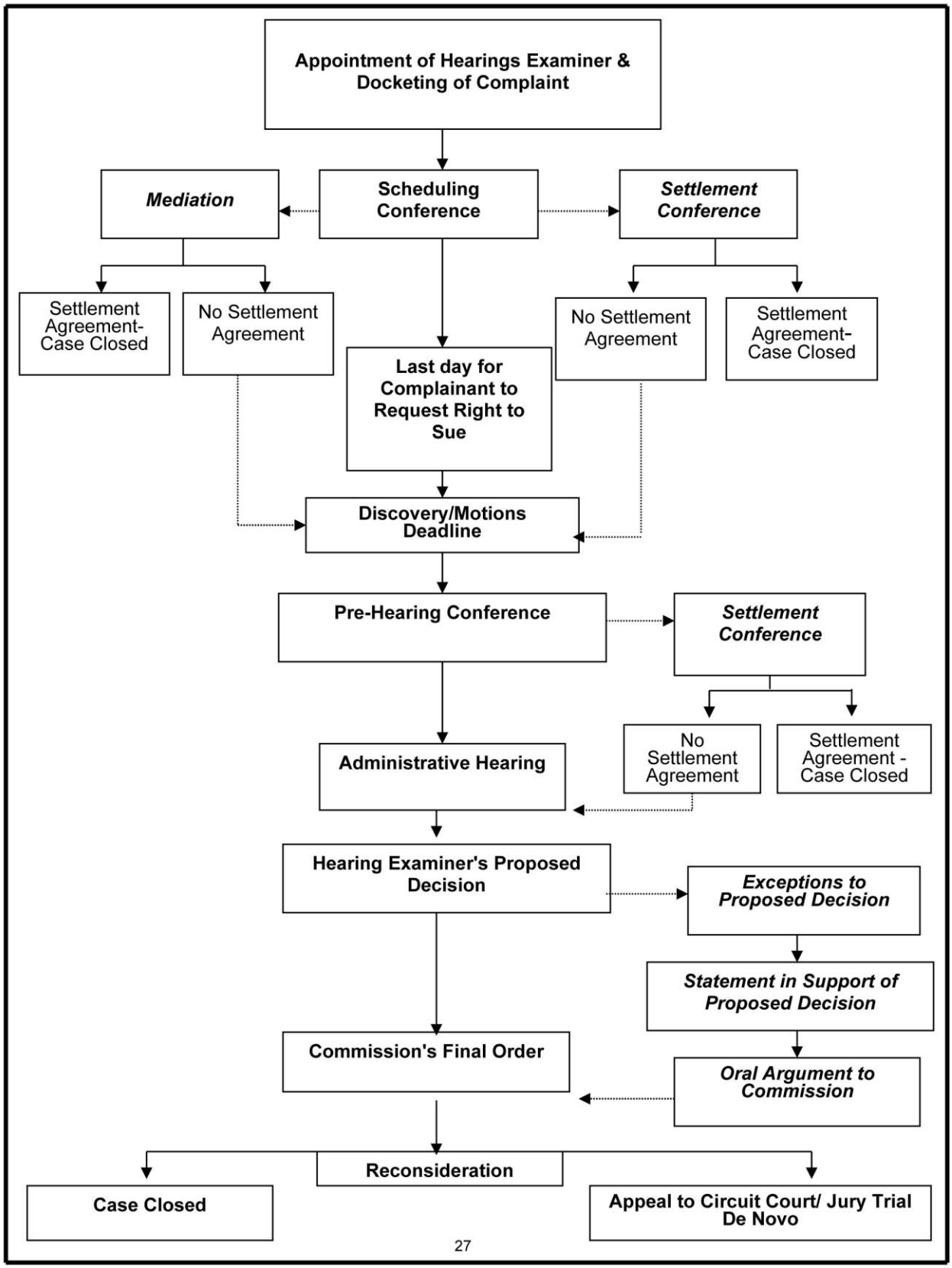
[10] HCRC contested case procedures are illustrated in Flowchart # 2.

the rights and protections under civil rights laws, and give guidance to employers, landlords, and businesses on how to prevent and eliminate discrimination.

HCRC Procedural Flowchart #1



HCRC Contested Case Flowchart #2



HCRC Commissioners

Linda Hamilton Krieger

Chair (term 2011-2019)

Linda Hamilton Krieger grew up in Hawaiʻi and returned home in 2007 to join the faculty at the William S. Richardson School of Law as a Professor of Law. Professor Krieger received a BA degree from Stanford University and is a graduate of New York University Law School. Prior to teaching, Professor Krieger worked for 13 years as a civil rights lawyer. From 1980-1986 she was a Staff Attorney and Director of Clinical Programs at the Employment Law Center of the Legal Aid Society of San Francisco, and from 1985-1991 she was a Senior Staff Attorney for the EEOC, San Francisco Regional Office. During that period, she litigated a number of significant state and federal sex and race discrimination cases in the areas of pregnancy discrimination and sexual harassment. She also played a significant role in drafting state and federal legislation in these subject matter areas. Professor Krieger served as an Acting Associate Professor of law at the Stanford Law School from 1992 to 1995, and as a professor of law at the University of California at Berkeley (Boalt Hall) from 1996 to 2009. She has also published numerous articles on Title VII of the Civil Rights Act of 1964, disability discrimination, affirmative action, international comparative equality law and policy, and theories of law and social change.

Liann Ebesugawa (term: 2017-2020)

Liann Ebesugawa was designated by the Governor to serve as the Chair of the Commission beginning July 1, 2020. She is Assistant General Counsel for Hawaiian Electric Industries, Inc. Previously she served as an Associate General Counsel for Hawaiian Electric Company, Inc. where she provided legal support to personnel and management and advice in obtaining regulatory approvals for various projects. She also served as Executive Director of the Hawaiʻi State Board of Education, where she provided legal and administrative services for matters before or involving the Board of Education.

Ms. Ebesugawa is currently the Second Vice President of the Honolulu Chapter of the Japanese American Citizens League's Board of Directors. During her tenure as the JACL's past Board President, she addressed issues related to marriage equality, homelessness, Native Hawaiian self-determination, and other civil rights issues that face the community. She also currently serves on the Board of Directors of the National Asian Pacific American Bar Association and has coauthored several academic publications and presentations regarding privacy in the workplace, Japanese American redress, and racial discrimination.

Joan Lewis (term: 2017-2020)

Joan Lewis is a 30 year Hawaiʻi public school teaching veteran and a long time education advocate. Ms. Lewis has been a part of the teaching staffs of Nānākuli High

and Intermediate School and Kapolei High School where her work with Native Hawaiian and Pacific Island students shaped her approach to teaching and learning. Ms. Lewis is one of the founders of the Hōʻola Leadership Academy, a 9-12th grade academy within the Kapolei High School community that provides a safe learning space for students that face many obstacles that can undermine their success. Graduation rates for students in this program have been in the upper 90 percentile.

Ms. Lewis has also served as a school, district and state leader for the Hawaiʻi State Teachers' Association. Her work as part of the HSTA has provided culturally sensitive training and support for teachers in the Leeward District of the DOE, the development and delivery of courses to support students of diverse economic backgrounds, and the expansion of the teacher voice in support of Hawaiʻi's students. Ms. Lewis' other experiences include service as: a foster parent for Hale Kipa Inc.; an educational staff member for Palama Settlement's In-Community Treatment Program; a house parent for Child and Family Services Ila Humphrey home for girls recovering from sexual assault; and as a trustee for the Hawaiʻi Employer-Union Health Benefits Trust Fund. These have been instrumental in developing Ms. Lewis' belief that we must work together to provide the Aloha that all citizens, but especially the most vulnerable among us, need to survive and thrive. Ms. Lewis earned her Bachelor's degree at Drake University (B.S. in Education) and her Master's degree from the University of Hawaiʻi at Mānoa.

William J. Puette (term: 2019-2021)

Dr. Puette was recruited from the mainland to teach English at a public school in 1969 just as public sector collective bargaining was enacted. In his first two years of teaching, he became a delegate at the founding convention of the Hawaiʻi State Teachers' Association, and organizer for the teachers first representation election, and picket captain on Maui in the union's first strike.

He holds an M.A. from the University of Pennsylvania at Edinboro and a Ph.D. from the University of Hawaiʻi at Mānoa.

He is currently Director of the Center for Labor Education & Research at the University of Hawaiʻi – West Oʻahu in Kapolei. For more than thirty-five years, he has been teaching Labor Studies classes, and is the author of the books: The Hilo Massacre; Through Jaundiced Eyes: How the Media View Organized Labor; A Readers Guide to the Tale of Genji, and the co-author with Dr. Keao NeSmith of Nā Lula Hālāwai: A Parliamentary Guide to Conducting Meetings in Hawaiian. In addition he has written numerous booklets and pamphlets, including *CLEAR Guide to Hawaiʻi Labor History* and *Paʻa Hui Unions: the Hawaiʻi State AFL-CIO, 1966-1991*.

Over the years he has worked with the HCRC on many joint educational programs, and was the volunteer webmaster that created the first website for the HCRC (1997-2003) before it was able to afford a professional webmaster. Likewise, he helped the Executive Director and staff at the local office of the EEOC to design PowerPoint presentations used in HCRC public education programs between 2000 and 2008.

Dr. Puette is also a labor arbitrator; a Professional Registered Parliamentarian, a member of the Association of Hawaiʻi Archivists, and the Hawaiian Historical Society. Winner of Penn State's Lowell-Mellett Award for Outstanding Media Criticism in 1993, he received the George Meany Award for Outstanding Service to Youth by the Hawaiʻi State AFL-CIO and the Aloha Council of the Boy Scouts of America in 1994; and in 2005 the University of Hawaiʻi awarded him the Hung Wo and Elizabeth Lau Ching Foundation Award for Faculty Service to the Community.

Joakim Peter (term: 2017-2019), *in memoriam*

Dr. Joakim "Jojo" Peter, was an inspirational community leader and champion for civil rights and justice, right up to his passing on April 7, 2019, at the age of 54.

In 1981, Jojo suffered a serious spinal cord injury that rendered him a quadriplegic for the rest of his life. His disability was a daunting challenge, but it did not stop Jojo from becoming an accomplished scholar, graduating from the University of Guam with a Bachelor's degree and receiving a Ph.D. and two Master's degrees from the University of Hawaiʻi. What he could not do with his body, he did so with his mind and his heart. From his personal experience, Jojo recognized and appreciated that disability access is not just an individual struggle but a shared collective concern that affects all of us. He became a staunch disability rights advocate for those who have special needs, affirmatively focusing on their ability to succeed.

Jojo dedicated his work life to public service. From 2013 to 2017, he served as Outreach Liaison with the Legal Aid Society of Hawaiʻi, supporting Honolulu's Micronesian diaspora communities and homeless populations. He then served as Senior Specialist for Community Engagement and Educational Equity with Pacific Resources in Education and Learning (PREL), a Hawaiʻi-based organization dedicated to improving education throughout the Pacific basin.

In 2011, Jojo and fellow community advocates founded COFA CAN, a community advocacy network that provides awareness and support for citizens of COFA (Compact of Free Association) nations living in Hawaiʻi and the United States. In 2012 and 2014, he worked with the University of Hawaiʻi Department of Ethnic Studies and Center for Pacific Island Studies to organize two symposia—"Micronesian Connections" and "Oceanic Connections"—bringing together community members, educators, and students to develop strategies for empowerment. He was a strong advocate for community organizations that included COFA CAN, Micronesian Health Advisory Coalition (MHAC), and We Are Oceania (WAO).

In 2017, Governor David Ige appointed Jojo to serve on the Hawaiʻi Civil Rights Commission, making him the first Micronesian to be nominated and serve as a state board or commission member. Joakim was committed to improving the lives of Hawai'i COFA (Compact of Free Association) residents, who were too often treated as outsiders and excluded from engagement and participation in public service and discourse. Jojo

was a strong principled voice for people of Oceania everywhere and lived a life dedicated to justice and human dignity for all of Hawai‘i’s people, leaving a legacy that will never be forgotten.

HCRC Staff

During FY 2019 the HCRC staff consisted of 27 positions:*

Enforcement Staff:

- Executive Director
- Deputy Executive Director
- Enforcement Attorneys (4)
- Program Specialist – Mediation Coordinator
- Legal Clerk
- Investigator-Supervisors V (2)
- Investigator IV (8)
- Investigator III-IV (temporary) (2)
- Secretary III
- Office Assistants (III-IV) (4)

Adjudication Staff:

- Chief Counsel
- Secretary II

[*] Staffing levels reflect permanent (23) and temporary (4) positions which were either filled or vacant during FY 2018. An additional permanent position was added to the HCRC budget for FY 202O.

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Maui: 984-2400, ext. 6-8636#
Hawaiʻi: 974-4000, ext. 6-8636#
Lanaʻi & Molokaʻi: 1-800-468-4644, ext. 6-8636#