



HAWAI‘I CIVIL RIGHTS COMMISSION

2010-2011 Annual Report

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(June 30 – December 5, 2010)

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(December 6, 2010 – June 30, 2011)

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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

Maintaining Civil Rights Law Enforcement in Difficult Times - The Continuing and Serious Impact of the State Budget Crisis on the HCRC.

The Hawai'i Civil Rights Commission (HCRC) has shared in the budget reduction required of all state agencies during the past three years in response to the worst and unprecedented economic downturn and budget crisis the state has faced. The current recession has resulted in a substantial reduction in state general funds (GF), while the number of discrimination complaints has increased. As the direct result of the reduction in force (RIF), freezes, abolishment of positions, and employee furloughs, the HCRC had to adjust to lost capacity and productivity, while maintaining the highest possible levels of efficiency and effectiveness.

Fair and Effective Enforcement – History and Structure of the HCRC

The state of Hawai'i has a strong commitment to the protection of civil rights. Article I, Section 5 of the Hawai'i Constitution provides that "no person shall ... be denied the enjoyment of ... civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry." The legislature gave meaning to this commitment by creating the Hawai'i Civil Rights Commission (HCRC), through enactment of Act 219 in 1988 and Acts 386 and 387 in 1989.

The HCRC was organized in 1990 and officially opened its doors in January 1991. For nineteen years the HCRC has enforced state 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). The HCRC receives, investigates, conciliates, and adjudicates complaints of discrimination.

The HCRC has five (5) uncompensated volunteer Commissioners. 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

Fair Administrative Process

The HCRC is committed to, and its procedural safeguards 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 hears, issues orders and renders final determinations on complaints of discrimination 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 Examiner, and oversee the adjudication section through their Chief Counsel.³

The Commissioners, Chief Counsel, and Hearings Examiner 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 Examiner about any case.

¹ 1989 House Journal, Standing Committee Report 372.

² Id.

³ The Chief Counsel position was unfunded in FY 2010 and then abolished in the FY 2011 budget. The Commissioners appointed the Hearings Examiner as Acting Chief Counsel, and currently appoint hearings examiners on a case by case basis.

The HCRC investigates complaints of discrimination 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 before filing a discrimination lawsuit in state court. 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 majorities of cases filed 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), 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, sexual harassment, and disability discrimination in employment.⁴

The greater protections in Hawai‘i law are attributable to a strong civil rights mandate contained in the Hawai‘i State Constitution, HCRC statutes, HCRC rules, HCRC Commission decisions, and state court interpretations. In contrast, federal court interpretations of federal civil rights laws have historically resulted in fewer protections against discrimination, particularly in the areas of disability and sexual harassment. 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.

⁴ The ADA Amendments Act of 2008 (ADAAA) provides new and stronger federal standards and protections against disability discrimination in employment. Pursuant to Act 30, Special Session 2009 and Act 139, L. 2010, the HCRC interprets state law in conformance with the new stronger protections provided by the ADAAA and will adopt rules to conform state law with the ADAAA within 1 year of the publication of the final U.S. Equal Employment Opportunity Commission regulations on March 25, 2011.

The HCRC Today

During FY 2011, the HCRC focused its efforts on maintaining enforcement and public education activities despite the impact of reduced resources, furloughs, loss of positions and key staff, freezes on filling vacancies, and other restrictions.

Investigation and charge processing. During FY 2010, the HCRC lost 3 of 11 (27%) of its permanent investigator positions. Coupled with the two days per month furlough of all state employees through the end of FY 2011, these had a significant impact on the HCRC's capacity to timely and effectively investigate discrimination complaints from intake through investigation and disposition. The average length of investigation to closure by investigators rose to 363 days in FY 2011, compared to 326 days in FY 2010. The reduction of investigator staffing also had a substantial impact the HCRC intake process. With as many as 250 pre-complaint questionnaires pending at any time, the intake process has been subject to delay for months after initial contact, sometimes running close to the 180 day statute of limitations for filing a complaint.

Mediation. The HCRC's voluntary mediation program completed its twelfth year of operation, working with the Mediation Centers of Hawai'i, community mediation centers on O'ahu, Hawai'i, Maui, and Kaua'i, and private mediators. 20 cases settled in mediation for monetary relief exceeding \$159,000.

Public Education. The HCRC continued to prevent and eliminate discrimination through public education. HCRC staff made numerous presentations on civil rights and discrimination to labor, business, and professional, civil rights, and other community organizations. Public education included fair housing training on Kaua'i, Maui, Hawai'i, and O'ahu. The HCRC held its annual EEO public training in October 2010 at the Hawai'i Convention Center, covering basic and advanced topics, including a session on the ADA Amendments Act of 2008 (ADAAA), the Genetic Information Nondiscrimination Act (GINA) and social media and the workplace.

Litigation. During FY 2011, HCRC enforcement attorneys continued to conciliate and litigate cause cases, in which a determination was made that there is reasonable cause to believe that unlawful discrimination has occurred. The loss of 1 of 3 (33%) permanent enforcement attorney positions in the 2010 RIF and subsequent abolishment of the lost position⁵, coupled with furloughs through FY 2011, directly resulted in higher caseloads and impacted the processing of cases to just resolution.

The HCRC Commissioners and staff continue their unwavering commitment to the HCRC mission - to eliminate discrimination by protecting civil rights and promoting diversity through enforcement of anti-discrimination laws and

⁵ The third permanent enforcement attorney position was restored by the legislature in the FY 2011 budget, but reestablishment is pending.

education. We renew our pledge to fair and effective enforcement, so that no person shall be denied his or her civil rights under Hawai'i law.

Objectives and Goals for FY 2011-2012 - Moving Forward

During FY 2011-2012, the HCRC will work towards rebuilding its capacity for effective and efficient civil rights law enforcement work, including timely investigation, as well as conciliation and litigation of cause cases. The HCRC will maintain state civil rights law enforcement efforts despite the cumulative impact of state budget cuts and the loss of enforcement staff. The HCRC has been forced to rely on temporary positions and federal funds to maintain enforcement efforts, raising concerns of over-reliance on federal funding that must be addressed.

Implementation of new state civil rights protections: While enforcement resources have diminished, enforcement jurisdiction, responsibility, coverage, and protections have grown. The Commission will adopt new administrative rules in 2012 to implement the broader coverage under the ADA Amendments Act of 2008 in state law. This will result in a larger number of disability discrimination in employment complaints. The legislature's enactment of new protections against employment discrimination based on civil union status and domestic or sexual violence victim status beginning on January 1, 2012, will require implementation, public education, and enforcement without additional funding, staffing, or resources. The HCRC has planned for implementation of these new laws with existing resources.

Case Inventory and Processing: In the face of substantial funding and staffing cuts it will be difficult to maintain the progress made prior to FY 2011 on completing investigations in 95% of all complaints within 24 months of filing. The HCRC will try to avoid substantial increases in case inventory and length of time to investigate cases.

Voluntary Mediation Program: At the beginning of FY 2012, the HCRC lost its long-time mediation coordinator with the passing of Allen Lynde. Contingent on the ability to fill the mediation coordinator position, the HCRC will continue to improve and expand its voluntary mediation program to encourage and offer mediation in more cases. The HCRC is discussing and implementing expanded mediation efforts in housing discrimination cases and in later stages of the HCRC process.

Public Awareness: The HCRC plans to continue its focus on public education activities during the upcoming year. The HCRC will hold its annual public EEO training in November 2011. The HCRC also plans to continue its co-sponsorship of the E Ola Pono program, a statewide student-centered campaign for Pono and Safe schools. The HCRC will work with federal, state, business, labor, and community partners to expand outreach and public education statewide, especially on the neighbor islands. The HCRC will continue to explore more public-private partnerships to develop user-friendly public education resources.

Mediation Program

The HCRC's voluntary mediation program successfully completed its twelfth full year on June 30, 2011. 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 saves time, money and resources. It also eliminates the stress of litigation and allows 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 Hawaii (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 mediation coordinator facilitates the process by explaining, encouraging, referring, and reviewing mediation and its benefits to the parties. There are mediation centers on O'ahu (Mediation Center of the Pacific - MCP), Maui (Mediation Services of Maui -MSM), east Hawai'i (Ku'ikahi Mediation Center in Hilo (KMC), the West Hawai'i Mediation Center in Kailua-Kona, and Kaua'i (Kaua'i Equal Opportunity 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.

During FY 2011, 40 cases were referred into mediation, and 37 mediations were completed (dispositions). Of the 37 dispositions, 20 resulted in mediated settlements (54.1%), and 17 cases resulted in no agreement (45.9%). Of the 20 mediated settlements, 19 were in employment cases, and 1 was in a public accommodations case.

The total disclosed monetary value of mediated agreements was \$159,542 with a wide variety of affirmative relief as well. (In 8 cases, the monetary consideration was subject to a confidentiality clause and not disclosed). The Mediation Center of the Pacific had 8 settlements; Ku'ikahi Mediation Center had 3 settlements; West Hawai'i Mediation Center had 1 settlement; and there were 8 settlements with private mediators, including 1 with private mediators from the Access ADR program.

The primary bases of discrimination of the 20 settlements were as follows: Sex -- 11 (including 8 pregnancies and 2 sexual harassment); Disability -- 4; Arrest & Court Record -- 2; Age -- 2; Ancestry -- 1. Many of the completed mediations also included charges on other protected bases. 13 mediated settlements were cases dual-filed with the EEOC.

Although monetary settlements were achieved in most agreements, all mediated agreements 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.

The HCRC conducted its annual training in October 2010 at the Blaisdell Exhibition Hall, for several hundred attendees. The theme of the training was “EEO in Hawai‘i: Keeping Pace with Recent Trends” and included an address on the meaning of civil rights by UH Professor of Linda Hamilton Krieger, and panels on the ADA Amendments Act (ADAAA), Genetic Information Nondiscrimination Act (GINA), mediating disability cases, and social media in the workplace. The winners of the E ‘Ola Pono Art & Video Competition, a statewide student contest co-sponsored by HCRC, OHA, the UH Center for Disability Studies, and Hawaiian Telcom, was presented by former Commissioner Sara Banks.

The HCRC continues to be an active participant in the fair housing public education campaign committee, which is comprised of representatives from the Housing departments of each county, the State, HUD Honolulu Field Office, and Legal Aid Society of Hawaii, Fair Housing Enforcement Program. The committee holds an annual joint private-public awareness fair housing campaign involving public service announcements on television, radio and print media, and or public education seminars on the Islands of Maui, Molokai, Kauai, Hawai‘i, and Oahu.

The HCRC also worked with the U.S. Department of Housing and Urban Development, the state, the counties, community fair housing organizations, non-profit and for-profit organizations, and businesses to co-sponsor fair housing trainings on all islands. Representative trainees in the housing area included the Board of Realtors, Property Managers Association, and National Association of Residential Property Managers, Community Associations Institute, landlords, tenants, homeless Veterans, and various property management companies and community associations.

In March 2011, the Fair Housing Laws for Landlords television program was produced in partnership with ‘Olelo Community Television and Chaminade University featuring HCRC’s Executive Director and moderated by HCRC. An estimated 1,000+ persons viewed the broadcast.

In addition, the HCRC conducted state-wide fair housing educational outreach workshops/trainings during April 2011 to increase compliance and prevent unlawful discrimination. The workshops/trainings were held on Oahu, and in Kailua-Kona, Hilo, Lihue, and Kahului. An estimated 600+ people took advantage of these informative and free workshops/trainings.

The HCRC participated in the all-day Community Homebuyer Fair held on June 4, 2011 at the Building Industry Association of Hawai‘i in central Oahu. The fair was a one-stop-shop for first time homebuyers. Over 30 exhibitors provided information and handouts on housing laws to prospective homebuyers. Resources were provided in English, Spanish, Ilocano, Chinese, Marshallese, Samoan, and Vietnamese. An estimated 225+ people attended the fair. The HCRC worked collaboratively with the following entities in the development, planning and or implementation of the Community Homebuyers Fair:

- Hawaii Home Ownership Center
- City & County of Honolulu – Dept of Community Services, Section 8

- Office of Hawaiian Affairs (OHA)
- Honolulu Board of REALTORS
- Hawaiian Community Assets
- ALU LIKE, Inc.
- Consumer Credit Counseling Services of Hawaii
- Hawai'i Association of Mortgage Brokers
- Hawai'i Credit Union League
- Legal Aid Society of Hawai'i
- U.S. Department of Agriculture Rural Development (USDA)
- U.S. Department of Housing and Urban Development (HUD)
- Mortgage Bankers Association of Hawai'i
- Self-Help Housing Corporation of Hawai'i
- Council for Native Hawaiian Advancement
- Various financial, credit union, mortgage institutions
- Various developers

During FY 2011 the HCRC also conducted outreach and participated in and/or made presentations at the following:

- Joint outreach events with the U.S. Equal Employment Opportunity Commission (EEOC)
- Joint informal exchanges of information between HCRC and EEOC staffs
- Office of the Governor, staff training
- William S. Richardson School of Law, University of Hawai'i, various panels and programs
- Outreach training and flyers on assistance animals as a reasonable accommodation in housing
- Hawai'i Foodbank
- Aloha United Way
- March of Dimes
- Mediation Centers of Hawai'i
- 'Olelo panel discussion on fair housing rights
- Honolulu Pride Parade and Celebration
- Annual Martin Luther King, Jr. Holiday Parade and Festival
- Department of Labor & Industrial Relations meet and greet
- Hawai'i Friends of Civil Rights Annual Dinner
- Statewide Fair Housing Month events
- Oahu WorkLinks Job Quest Job Fair

The HCRC website is part of a consolidated website which includes all divisions of the Department of Labor & Industrial Relations. The HCRC is grateful for the assistance of DLIR webmaster Casey Cho who posts information and helps make the HCRC website user-friendly. Analysis of 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

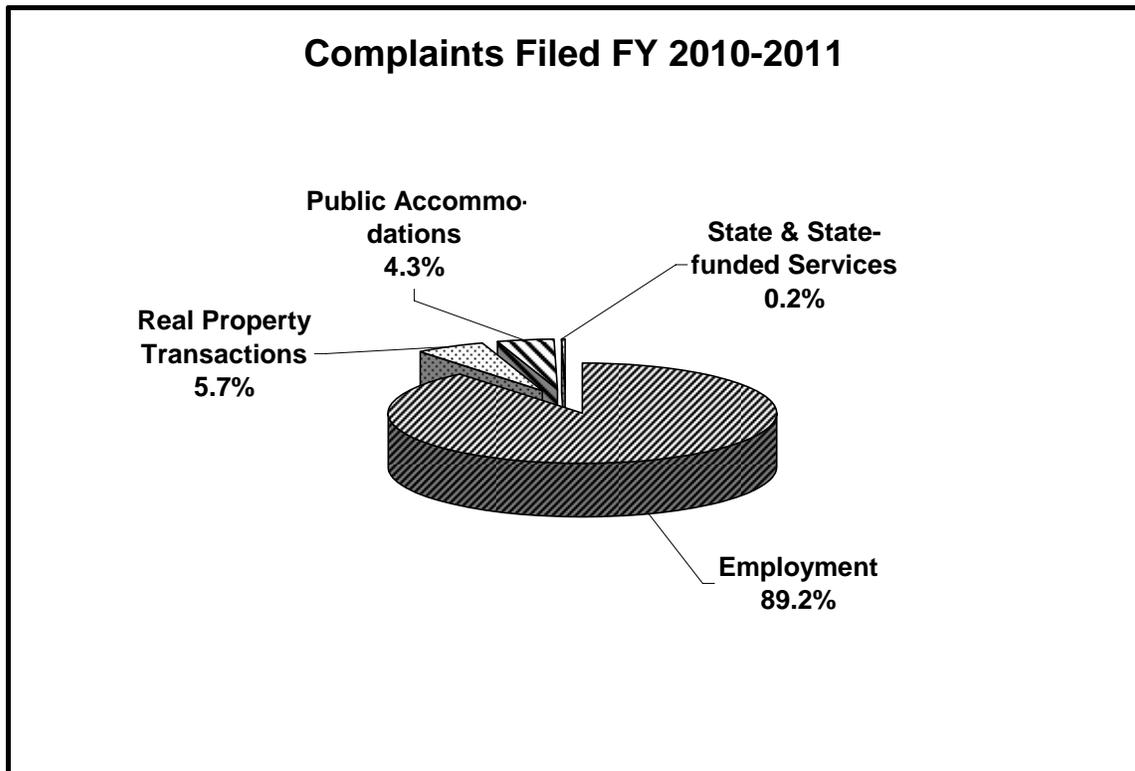
During FY 2011, the HCRC continued its emphasis on maintaining efficiency without sacrificing effective law enforcement.

Intake

During FY 2011, the HCRC received 3,919 telephone and walk-in inquiries. HCRC investigators completed 782 intakes, and 631 discrimination complaints were filed with the HCRC, an average of 52.6 complaints a month.

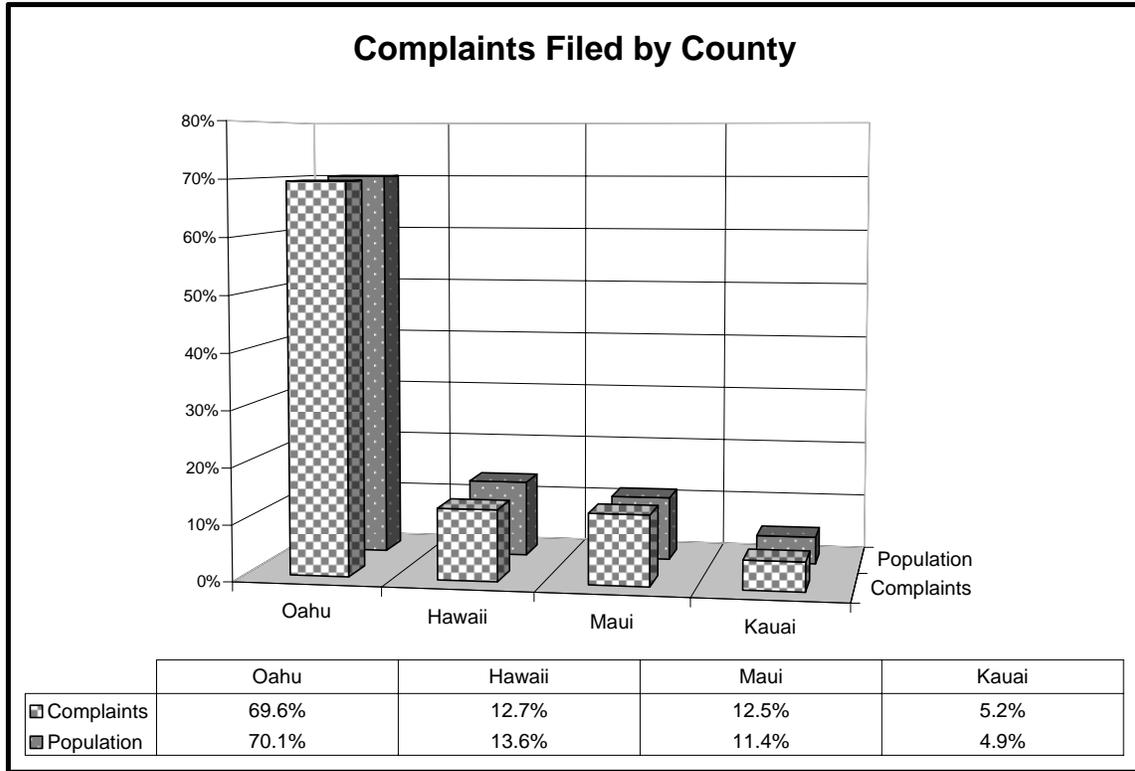
Of the 631 complaints that were filed with the HCRC, 365 complaints originated with HCRC investigators (averaging 30.4 per month), and another 266 cases originated with the federal EEOC or HUD. These 266 cases were dual-filed under state law with the HCRC.

The 631 cases included 563 employment cases, 31 public accommodations cases, 36 housing cases, and 1 case involving state and state-funded services. 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 631 charges accepted by the HCRC consisted of 439 Oahu complaints, 80 Hawai'i County complaints, 79 Maui County complaints, and 33 Kauai County complaints. The number of complaints filed from each county was consistent

with its proportion of resident population in the state (Honolulu County 70.1%; Hawai'i County 13.6%; Maui County 11.4%; and Kauai County 4.9%).



Closures⁶

HCRC investigators and attorneys closed 372 cases during FY 2011 (a decrease of

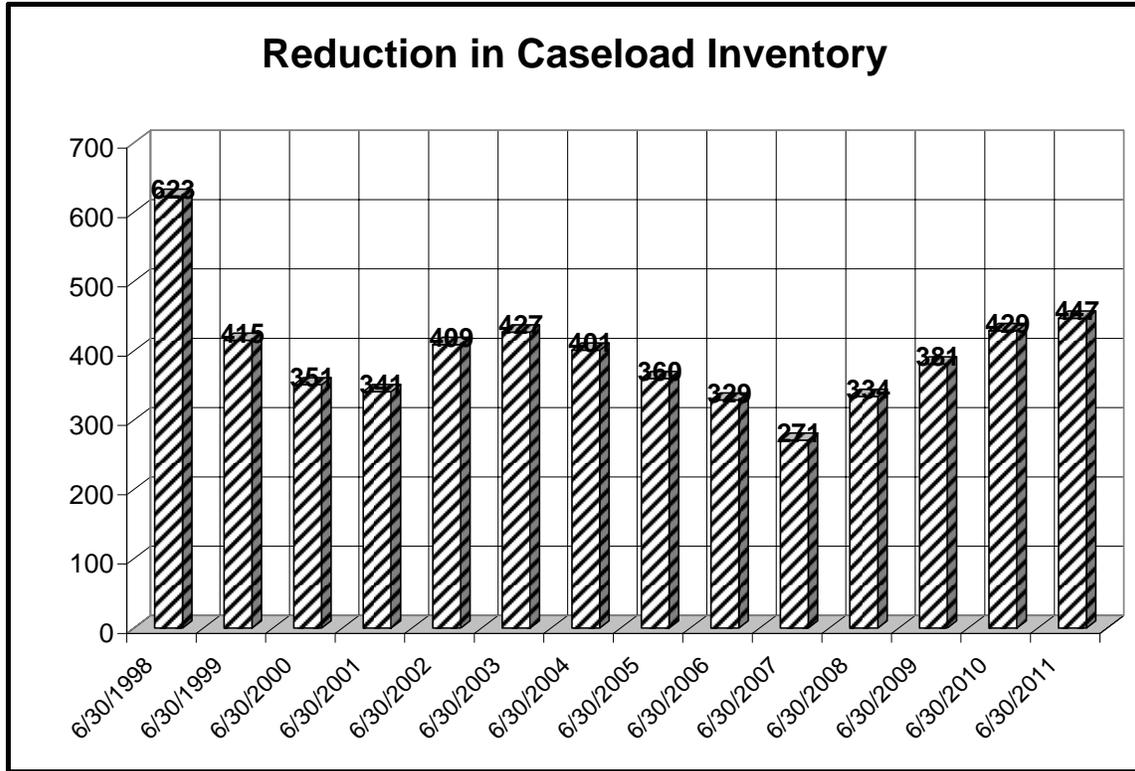
⁶ ANALYSIS AND EXPLANATION OF CLOSURE DATA

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.

During FY 2011, HCRC investigations resulted in 8 cause determinations, and 51 cases were closed on the basis of pre-determination settlement or resolution between parties. 258 cases were closed on the basis of no-cause determinations upon completion of investigation. The ratio of cause determination and predetermination settlement/resolution (59) 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 (317) for this fiscal year is 18.6%.

80 cases from FY 2010, for an average closure rate of 31 cases per month, down from 37.6 cases per month in FY 2010. HCRC investigations resulted in cause determinations in 8 cases. As of June 30, 2011, there were 447 cases pending with HCRC investigators.



The average period for case closure by investigators was 363 days, as compared to 326 days for FY 2010, 332 days for FY2009, and 333 days for FY 2008. A review of this fiscal year shows the following reasons for investigative closures:

	No. of Cases	% of Subtotal	% of Total Closures
Merit Closures			
Resolved by Parties	42	12.96%	11.29%
Pre-Determination Settlements	9	2.78%	2.42%
Cases Resolved by Attorneys	15	4.63%	4.03%
No Cause Determinations	<u>258</u>	<u>79.63%</u>	<u>69.35%</u>
Subtotal	324	100.0%	87.10%

	No. of Cases	% of Subtotal	% of Total Closures
Non-merit Closures			
Complainant Elected Court Action	23	47.92%	6.18%
No Jurisdiction	1	2.08%	.27%
Complaint Withdrawn	6	12.50%	1.61%
Complainant Not Available	4	8.33%	1.08%
Complainant Failed to Cooperate	12	25.00%	3.23%
Failure to Accept Just Settlement	0	0%	0%
Bankruptcy of Respondent	0	0%	0%
No Significant Relief Available	<u>2</u>	<u>4.17%</u>	<u>.54%</u>
Subtotal	48	100.00%	12.90%
Total Number of Closures	372		100.00%

Employment Cases

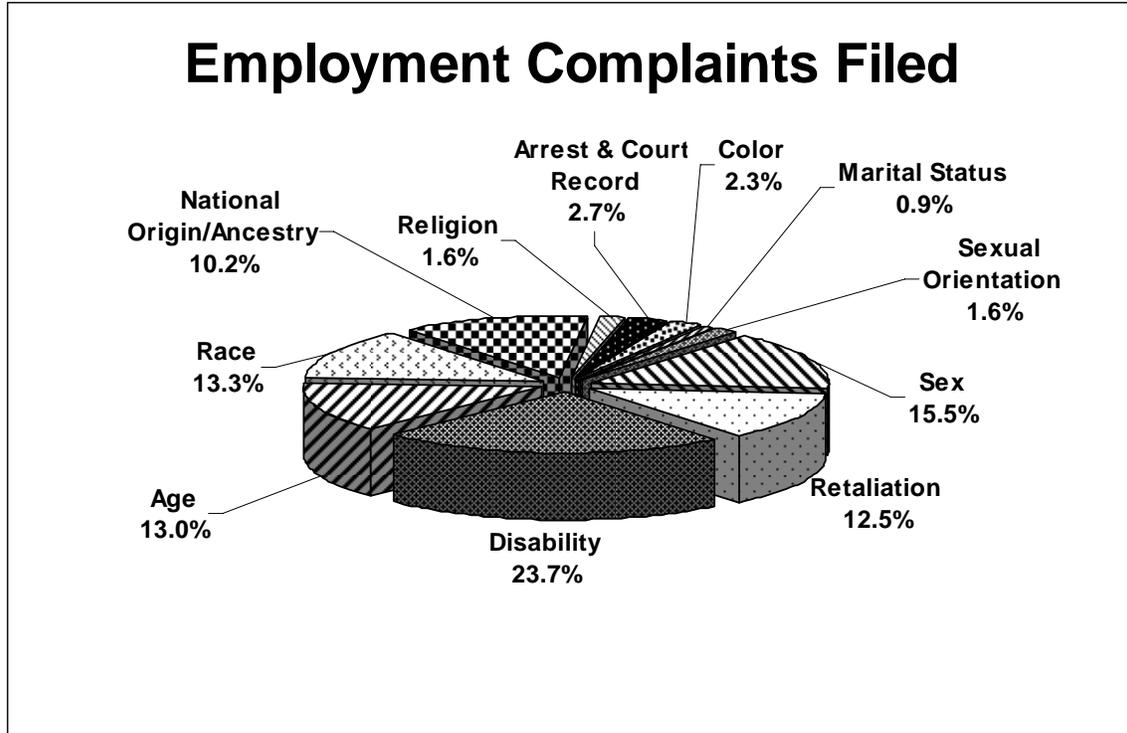
H.R.S. Chapter 378, Part I prohibits discriminatory employment practices based on race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, credit history or credit report, assignment of income for child support obligations, National Guard participation, and breast feeding/expressing milk. Examples of such practices are outlined in H.R.S. §378-2.

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 563 employment cases were accepted by the HCRC. The HCRC was the intake agency for 308 of these cases, and the HCRC dual-filed another 255 cases originating with EEOC.

Of the HCRC-originated cases, 76% were also filed with EEOC. Of the 563 employment complaints filed, the bases most cited were disability, in 133 cases (23.7%), sex, in 87 cases (15.5%), and race in 75 cases (13.3%). Of the sex discrimination complaints, 24 (27.6% of all sex cases) alleged sexual harassment and 16 (18.4% of all sex cases) were based on pregnancy.

Age and ancestry/national origin were the fourth most cited bases with 73 cases each, representing 13.0% of all employment cases, followed by retaliation in 70 cases (12.5%), arrest and court record in 15 cases (2.7%), color in 13 cases (2.3%), sexual orientation and religion in 9 cases each (1.6%), and marital status in 5 cases (0.9%). There were no cases based on credit history or credit report, child support obligations, National Guard participation, or breast feeding.

The case closure period averaged 389 days for the 315 employment cases that were closed or caused by HCRC investigators during FY 2011.



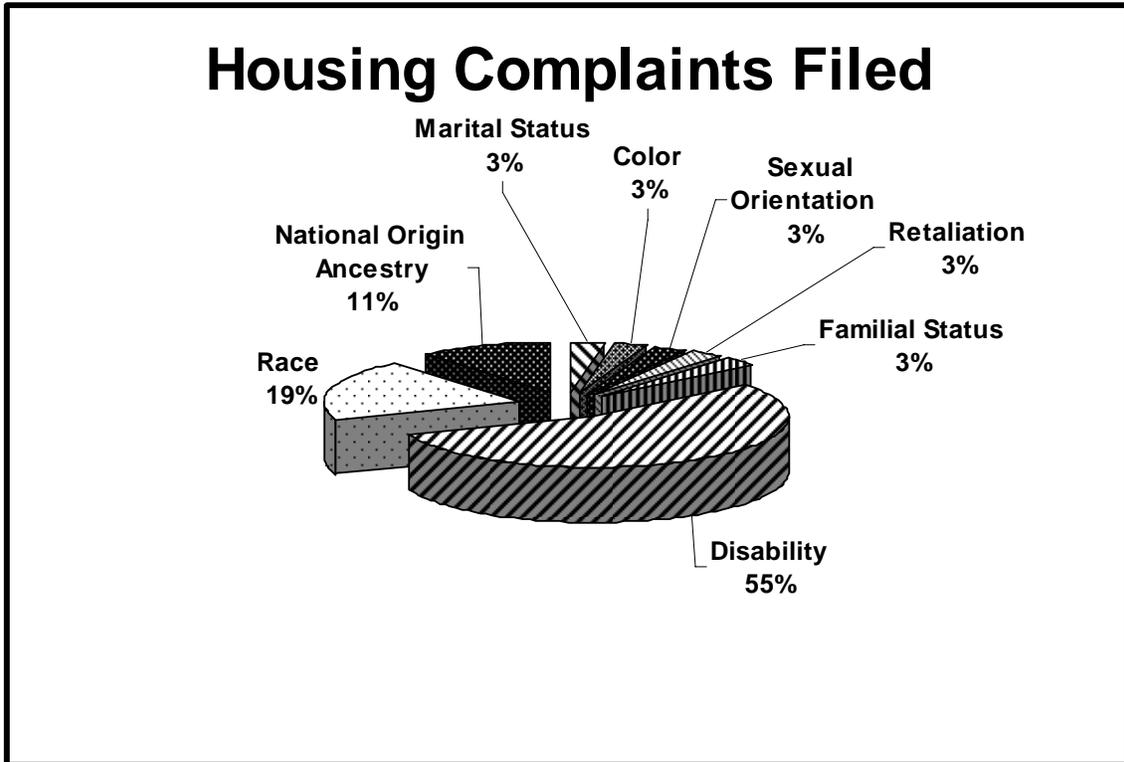
Housing Cases

H.R.S. Chapter 515 is Hawai'i's fair housing law. It prohibits discriminatory housing practices based on race, sex, sexual orientation, color, religion, marital status, familial status, ancestry, disability, age, or HIV infection. Examples of such unlawful practices are listed in H.R.S. § 515-3 and include actions such as refusing to rent, sell, or grant loans to an individual because of one or more of the above protected bases.

The HCRC has a cooperative agreement with the HUD. HUD refers most of the Hawai'i complaints it receives regarding unlawful housing discrimination to the HCRC for investigation.

During FY 2011, the HCRC accepted 36 cases of housing discrimination. There were 20 cases based on disability status (55%); followed by 7 cases based on race (19%); 4 cases based on national origin (11%); and 1 case each based on marital status (3%), color (3%), sexual orientation (3%), retaliation (3%), and familial status (3%). There were no cases based on age, HIV infection, religion, or sex.

Housing case closures averaged 164 days for the 38 cases closed or caused during FY 2011.

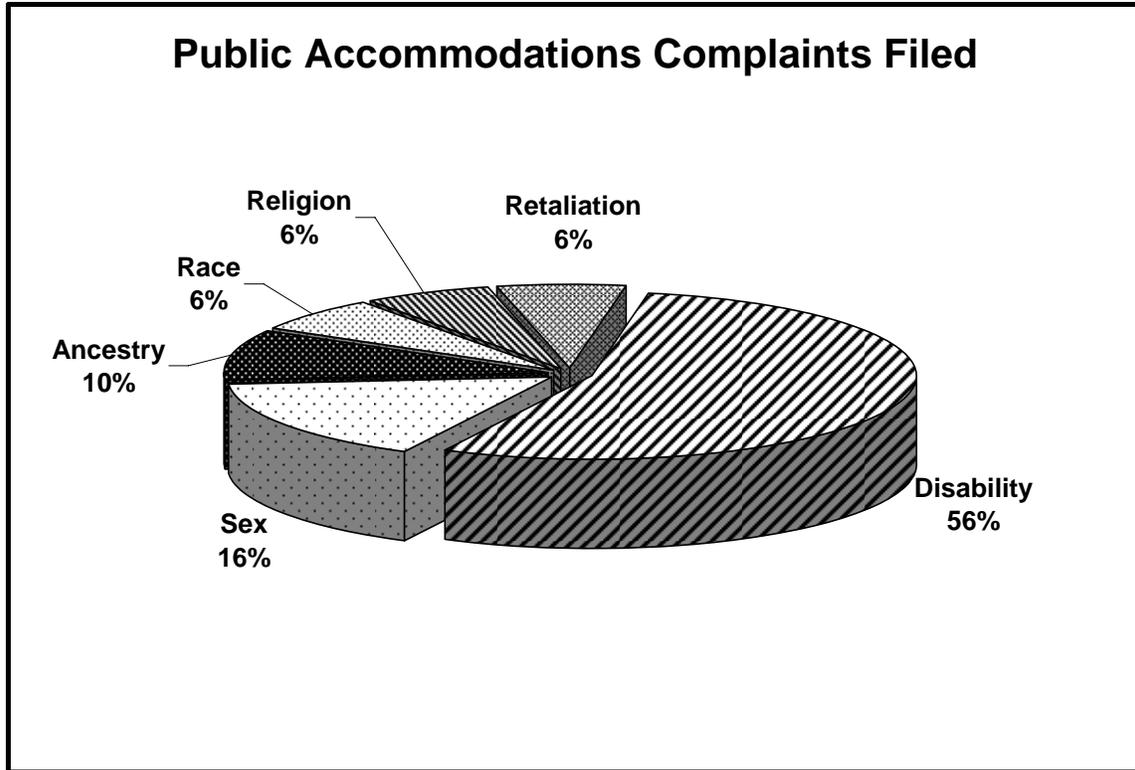


Public Accommodations Cases

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, 31 new cases of public accommodations discrimination were accepted. Of these, 17 cases were based on disability discrimination (55%); 5 cases were based on sex discrimination (16%); 3 cases were based on ancestry (10%); and 2 cases each were based on race (6%), religion (6%), and retaliation (6%). There were no cases based on sexual orientation or color.

Public accommodations case closures averaged 348 days for the 17 cases closed (or caused) during FY 2011.



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).

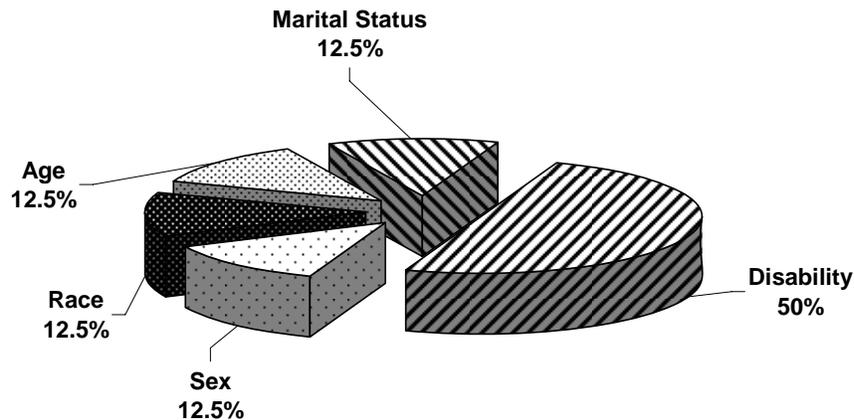
During the fiscal year, there was 1 case filed under § 368-1.5. Two cases were closed during FY 2011. Access to state and state-funded services case closures averaged 276 days for the 2 cases closed or caused during FY 2011.

Cause Cases

When the 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 2011, 8 recommendations for cause were brought forward for legal action. Of these cases, 5 (62.5%) were housing cases, and 3 (37.5%) were employment cases.

Of the 8 investigations with a cause recommendation, 4 were based on disability (50%), and 1 each was based on sex, race, age, and marital status (12.5% each).

Cause Determinations



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 2011 the HCRC continued to successfully obtain monetary relief through settlement of complaints. Of the 22 closed cause cases, HCRC attorneys obtained monetary settlements totaling \$287,300. Of the 50 cases settled prior to an investigative finding, 23 of those cases involved confidential settlements, the terms of which were not disclosed to the HCRC. Of the remaining 27 cases settled prior to an investigative finding, monetary relief totaled \$218,789. This figure includes both pre-determination settlements obtained through HCRC investigators (\$55,247) and investigative settlements obtained through the HCRC mediation program (\$159,542). Collectively the HCRC's known monetary settlements for FY 2011 totaled \$502,089. Since the

settlement terms are unknown for 23 closed cases, the actual total figure for all monetary settlements in FY 2011 is probably significantly higher than \$502,089.

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, in FY 2011, there were complainants who received letters 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 2011, 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 2011:

- In an employment case involving harassment on the basis of race, ancestry, and color, the complaint settled for \$39,000, re-characterization of the complainant's termination as a resignation, and affirmative relief.
- In an employment case involving arrest and court record discrimination, the complaint settled for reinstatement to work and a letter of apology.
- In an employment case involving arrest and court record discrimination, the complaint settled for \$40,000 and affirmative relief including the adoption of a non-discrimination policy, training, and publication of a newspaper advertisement to educate the public about the state's anti-discrimination laws.
- In an employment case involving sex discrimination on the basis of pregnancy, the complaint settled for \$10,000 and affirmative relief including the adoption of a non-discrimination policy and training.
- In a case involving sex, race, and disability discrimination in a place of public accommodation, the complaint settled for \$200 and the adoption of a non-discrimination policy.

- In a housing case involving familial status discrimination, the complaint settled for revisions in the housing provider's rules regarding children and occupancy restrictions.
- In a housing case involving denial of a reasonable accommodation, the complaint settled for \$1,000 in cash, \$2,400 in rental subsidies, revisions in the housing provider's policy regarding service animals, adoption of a non-discrimination policy, and training.

HCRC Warning Letters

In an effort to prevent future or recurring problems, the HCRC provides respondents with "warning letters" advising them of unlawful or potentially unlawful practices that the HCRC discovers during the course of its investigation of other claims against the respondent. In those instances in which 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 Case Hearings

During FY 2011 the Commission issued one decision in a contested case hearing.

Hoshijo/Bowes v. Kakar housing sexual harassment case

On March 16, 17 and 24, 2010 a contested case hearing was held in the case of William D. Hoshijo, Executive Director on Behalf of the Complainant filed by Elaine M. Bowes vs. Michael Kakar, Docket No. 09-001-H-SH. This case involved allegations of sexual harassment in housing.

The Hearings Examiner concluded that Respondent Kakar engaged in quid pro quo sexual harassment when he conditioned the rental of his unit at a price Complainant could afford by requesting sexual favors from her. However, the Hearings Examiner concluded that Respondent did not subject Complainant to hostile environment sexual harassment (HESH). Complainant Bowes was a 61 year old female who was looking for rental housing on Kauai. She intended to pay for her rental with a HUD Section 8 housing voucher, which limited her to

rental payments of \$900 per month. Respondent Kakar sought to rent his unit for \$1,100 per month and after showing Complainant the unit, initially rejected her as a tenant because she could not afford that amount. Two weeks later Respondent telephoned Complainant and invited her to a second viewing of the unit, which was located behind his house. After this viewing Respondent invited Complainant into his home, ostensibly to see some renovations. He then offered her wine, led her into his bedroom to look at a picture and encouraged Complainant to sit with him on his bed. After Complainant refused and walked back towards the front door, Respondent followed her, complimented her physical appearance, made other sexual comments and invitations, and told Complainant the rent was flexible and that he could lower it and makes it work for her. Respondent became angry when Complainant refused his advances and when she left.

On October 1, 2010 the Commission issued a final decision in this case. The Commission utilized state employment law sexual harassment standards and tests to determine whether sexual harassment occurs in the fair housing context. The Commission affirmed the Hearings Examiner's conclusion that Respondent discriminated against Complainant by engaging in quid pro quo sexual harassment. The Commission also affirmed the Hearings Examiner's conclusion that Respondent did not engage in hostile environment sexual harassment because his conduct was not severe or pervasive. The Commission awarded Complainant \$2,500 in compensatory damages for emotional distress and \$10,000 in punitive damages because Respondent's quid pro quo harassment was intentional, malicious and with a conscious indifference to civil obligations and consequences. The Commission also ordered Respondent to pay costs and penalties for his failure to comply with discovery orders and ordered equitable relief, including: a) a cease and desist order; b) requiring Respondent to develop and implement a written anti-discrimination policy and provide that policy to all applicants and tenants; and c) requiring Respondent to publish the results of the contested case.

Legislation

Five bills relating to civil rights were enacted during the 2011 legislative session.

HB 546, enacted as Act 34, amends H.R.S. 378-2 to clarify that employment discrimination based on sex includes discrimination based on gender identity or expression. The act also amends H.R.S. 378-1 to define "gender identity or expression" to include a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression. The amendments are consistent with the Commission's ruling in D.R. No. 02-0015, June 29, 2002; *vacated on other grounds*, RGIS Inventory v. Hawai'i Civil Rights Commission, 104 Hawai'i 158 (2004), which held that discrimination based on gender identity or gender expression is a form of sex discrimination.

SB 229, enacted as Act 206, prohibits employers from discriminating against an employee or applicant for employment based on their status as a victim of domestic or sexual violence. The act amends H.R.S. §378-2 to add “victimization due to domestic or sexual violence” as a protected basis.

SB 1301, enacted as Act 31, amends H.R.S. §515-3, -4 and -16 to clarify that the close living exemptions to the fair housing laws apply to an owner/lessor who resides in a duplex and is renting out the other unit, or who resides in a house and is renting up to four rooms in that house. The act also clarifies that the exemptions do not apply to advertising, publications or statements, and makes the groups protected under H.R.S. 515-16 consistent with the rest of Chapter 515.

SB 892, enacted as Act 175, amends H.R.S. §515-3 to clarify that a reasonable accommodation in housing for a person with a disability can include the use of an assistance animal and that housing providers may impose reasonable restrictions on such animals.

SB 232, enacted as Act 1, extends the same rights, benefits, protections and responsibilities of spouses in a marriage to partners in a civil union. Therefore all the protections against discrimination based on marital status would apply to partners in a civil union.

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, 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 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 2010 the HCRC had a staff of 26 persons, 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 discrimination¹ because of a protected bases,² and,
- 2) The unlawful discrimination occurred within the previous 180 days.³

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.⁴ If conciliation is unsuccessful, the complaint is docketed for 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.⁵

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.⁶

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

¹ "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 of women, or men, or any other protected basis.

- ² "Protected basis" is the criteria that it is unlawful for a respondent to discriminate upon. Protected bases vary depending on the statute involved:
 - a. State Funded Services (Chapter 368, H.R.S.) The only protected basis is disability.
 - b. Employment (Chapter 378, Part I, H.R.S.) The protected bases that an employer, employment agency, or labor organization may not discriminate on are: race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record or credit history.
 - c. Public Accommodations (Chapter 489, H.R.S.) The protected bases that a public accommodation may not discriminate on are: race, sex (which includes gender identity and expression), sexual orientation, color, religion, ancestry, or disability.
 - d. Housing (Chapter 515, H.R.S.) The protected bases that an owner, a real estate broker or any person engaging in a real estate transaction, may not discriminate on 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.

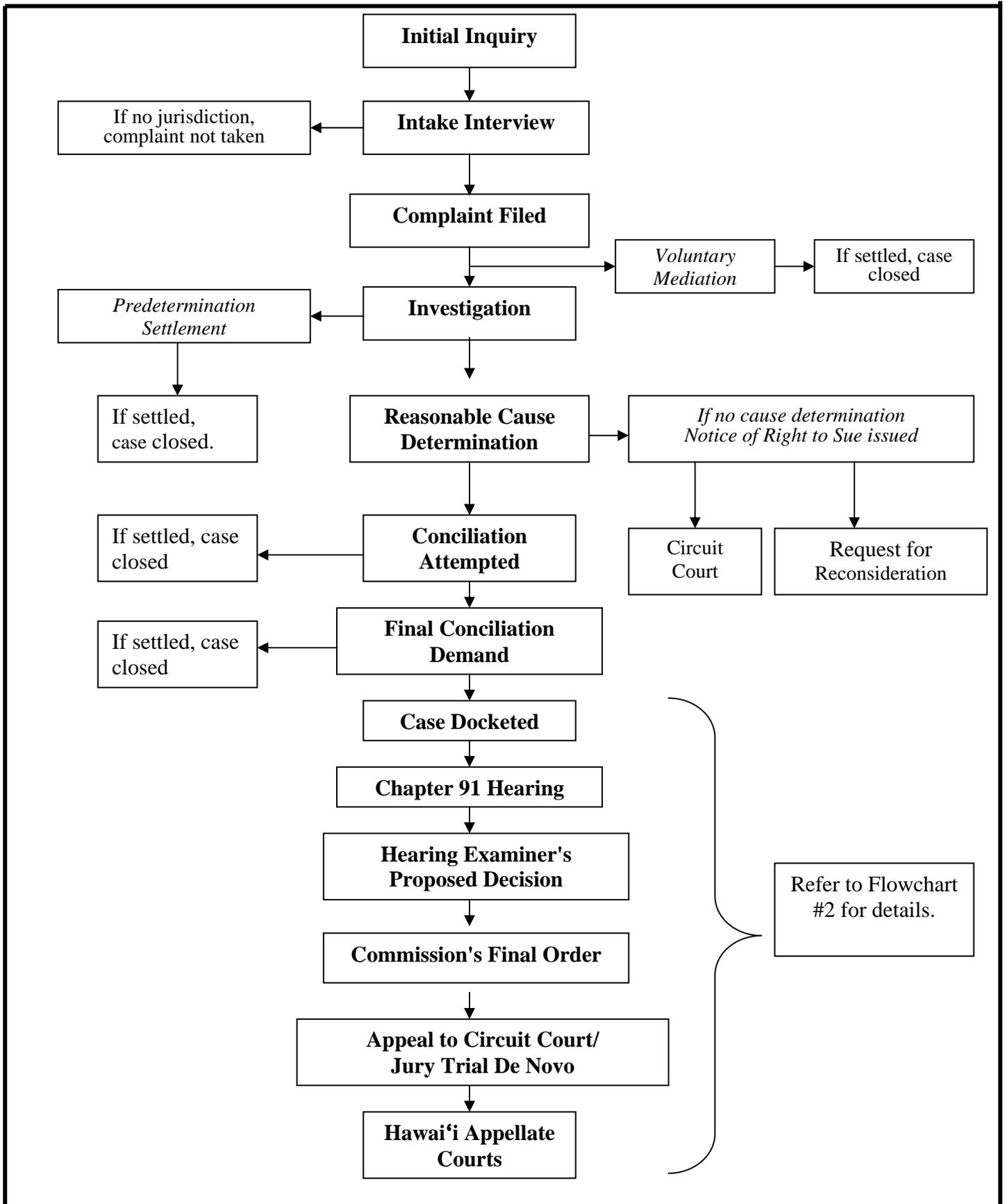
³ Complaints filed with the HCRC usually involve a discrete act – such as termination, eviction, demotion, etc. – or involve acts that are ongoing and constitute a continuing violation. An example of a "continuing violation" is sexual harassment that began more than 180 days before the complaint is filed, 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.

⁴ During FY 2011, of all 372 investigative and attorney case closures, 6.18% (23) were closed on the basis of the complainant electing court action. The remaining cases (349) were closed on the following basis: in 69.35% of the cases (258), the Executive Director found no cause and dismissed the complaint, 13.71% (51) of the investigation cases were settled prior to a cause determination or were resolved by the parties, 4.03% (15) of the cases were resolved by staff attorneys, and the remaining 6.73% of the cases (25) were closed because there was no jurisdiction, the complaint was withdrawn, the complainant was unavailable and could not be located, the complainant failed to cooperate, or no significant relief was available.

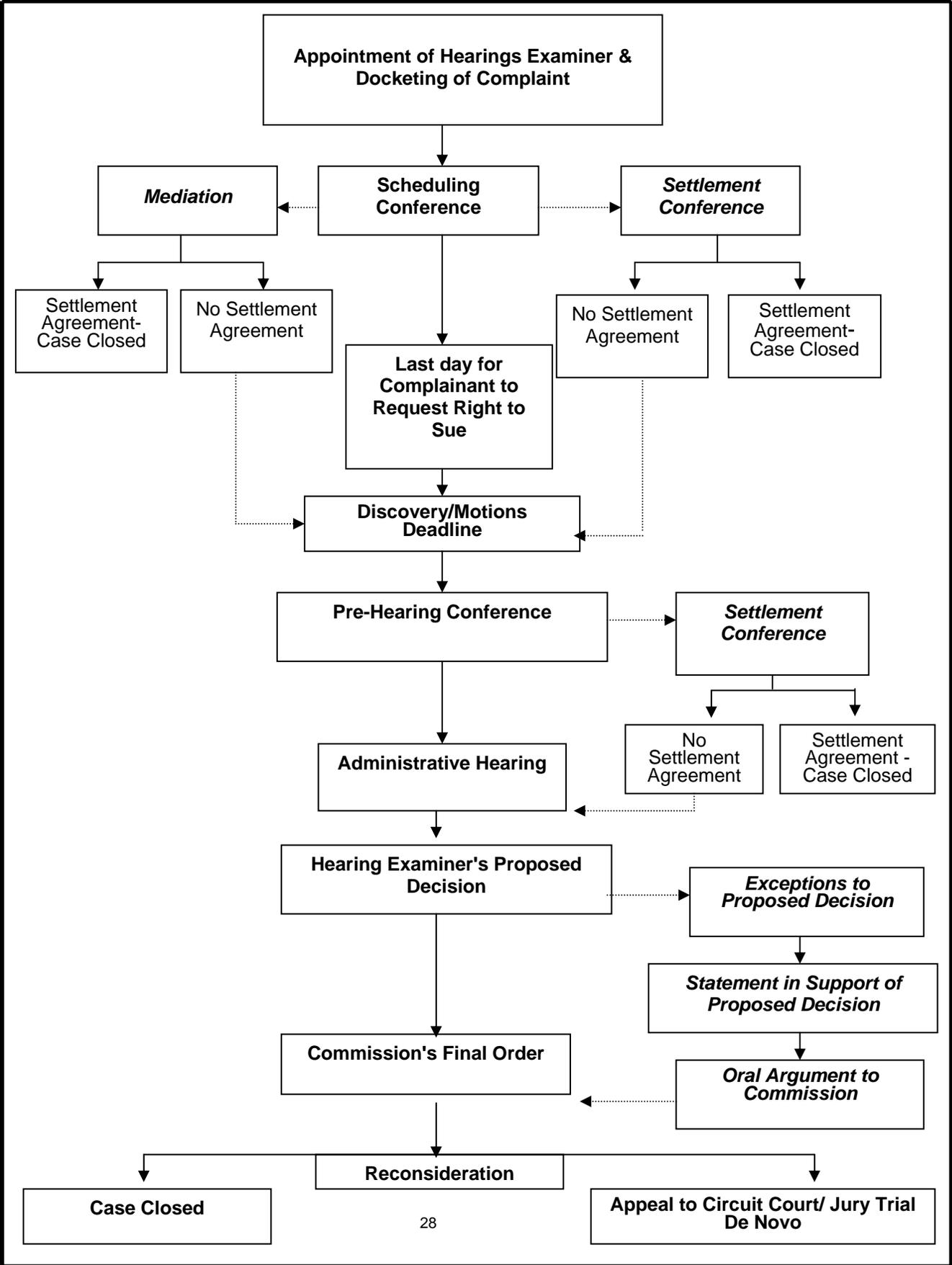
⁵ The HCRC enforcement, hearing and appeal procedures are illustrated in Flowchart # 1. In *SCI Management Corporation, et. al. v. Darryllyne Sims, et. al.*, 101 Hawai'i 438, 71 P.3d 389 (2003), the Hawai'i Supreme Court held that "a respondent who appeals a final order of the HCRC, pursuant to HRS § 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."

⁶ HCRC contested case procedures are illustrated in Flowchart # 2.

HCRC Procedural
Flowchart #1



**HCRC Contested
Case Flowchart #2**



HCRC Commissioners

Coral Wong Pietsch Chair (terms 2003-2007, 2007-2011)

Coral Wong Pietsch is the Senior Civilian Attorney for the U.S. Army Pacific. In this position she oversees the personnel and labor law practice at Headquarters, U.S. Army Pacific Command, as well as the ethics program and the environmental law program. She is also responsible for providing advice and guidance on international law issues in the U.S. Army Pacific Command. Ms. Pietsch is a retired Brigadier General and was the first female general in the 231-year history of the U.S. Army Judge Advocate General Corps. She is also the first Asian American female to reach the rank of Brigadier General in the Army. From 1986 to 1991 she served as Labor Counselor for the U.S. Army Support Command Hawai'i and was responsible for providing training to managers and supervisors on Title VII, the Rehabilitation Act, and sexual harassment. She has been honored by the Organization of Chinese Americans, the Catholic University of America, Honolulu YWCA, and Hawai'i Women Lawyers for her accomplishments. She is a frequent presenter on her experiences as a Rule of Law Advisor in Iraq.

Les Ueoka Commissioner (terms 2005-2008, 2008-2012)

Les Ueoka is Assistant General Counsel for Hawaiian Telcom, formerly known as Verizon Hawaii and GTE Hawaiian Tel, prior to which he was in private practice. Currently Mr. Ueoka is serving his second four-year term as a commissioner on the Hawaii Civil Rights Commission. He strongly supports the Commission's educational outreach efforts, including its annual Pono art and video contest championed by former commissioner Sara Banks. He also has advocated to enhance the Commission's research and policy review efforts.

Mr. Ueoka serves on the Oahu Metro Board of the American Heart Association. In 2007 Mr. Ueoka was awarded the Association's Impact Award, the highest award given annually to an individual, group, corporation or foundation that serves admirably, exhibits an earnest devotion to and has made a remarkable impact on the mission of the Association. Mr. Ueoka serves as a trustee, and was formerly the director of development, of the 442nd Regimental Combat Team Foundation and is a member of the Sons and Daughters Chapter of the 442nd Veterans Club. In addition, Mr. Ueoka is a director and vice president of Hawaii Opera Theatre. Mr. Ueoka has served as a director of Gregory House Programs and as an Assistant Scoutmaster to Troop 325, Aloha Council, and Boy Scouts of America.

Mr. Ueoka was born in Honolulu, Hawai'i and graduated from Iolani School. He received his BA in English from Northwestern University in Evanston, Illinois, and his Juris Doctor from Washington University in St. Louis, Missouri.

Mark G. Valencia
Commissioner (terms 2007-2009, 2009-2013)

Mark G. Valencia is a director in the law firm of Case Lombardi & Pettit. His practice includes both plaintiff and defense work in contract, insurance, tort, construction, land use, appellate, product liability, and employment cases. In addition, Mr. Valencia has served as an adjunct professor at Hawai'i Pacific University and the University of Hawai'i Richardson School of Law. He is also active in the community, volunteering with the Read Aloud America Program, serving as a longtime member of the Kuakini Medical Center Ethics Committee, and for many years was an annual participant in the Professionals for Drug Free Kids Project.

Before joining Case Lombardi & Pettit in 2005, Mr. Valencia served as a policy analyst for Governor Linda Lingle, an attorney in private practice, a law clerk to former Hawai'i Intermediate Court of Appeals Judge Walter Kirimitsu, and as a Sergeant in the United States Army. He is currently a reserve officer in the United States Army Judge Advocate General's Corps.

Jonathan L. Ortiz
Commissioner (term 2008-2012)

Jonathan Ortiz is a director in the law firm of Ortiz & Katano. He practices in the areas of personal injury, products liability, construction defects, professional malpractice and insurance fraud litigation. Prior to private practice, Mr. Ortiz was General Counsel for the State of Hawai'i Organization of Police Officers, a Deputy Public Defender, and a law clerk for the Equal Employment Opportunity Commission. Mr. Ortiz is a member of the American Inns of Court, the Defense Research Institute and the Community Associations Institute. He is also past president of the United Puerto Rican Association and Pearl City Little League.

Mr. Ortiz was born in Honolulu, Hawai'i. He is a graduate of Castle High School, received his BA in Political Science from the University of Hawai'i, and his Juris Doctorate from George Washington University Law School.

Samuel Moku
Commissioner (term: 2010-2011)

Samuel Moku is the Director of the Department of Community Services (DCS) for the City and County of Honolulu. Prior to heading DCS, Mr. Moku was the Program Manager for the Department of Hawaiian Home Lands Home Ownership Assistance Program (HOAP). The Hawaiian Homes Commission established HOAP in 2004 to promote home ownership for Native Hawaiians on Hawaiian Home Lands. Mr. Moku expanded HOAP to provide credit counseling, homebuyer education, job training, employment placement, and addictions treatment services. HOAP has been successful in reaching over 2,500 Native Hawaiians, of which 500 have successfully become homeowners.

For the past 17 years, Mr. Moku has also been an active volunteer for Special Olympics Hawaii. In 2007 he was selected as a Team USA coach for the 2007 World Special Olympic Games in Shanghai, China and was also selected as a Team USA coach for the 2011 World Special Olympic Games in Athens, Greece. He is also active in providing free Speed & Quickness training for public elementary schools on the Windward side, as well as a volunteer coach for various youth sports.

HCRC Staff

During FY 2010-2011 the HCRC staff consisted of 26 individuals in the following positions:

- Enforcement Staff:
 - Executive Director
 - Deputy Executive Director
 - Enforcement Attorneys (3)
 - Administrative Assistant – Mediation Coordinator
 - Investigator-Supervisors V (2)
 - Investigator IV (8)
 - Investigator III-IV (temporary) (2)
 - Secretary III
 - Office Assistants (III-IV) (4)

- Adjudication Staff:
 - Acting Chief Counsel
 - Secretary II

* Staffing levels reflect permanent (22) and temporary (4) positions which were either filled or vacant during FY 2011.