



# **HAWAI'I CIVIL RIGHTS COMMISSION**

## **2011-2012 Annual Report**

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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**

### **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.

### **Civil Rights in the "New Day in Hawai'i Plan"**

The "New Day in Hawai'i" Plan, reflects the State's commitment to civil rights and the enforcement of state civil rights laws:

#### **Civil and Human Rights**

In Hawaii, our diversity does not divide us; our diversity defines us.

\* \* \* \* \*

It is critical that we protect the civil and human rights of all our people. We must fight discrimination in all forms ...

\* \* \* \* \*

Protecting people's civil rights cannot be compromised and [we are] committed to this most essential of constitutional imperatives.

### **Restoring Civil Rights Law Enforcement Capacity and Effectiveness – The HCRC's Highest Priority**

The Hawai'i Civil Rights Commission (HCRC) has shared in the budget reduction required of all state agencies since 2008 in response to the worst and unprecedented economic downturn and budget crisis the state has faced. The recession resulted in a substantial reduction in state general funds (GF), while the number of discrimination complaints increased. As the direct result of reductions in force (RIFs), freezes, abolishment of positions, employee furloughs, and collectively bargained for supplemental leave without pay, the HCRC had to

adjust to lost capacity and productivity, while maintaining the highest possible levels of efficiency and effectiveness.

As a result of RIFs and abolishment of positions, the HCRC has lost 8 of 30 permanent positions (27%), including 3 of 11 permanent investigator positions (27%).

In addition to being subject to the same RIFs, furloughs, and budget and staffing cuts that every state program has faced, the HCRC was administered a “poison pill” that threatens to cripple the HCRC and state civil rights law enforcement – over-reliance on federal funding.

In order to maintain enforcement capacity, the HCRC has been forced to shift the means of funding (MOF) from state funds to federal funds to pay for permanent positions in addition to temporary positions, as well as to cover non-personal services operating costs (supplies, library and research database, postage, service of process, litigation costs, etc.). 8 of 22 permanent positions are wholly or partially federal funded (1 position at 100% federal funded and 7 positions at 50-50 federal and state General Fund (GF)), for a total of 4.5 permanent positions.

The HCRC has 2 sources of federal funds: U.S. Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD) contracts for investigation and disposition of complaints dual-filed under state and federal law. As the HCRC was forced to shift MOF for positions from GF to federal funds in order to maintain operations, federal funds spent far exceeded federal funds received. For example, in FY 2011 the amount of federal funds received was \$254,113 and the amount of federal funds expended was \$440,191 (\$358,550 personal services + \$81,641 other current expenses).

Since 2009, the HCRC has consistently warned the administration and the legislature that with continued over-reliance on federal funds, the HCRC’s federal fund reserve would be exhausted by the end of FY 2012. As predicted, at the end of FY 2012 the HCRC’s federal fund reserve was exhausted. If over-reliance on federal funding is not addressed, it will directly cause additional loss of capacity, affecting both permanent and temporary positions.

Loss of capacity jeopardizes effective civil rights law enforcement. With the 27% loss of enforcement and investigation staff and work days lost to furloughs and unpaid leave, the size and age of the HCRC pending investigation caseload inventory increased from 271 cases at the end of FY 2007 to 527 at the end of FY 2012. The average age of the 271 cases in investigation at the end of FY 2007 was 255 days from time of complaint filing; at the end of FY 2012, the average age of the 527 cases was 419 days.

The increase in case inventory directly affects the length of time it takes to investigate complaints. The biggest impact is the delay in investigating priority cases. As cases age, they become more difficult to investigate, conciliate, and

prosecute. The consequences of delay are detrimental to all the parties – workers and employers, tenants and landlords, homeowners and AOAOs, customers and businesses, and complainants and respondents – and to the public interest in providing relief to the victims of discrimination and preventing future discrimination. Civil rights law enforcement is diminished, reflecting a lack of state commitment, and equal opportunity and justice are denied.

The HCRC's worksharing and cooperative agreements with EEOC and HUD both require maintenance of state effort, expressly prohibiting unilateral reduction of state resources dedicated to enforcement of fair employment and fair housing laws. Both EEOC and HUD have expressed concern over the maintenance of state efforts, with the reduction of GF funding and positions. Both contracts provide payment for investigation and disposition of dual-filed complaints. Loss of capacity results in fewer cases investigated to completion and less funding under the contracts, exacerbating the problem of over-reliance on federal funds.

The HCRC caseload cannot be allowed to grow to the extent it becomes impossible to effectively and timely investigate, conciliate, and litigate complaints. Without restoration of capacity, the HCRC will be forced to consider dismissal of complaints without investigation for administrative reasons, in order to maintain the investigation caseload at a manageable level.

With restored capacity, HCRC enforcement efforts will be re-focused on strong enforcement, with a strategic emphasis on dedicating resources to priority cases.

### **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-one 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."<sup>1</sup>

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."<sup>2</sup>

### **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.<sup>3</sup>

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.

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

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<sup>1</sup> 1989 House Journal, Standing Committee Report 372.

<sup>2</sup> *Id.*

<sup>3</sup> 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 appoints hearings examiners on a case by case basis.

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 and sexual harassment in employment.<sup>4</sup>

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 decisions, and state court interpretations. 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.

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<sup>4</sup> 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 interpreted state law in conformance with the new stronger protections provided by the ADAAA and adopted administrative rules to conform state law with the final U.S. Equal Employment Opportunity Commission regulations implementing the ADAAA.

## Mediation Program

The HCRC's voluntary mediation program completed its thirteenth full year on June 30, 2012. While the program continued to be productive and successful, it faced one of its most challenging years with the passing of long-time Mediation Coordinator Allen Lynde. His death left a void of leadership, knowledge, experience, and productivity that hampered the work of the mediation program throughout FY 2012. The HCRC was not able to fill this critical position due to funding constraints, and was forced to rely on other enforcement staff to cover important program responsibilities, with continuing negative impact on both mediation and investigations.

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 neutrals (often a team of two co-mediators with at least one attorney-mediator) help complainants and respondents 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), Maui (Mediation Services of Maui), east Hawai'i (Ku'ikahi Mediation Center in Hilo), the West Hawai'i Mediation Center in Kailua-Kona, and Kaua'i (Kaua'i 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.

During FY 2012, 45 cases were referred into mediation, and 29 mediations were completed (dispositions). Of the 29 dispositions, 14 resulted in mediated settlements (48.3%), and 15 cases resulted in no agreement (51.7%). Of the 14 mediated settlements, 13 were in employment cases, and 1 was in a public accommodations case.

The total disclosed monetary value of mediated agreements was \$18,600 with a wide variety of affirmative relief as well. (In 9 cases, the monetary consideration was subject to a confidentiality clause and not disclosed.) Mediation Center of the Pacific had 4 settlements; Mediation Services of Maui had 1 settlement; Kauai Economic Opportunity, Inc. had 1 settlement; and there were 8 settlements with private mediators.

The primary bases of discrimination of the 14 settlements were as follows: Sex -- 4 (including 1 pregnancy and 2 sexual harassment); Retaliation -- 4; Disability -- 3; National Origin -- 2; Race -- 1. Many of the completed mediations also included charges on other protected bases. 12 mediated settlements were cases dual-filed with the EEOC.

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 2011, with the enactment of Act 206 Hawai'i became the fifth state to enact a groundbreaking domestic violence victims law, prohibiting employment discrimination on the basis of domestic or sexual violence victim status and requiring employers to make reasonable accommodations for such employees. In preparation for implementation of the new law, which became effective on January 1, 2012, the HCRC elicited input from domestic violence advocates, the business community, and the general public in several meetings, engaged in legal research and training, developed public education materials, and conducted outreach through the media, and outreach and public education events. Implementation of Act 206 offered HCRC Commissioners and staff a valuable opportunity to work with advocates, employers, and unions in educating ourselves and others about the toll that domestic and sexual violence takes, the importance of employment and financial independence for victims and their families, and the benefits of providing safe, productive workplaces.

The HCRC conducted its annual training in November 2011 at the Blaisdell Exhibition Hall, for an audience of more than 250 attendees. The theme of the training was "EEO in Hawai'i: Update and Trends" and included an address on civil rights in Hawai'i by Dwight Takamine, Director of the Department of Labor and Industrial Relations. The highlight of the training was a presentation on the new U.S. Equal Employment Opportunity Commission (EEOC) regulations implementing the ADA Amendments Act of 2008 (ADAAA) by HCRC Chair Linda Hamilton Krieger and EEOC Commissioner Chai Feldblum, a national expert and one of the architects of the ADA and ADAAA. In addition, the training featured panels on EEO basics, conducting workplace investigations, and recent legislative developments relating to civil rights, including the enactment of Act 206. Former Commissioner Sara Banks presented 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, the Jack Johnson Ohana Foundation, and Hawaiian Telcom.

During FY 2011-2012 the U.S. Department of Housing and Urban Development Fair Housing (HUD) Office of Fair Housing and Urban Development (FHOO) approved an HCRC HUD Partnership Initiative (PI) proposal. Under the HUD PI grant, the HCRC partnered with the Medical-Legal Partnership for Children in Hawai'i (MLPCH), to engage in targeted outreach and civil rights education for Compact of Free Association (COFA) migrant communities, targeting Micronesian and Marshallese communities. The HUD PI outreach efforts were initiated during FY 2012, with workshops scheduled through FY 2013. In

addition to the civil rights education workshops, MLPCH plans to incorporate a civil rights component into a newcomer rights video production. The HCRC is also using HUD PI funding to plan for and obtain translation of outreach materials and vital documents from English to Chuukese.

During FY 2011-2012 the HCRC continued to be an active participant in the fair housing public education campaign committee, comprised of representatives from the housing departments of each county and 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, Moloka`i, Kaua`i, Hawai`i, and O`ahu.

The HCRC also worked 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 all islands. Representative trainees in the housing area included the Board of Realtors, Property Managers Association, National Association of Residential Property Managers, Community Associations Institute, landlords, tenants, homeless Veterans, and various property management companies and community associations.

In addition, the HCRC conducted state-wide fair housing educational outreach workshops/trainings during April 2012 to increase compliance and prevent unlawful discrimination. The workshops/trainings were held on O`ahu, and in Kailua-Kona, Hilo, Lihue, and Kahului. An estimated 500+ people took advantage of these informative and free workshops/trainings.

The HCRC participated in the all-day Community Homebuyer Fair held on June 16, 2012 at the Ala Moana Hotel on 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 300+ people attended the fair. The HCRC worked collaboratively with the following entities in the development, planning and or implementation of the Community Homebuyers Fair:

- Hawai`i Home Ownership Center
- City and County of Honolulu - Department of Community Services, Section 8
- Honolulu Board of REALTORS
- Hawaiian Community Assets
- ALU LIKE, Inc.
- Office of Hawaiian Affairs (OHA)
- Consumer Credit Counseling Services of Hawai`i
- Hawaiian Island Homes, LTD
- Hawai`i Association of Mortgage Brokers
- Hawai`i Credit Union League
- HomeStreet Bank

- Legal Aid Society of Hawai'i
- U.S. Department of Agriculture (USDA) Rural Development
- U.S. Department of Housing and Urban Development (HUD local staff: Ramona Mullahey)
- Mortgage Bankers Association of Hawai'i
- Self-Help Housing Corporation of Hawai'i
- Honsador Lumber, LLC
- Council for Native Hawaiian Advancement
- Various financial and credit union institutions
- Castle & Cooke Home Hawai'i, Inc.
- D.R. Horton, Inc.
- Wells Fargo Home Mortgage of Hawai'i, LLC

During FY 2012 the HCRC also conducted outreach and/or participated in the following:

- Joint outreach events with the U.S. Equal Employment Opportunity Commission (EEOC)
- Joint informal exchanges of information between HCRC and EEOC staffs
- William S. Richardson School of Law, University of Hawai'i, various classes, panels and programs
- Outreach training for the Society of Human Resource Management – Hawai'i Chapter
- Outreach training for the Business Leadership Network – East Hawai'i Chapter
- Outreach training for the South Shore Dental Study Club
- 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
- Honolulu Pride Parade and Celebration
- Annual Martin Luther King, Jr. Holiday Parade and Festival
- 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 relies on DLIR webmaster Casey Cho for maintenance and updating the HCRC website, and ongoing efforts to improve user-friendliness of the site. 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

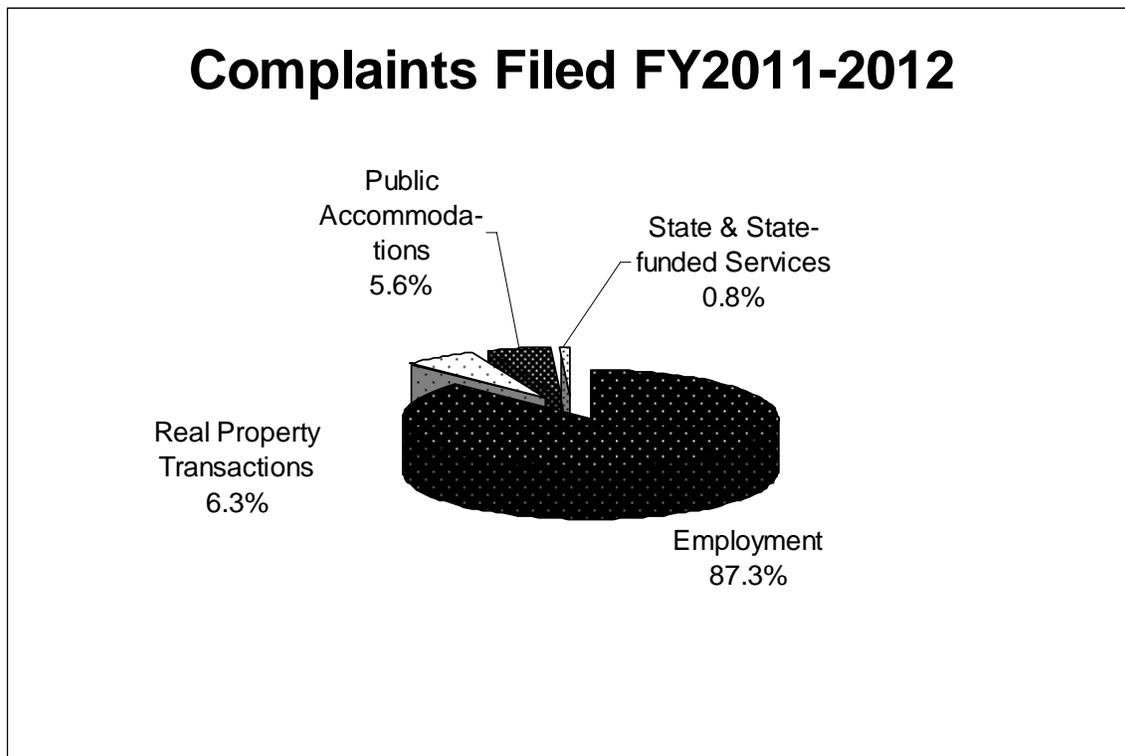
Loss of enforcement capacity has caused an increased investigation caseload that has resulted in delays in intake, investigation, and disposition of discrimination complaints.

### Intake

During FY 2012, the HCRC received 4,101 telephone and walk-in inquiries. HCRC investigators completed 694 intakes, and 639 discrimination complaints were filed with the HCRC, an average of 53.3 complaints a month.

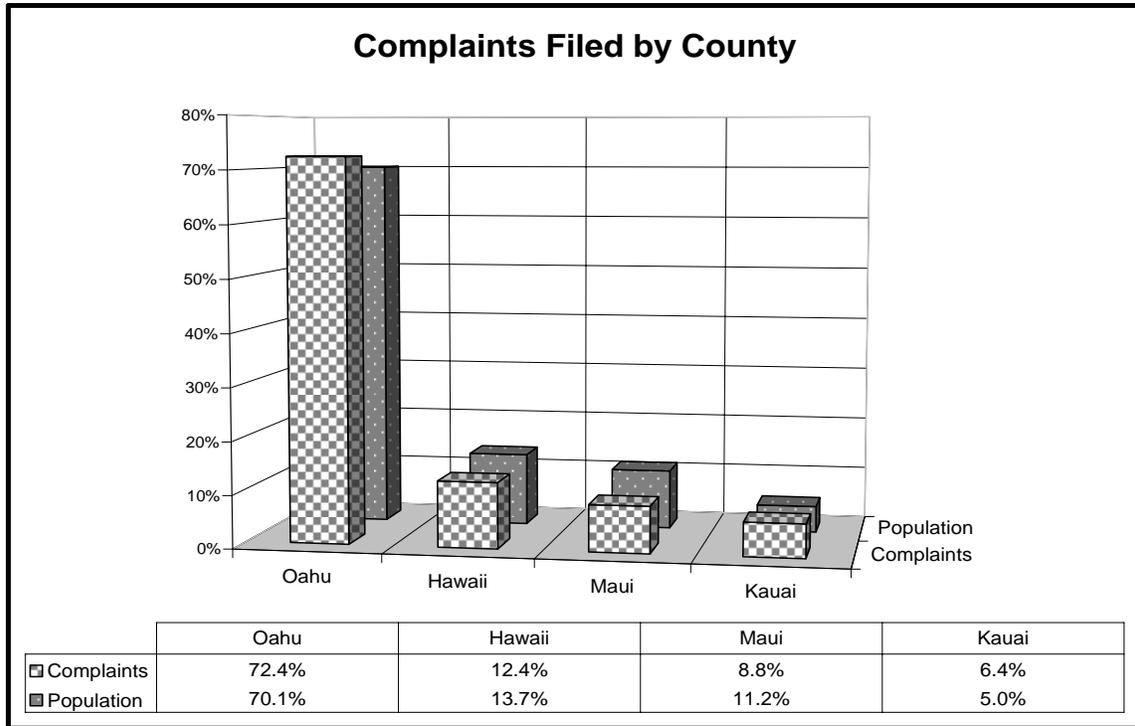
Of the 639 complaints that were filed with the HCRC, 398 complaints originated with HCRC investigators (averaging 33.2 per month), and another 241 cases originated with the federal EEOC or HUD. These 241 cases were dual-filed under state law with the HCRC.

The 639 cases included 558 employment cases, 36 public accommodations cases, 40 housing cases, and 5 cases 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 639 charges accepted by the HCRC consisted of 463 Oahu complaints, 79 Hawai'i County complaints, 56 Maui County complaints, and 41 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 13.7%; Maui County 11.2%; and Kauai County 5.0%).



## Closures<sup>5</sup>

HCRC investigators and attorneys closed 344 cases during FY 2012 (a decrease of 28 cases from FY 2011), for an average closure rate of 29 cases per month, down

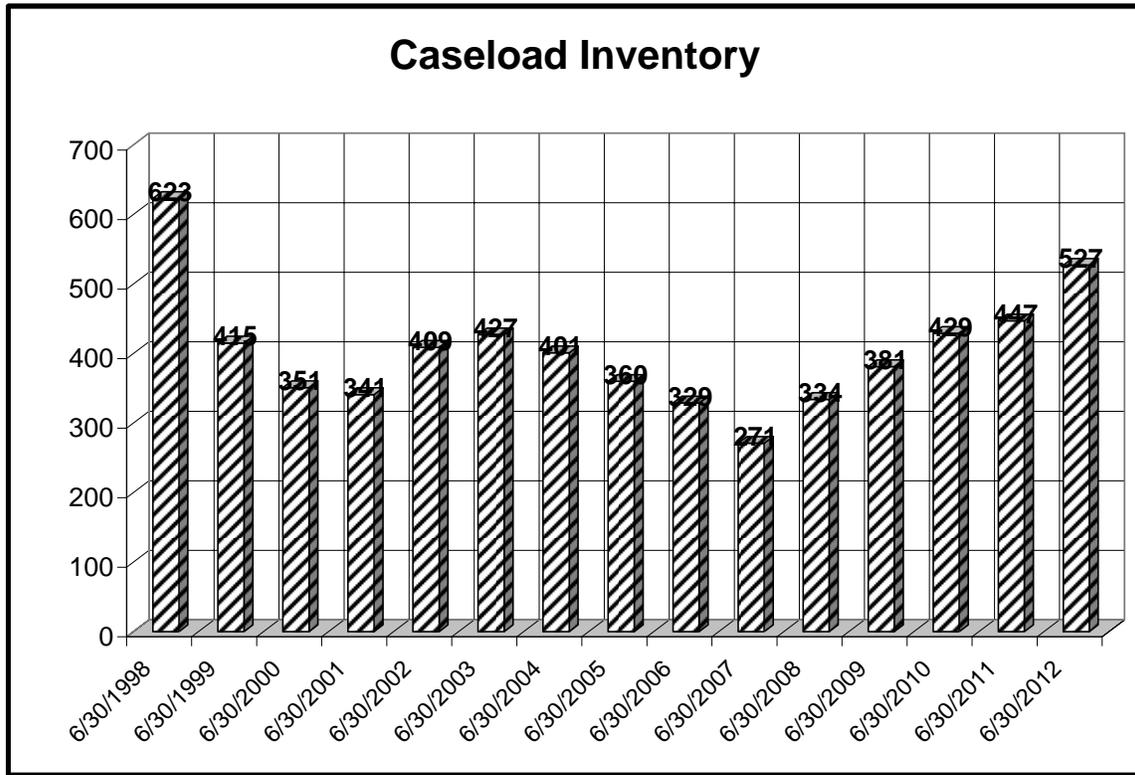
### <sup>5</sup> ANALYSIS AND EXPLANATION OF CLOSURE DATA

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 2012, HCRC investigations resulted in 11 cause determinations, and 39 cases were closed on the basis of pre-determination settlement or resolution between parties. 242 cases were closed on the basis of no-cause determinations upon completion of investigation. The ratio of cause determinations and predetermination settlements/resolutions (50) 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 (302) for this fiscal year is 16.6%.

from 31 cases per month in FY 2011. HCRC investigations resulted in cause determinations in 11 cases. As of June 30, 2012, there were 527 cases pending with HCRC investigators.



The average period for case closure by investigators was 351 days, as compared to 363 days for FY 2011, 326 days for FY2010, and 332 days for FY 2009. A review of this fiscal year shows the following reasons for investigative closures:

	No. of Cases	% of Subtotal	% of Total Closures
<b>Merit Closures</b>			
Resolved by Parties	34	11.26%	9.88%
Pre-Determination Settlements	5	1.66%	1.45%
Cases Resolved by Attorneys	21	6.95%	6.10%
No Cause Determinations	<u>242</u>	<u>80.13%</u>	<u>70.35%</u>
<b>Subtotal</b>	<b>302</b>	<b>100.0%</b>	<b>87.79%</b>

	No. of Cases	% of Subtotal	% of Total Closures
<b>Non-merit Closures</b>			
Complainant Elected Court Action	21	50.00%	6.10%
No Jurisdiction	3	7.14%	0.87%
Complaint Withdrawn	4	9.52%	1.16%
Complainant Not Available	2	4.76%	0.58%
Complainant Failed to Cooperate	11	26.19%	3.20%
Relief Covered by Order or Decree	<u>1</u>	<u>2.38%</u>	<u>.29%</u>
<b>Subtotal</b>	<b>42</b>	<b>100.00%</b>	<b>12.21%</b>
<b>Total Number of Closures</b>	<b>344</b>		<b>100.00%</b>

### Employment Cases

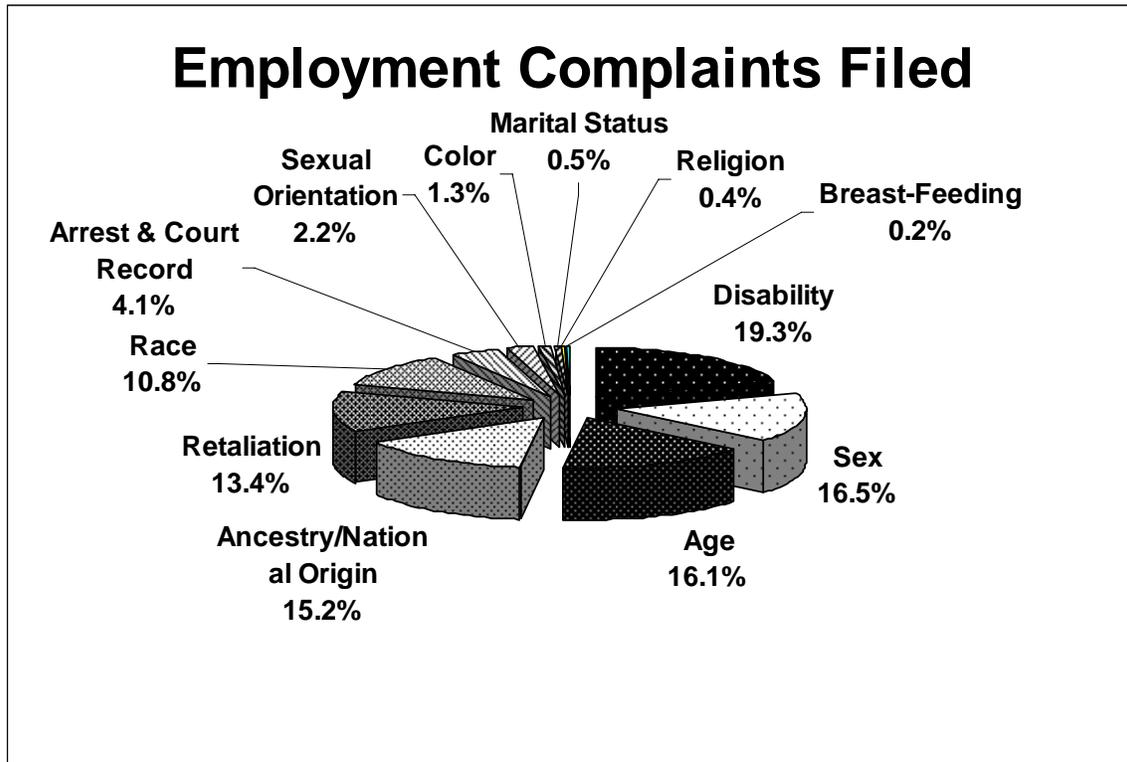
H.R.S. Chapter 378, Part I prohibits discriminatory employment practices based on race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, domestic or sexual violence victim status, credit history or credit report, assignment of income for child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

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 558 employment cases were accepted by the HCRC. The HCRC was the intake agency for 324 of these cases, and the HCRC dual-filed another 234 cases originating with EEOC.

Of the HCRC-originated cases, 79% were also filed with EEOC. Of the 558 employment complaints filed, the bases most cited were disability, in 108 cases (19.3%); sex, in 92 cases (16.5%); and age in 90 cases (16.1%). Of the sex discrimination complaints, 25 (27.2% of all sex cases) alleged sexual harassment and 29 (31.5% of all sex cases) were based on pregnancy.

Ancestry/national origin were the fourth most cited bases with 85 cases, representing 15.2% of all employment cases, followed by retaliation in 75 cases (13.4%), race in 60 cases (10.8%), arrest and court record in 23 cases (4.1%), sexual orientation in 12 cases (2.2%), color in 7 cases (1.3%), marital status in 3 cases (0.5%), religion in 2 cases (0.4%), and breast feeding in 1 case (0.2%). There were no cases based on credit history or credit report, child support obligations, National Guard participation, or domestic or sexual violence victim status.

The case closure period averaged 362 days for the 271 employment cases that were closed or caused by HCRC investigators during FY 2012.



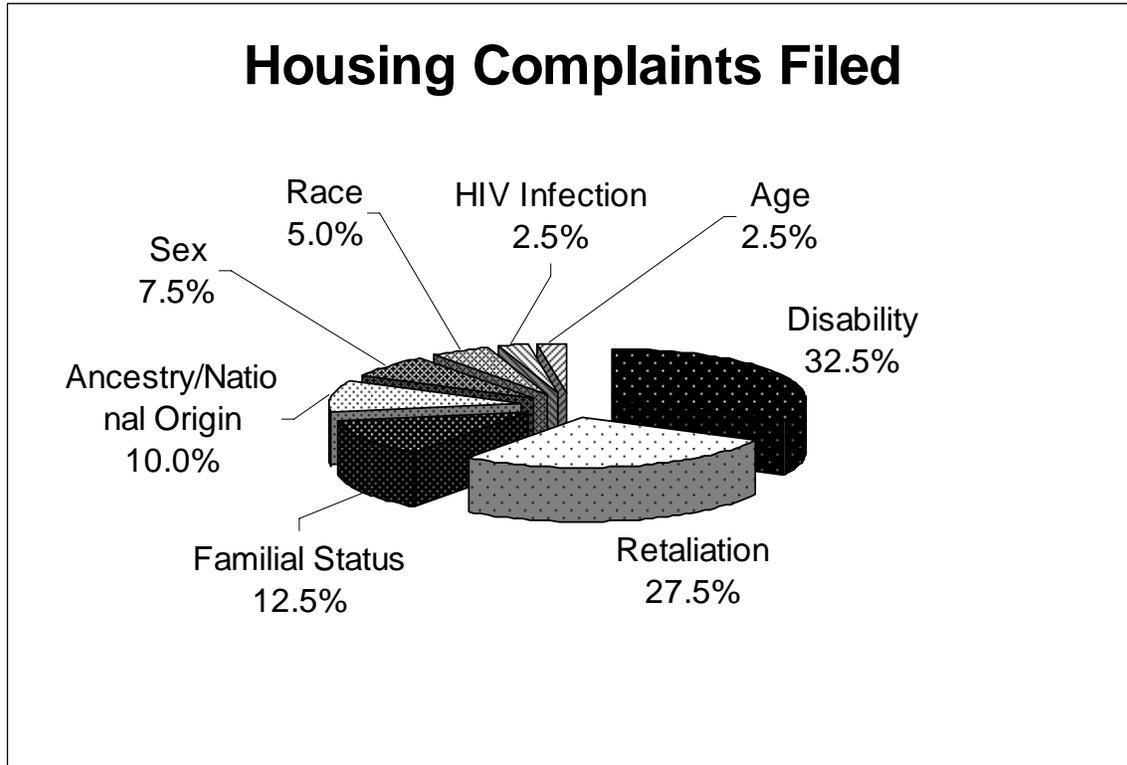
## Housing Cases

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 2012, the HCRC accepted 40 cases of housing discrimination. There were 13 cases based on disability status (32.5%); followed by 11 cases based on retaliation (27.5%); 5 cases based on familial status (12.5%); 4 cases based on ancestry/national origin (10.0%); 3 cases based on sex (7.5%); 2 cases based on race (5.0%), and 1 case each based on HIV infection (2.5%) and age (2.5%). There were no cases based on marital status, color, religion, or sexual orientation.

Housing case closures averaged 228 days for the 34 cases closed or caused during FY 2011.



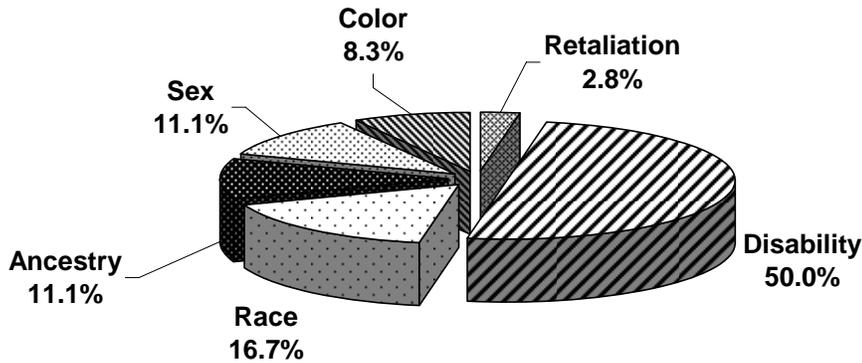
### Public Accommodations Cases

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, 36 new cases of public accommodations discrimination were accepted. Of these, 18 cases were based on disability discrimination (50.0%); 6 cases were based on race (16.7%); 4 cases were based on ancestry (11.1%); 4 cases were based on sex discrimination (11.1%); 3 cases were based on color (8.3%); and 1 case was based on retaliation (2.8%). There were no cases based on sexual orientation or religion.

Public accommodations case closures averaged 382 days for the 29 cases closed (or caused) during FY 2012.

## Public Accommodations Complaints Filed



### 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).

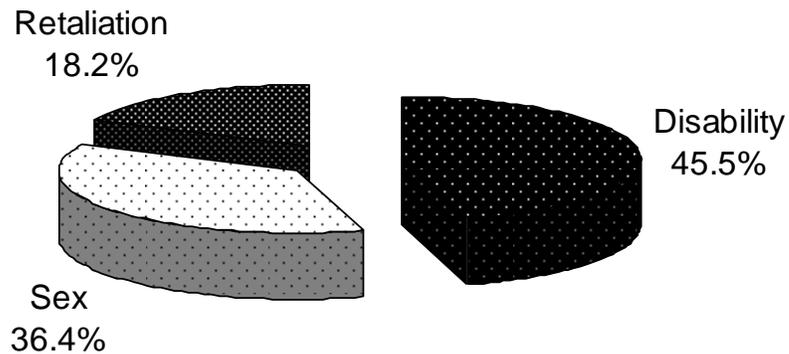
During the fiscal year, there was 5 cases filed under § 368-1.5. No cases were closed during FY 2012.

### 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 2012, 11 recommendations for cause were brought forward for legal action. Of these cases, 5 (45.5%) were housing cases, 5 (45.5%) were employment cases, and 1 (9.1%) was a public accommodations case.

Of the 11 investigations with a cause recommendation, 5 were based on disability (45.5%), 4 were based on sex discrimination (36.4%), and 2 were based on retaliation (18.2%)

## 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 2012 the HCRC continued to successfully obtain monetary relief through settlement of complaints. Of the 15 closed cause cases, HCRC attorneys obtained monetary settlements totaling \$218,000. Of the 40 cases settled prior to an investigative finding, 20 of those cases involved confidential settlements, the terms of which were not disclosed to the HCRC. Of the remaining 20 cases settled prior to an investigative finding, monetary relief totaled \$92,751. This figure includes pre-determination settlements obtained through HCRC investigators and settlements between the parties (\$74,151), as well as investigative settlements obtained through the HCRC mediation program (\$18,600). Collectively the HCRC's known monetary settlements for FY 2012 totaled \$310,751. Since the settlement terms are unknown for 20 closed cases, the actual total figure for all monetary settlements in FY 2012 is probably significantly higher than \$310,751.

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 2012, 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 2012, 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 2012:

- In an employment case involving harassment on the basis of race and retaliation, the complaint settled for \$25,000, 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 \$49,000 and affirmative relief including the adoption of a non-discrimination policy, training, and posting of a Hawaii Civil Rights Commission flyer.
- In an employment case involving age discrimination, the complaint settled for \$4000 and affirmative relief including the adoption of a non-discrimination hiring policy and training.
- In a case involving religious discrimination in a place of public accommodation, the complaint settled for \$15,000 and the adoption and posting of a non-discrimination policy.
- In a case involving sex and race discrimination in a place of public accommodation, the complaint settled for training of the respondent's employees.

- In a housing case involving marital status and familial status discrimination, the complaint settled for \$10,000 and affirmative relief including the adoption and posting of a non-discrimination policy and training.
- In a housing case involving disability discrimination, the complaint settled for an agreement to build a ramp to allow wheelchair access to the complainant's apartment.

## **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 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**

**Scotto / housing disability case.** On June 22, 2007, the Commission issued a final decision in William D. Hoshijo, Executive Director, on Behalf of the Complainant Filed by Del M. Scotto vs. Janene Caracaus, Docket No. 06-001-H-D. This case involved allegations of disability discrimination in housing. The Commission concluded that Respondent Janene Caracaus discriminated against Complainant Del Scotto because of his disability when she evicted him after he informed her of his prostate cancer. The Commission also found that Respondent had a legitimate non-discriminatory reason for the eviction because of Complainant's non-legal use of medical marijuana on the premises.

Respondent appealed this decision to the First Circuit Court. Complainant's estate appealed to the Third Circuit Court and sought compensatory and punitive damages. The appeals were consolidated and heard by the First Circuit Court in Civ. No. 07-1-1325. On July 2, 2008 the First Circuit Court held that Respondent waived her right jury trial when she was notified of the procedure to file a civil action by the Hearings Examiner, did not ask the Executive Director for a right to sue, and unsuccessfully attempted to remove the case to federal court. The Court also affirmed that Respondent violated H.R.S. § 515-3 by terminating Complainant's tenancy because of his disability. The court, however, rejected Respondent's assertion of a legitimate, non-discriminatory reason for the eviction.

and found the eviction to be willful, wanton and grossly negligent. The court awarded Complainant's estate \$7,000 in special damages, \$10,000 in general damages, \$10,000 in punitive damages, and attorneys' fees.

Respondent appealed this decision to the Intermediate Court of Appeals (ICA). On April 27, 2012 the ICA issued a decision vacating the circuit court's decision. The ICA held that Respondent Caracaus did not waive her right to a jury trial during the HCRC hearing proceedings because she was not served a copy a notice of election to file a civil action, despite her refusal to accept service of such notice, because such notice could have been served by publication. The ICA also held that the circuit court erred in rejecting Caracaus' demands for a jury trial during the circuit court proceedings when Complainant's estate sought compensatory and punitive damages.

## **Legislation**

Two bills relating to civil rights were passed during the 2012 legislative session.

Senate Bill 2842, enacted as Act 85, amends HRS §515-9 to allow an aggrieved person the right to file a civil action for housing discrimination no later than 2 years after the occurrence or termination of an alleged discriminatory practice. The act makes state law provisions relating to the filing of civil actions in housing discrimination cases more consistent with provisions found in the federal Fair Housing Act. An aggrieved person may file a civil action without first filing a complaint with the HCRC, and if a complaint is also filed with the HCRC, the HCRC may issue a right to sue if it determines that the civil action alleges similar facts.

House Bill 1765, enacted as Act 299, amends HRS §§378-2.5 and 846-2.7 to allow counties to conduct pre-offer criminal history record checks on prospective employees who work with vulnerable children, adults or senior citizens in community-based programs, and in fire department, emergency medical services or emergency crisis positions.

## **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 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 2012 the HCRC had 26 positions, 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<sup>1</sup> because of a protected bases,<sup>2</sup> and,
- 2) The unlawful discrimination occurred within the previous 180 days.<sup>3</sup>

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.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup>

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.

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- <sup>1</sup> “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.

- <sup>2</sup> “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.

<sup>3</sup> 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

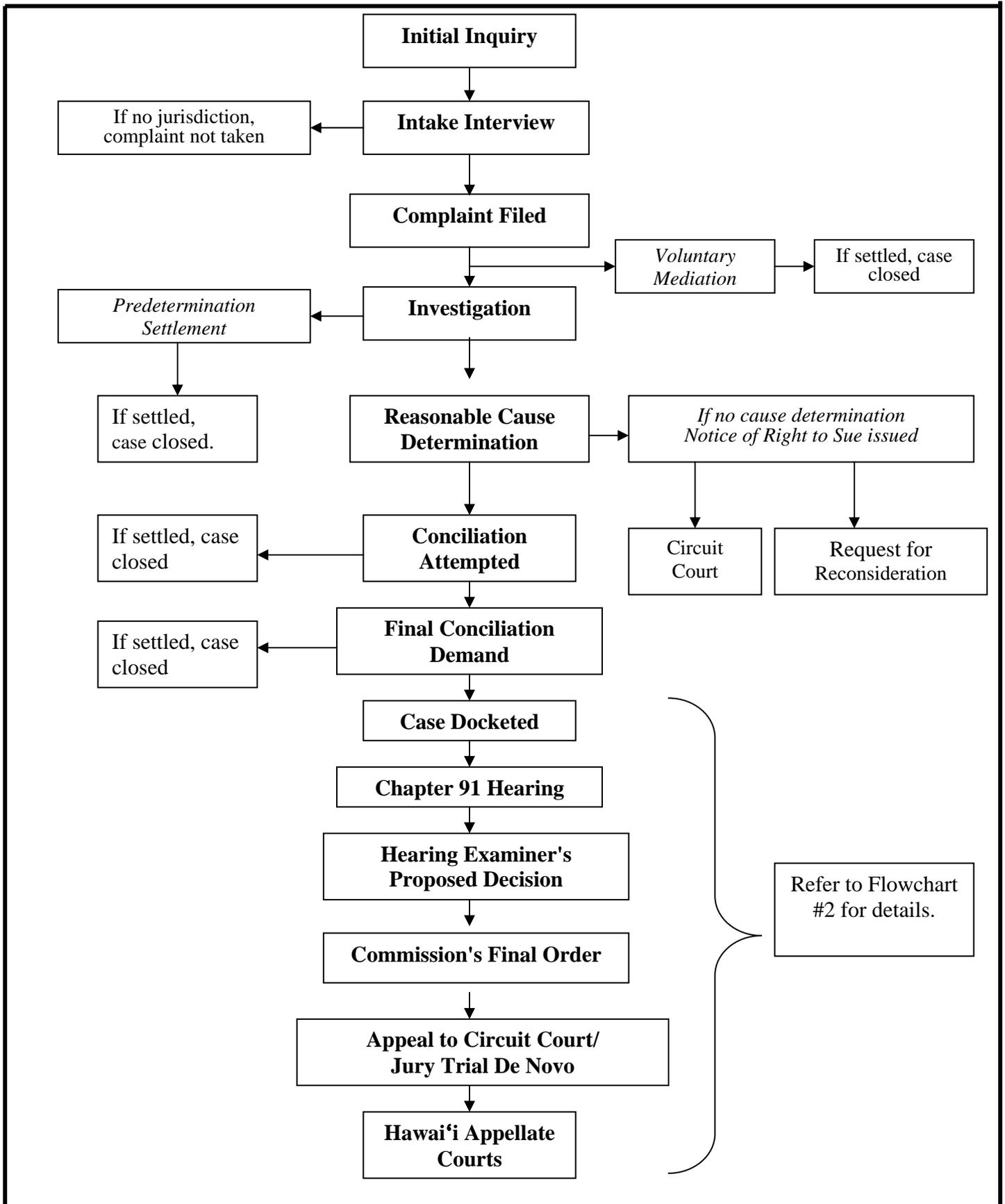
180 days before the complaint is filed, but continued or ended less than 179 days before the complaint is filed. When discrimination involves a discrete act, such as termination, the HCRC can only accept a complaint within 180 days of that complained action.

<sup>4</sup> During FY 2012, of all 344 investigative and attorney case closures, 6.10% (21) were closed on the basis of the complainant electing court action. The remaining cases (323) were closed on the following basis: in 70.35% of the cases (242), the Executive Director found no cause and dismissed the complaint, 11.34% (39) of the investigation cases were settled prior to a cause determination or were resolved by the parties, 6.10% (21) of the cases were resolved by staff attorneys, and the remaining 6.10% of the cases (21) 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.

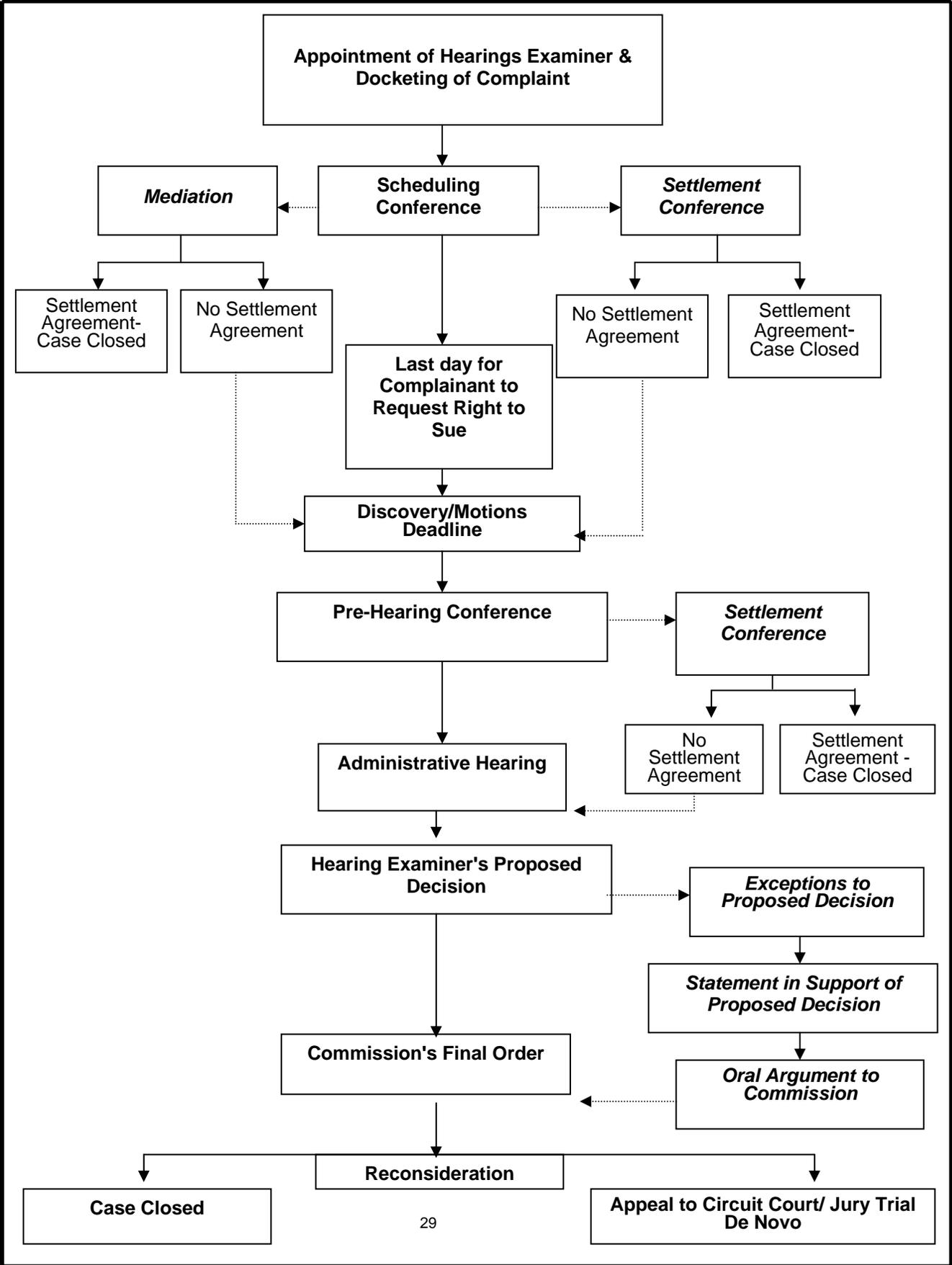
<sup>5</sup> The HCRC enforcement, hearing and appeal procedures are illustrated in Flowchart # 1. In *SCI Management Corporation, et. al. v. Darryllynne Sims, et. al.*, 101 Hawai'i 438, 71 P.3d 389 (2003), the Hawai'i Supreme Court held that "a respondent who appeals a final order of the HCRC, pursuant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

<sup>6</sup> HCRC contested case procedures are illustrated in Flowchart # 2.

HCRC Procedural  
Flowchart #1



**HCRC Contested  
Case Flowchart #2**



## **HCRC Commissioners**

### **Linda Hamilton Krieger Chair (term 2011-2015)**

Linda Hamilton Krieger grew up in Hawai'i and returned home in 2007 to join the faculty at the William S. Richardson School of Law as a Professor of Law and Director of the Ulu Lehua Scholars Program. 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 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.

### **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. Through FY 2012 Mr. Ueoka served 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 442<sup>nd</sup> Regimental Combat Team Foundation and is a member of the Sons and Daughters Chapter of the 442<sup>nd</sup> 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.

**Raymund Liongson**  
**Commissioner (term 2011–2015)**

Raymund Liongson is an Associate Professor and Coordinator of the Philippine Studies Program at Leeward Community College and the director of Sulong Aral, a program funded by the U.S. Department of Education to help students of Filipino ancestry finish college. He is a board member of the Filipino Community Center, and is also a member and past president of the Filipino Coalition for Solidarity, an advocacy group for Filipino American W.W. II veterans, immigrants and workers in the areas of discrimination, language access, domestic violence and sexual harassment. In 2010, Professor Liongson spearheaded Filipino census fairs in Waipahu and Kalahi to encourage those communities to participate in the 2010 census. In 2009, he was part of a fact-finding commission to investigate labor and management practices at the Pacific Beach Hotel and has been active in promoting job security, wage increases and better benefits for Filipino hotel workers. Professor Liongson received his M.A. in education from Northwestern University in the Philippines and Ph.D. in education from the University of the Philippines.

**HCRC Staff**

During FY 2011-2012 the HCRC staff consisted of 26 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

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\* Staffing levels reflect permanent (22) and temporary (4) positions which were either filled or vacant during FY 2012.