

# **HAWAI'I CIVIL RIGHTS COMMISSION**

## **2024-2025 Annual Report**

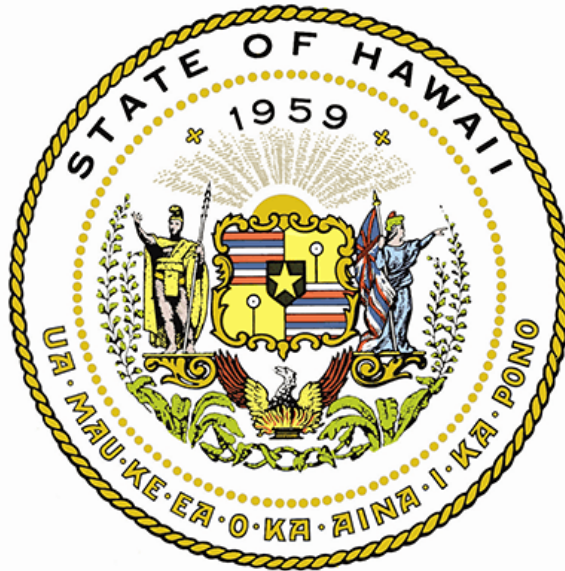
Josh Green, M.D., Governor

Jade Butay, Director  
Department of Labor & Industrial Relations

William J. Puette  
Alphonso Braggs  
Commission Chairs

Marcus L. Kawatachi  
Executive Director

830 Punchbowl Street, Room 411  
Honolulu, Hawai'i 96813  
Telephone: (808) 586-8636  
Facsimile: (808) 586-8655



## **HAWAI'I CIVIL RIGHTS COMMISSION**

Ke'elikōlani Building  
830 Punchbowl Street, Room 411  
Honolulu, Hawai'i 96813

Website: <http://labor.hawaii.gov/hcrc/>

E-Mail: [DLIR.HCRC.INFOR@hawaii.gov](mailto:DLIR.HCRC.INFOR@hawaii.gov)

Telephone: (808) 586-8636  
TDD: (808) 586-8692  
Facsimile: (808) 586-8655

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## **Mission Statement**

The mission of the Hawai'i Civil Rights Commission (HCRC) 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.

### **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 thirty-two years the HCRC has enforced state laws prohibiting discrimination in employment (Hawai'i Revised Statutes (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 currently 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 persons 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>

## **A Fair Administrative Process**

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

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

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

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

The law requires filing of a complaint with the HCRC in most (but not all) cases before filing a discrimination lawsuit in state court.<sup>3</sup> 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-

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

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

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

meritorious, or complaints that are closed or settled through the HCRC administrative process. As a result, the great majority 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) Office of Fair Housing and Equal Opportunity (FHEO), respectively. Pursuant to work share and cooperative agreements, both EEOC and HUD rely on the HCRC to investigate complaints filed under both state and federal law (“dual-filed” complaints). Both EEOC and HUD contracts require maintenance of state effort and dedication of state resources for investigation of dual-filed complaints.

While Hawai‘i and federal fair employment and fair housing laws are similar, they are not identical. Hawai‘i has more protected bases than federal law, and there are substantial differences in the definition of “employer” and the statute of limitations for filing charges of employment and housing discrimination. In addition to these jurisdictional differences, Hawai‘i law provides stronger protections against sexual harassment in employment. This year has seen a reduction in coverage for civil rights and enforcement at the federal level, with EEOC and HUD reducing or stopping enforcement for protected classes of sexual orientation and gender identity and expression under sex, limited English proficiency under national origin/ancestry, and causes filed under a theory of disparate impact. Although these changes have altered the contract work HCRC maintains with EEOC and HUD, HCRC continues to enforce all Hawai‘i law, including those areas not currently enforced under EEOC and HUD.

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, and HCRC Commission and state court decisions. In contrast, federal court interpretations of federal civil rights laws have historically resulted in narrower protections against discrimination. The issue of state versus federal standards is an important one, particularly in states like Hawai‘i that have a strong commitment to equal opportunity and non-discrimination. HCRC remains committed to vigorously enforcing Hawai‘i law.

## **Strategic Enforcement, Enduring Protections: Civil Rights in Resource-Challenged Times**

This fiscal year one thing did not change at all in Hawai'i: the strength and breadth of civil rights protections.

Despite the change and uncertainty of civil rights enforcement at the national level, Hawai'i's Constitution and state statutes empower HCRC to continue to fulfill HCRC's mission of eliminating discrimination and promoting diversity. As noted in our state motto, "Ua Mau ke Ea o ka 'Āina i ka Pono," *the life of the land is perpetuated in righteousness*, Hawai'i's values reflect the fabric of our community. Protecting civil rights and diversity is at the core of who we are.

To support our mission this fiscal year, HCRC has focused on creating strategic efficiencies and doing more with less. This has taken a few forms.

First and foremost, HCRC has worked hard to fill vacant investigator positions and has invested senior staff time in training new staff with a goal to reduce our backlog, especially of our aged cases. The HCRC, like other state employers, are constantly engaging in the recruitment and selection process to fill vacancies as they arise. To that end, HCRC participated in several job fairs, and in the state's "Operation Hire Hawai'i" program aimed at streamlining the hiring process, especially for displaced federal employees. As a result of these additional efforts to hire and train staff, HCRC has seen an increase in the number of intakes completed monthly and a decrease in the amount of time in processing intakes. Looking forward, as our investigation team continues to train and increase efficiency in the process, senior investigators will spend less time training, and the new investigators will spend more time moving cases through our process.

The HCRC has also focused on utilizing interns, externs, volunteers, and 89-day hires wherever possible to develop talent and to bolster our staff. In addition to contributing to case management documentation, this year our volunteer staff made significant contributions in outreach and education. Specifically, through stakeholder engagement and outreach, our volunteer staff helped to strengthen community partnerships and identified strategic priorities for future efforts. HCRC is building upon relationships with state and community groups to spread the word about Hawai'i's continued civil rights protections and user-friendly civil rights law enforcement process.

This year in collaboration with several agencies under DLIR, the HCRC has also spent considerable time in planning and procuring a new software and database system to replace our outdated legacy software system. This strategic investment will allow HCRC to improve our processes and allow our agency to do the most with our staff to increase output and reduce case processing time. More efficient and robust reporting capability will also inform HCRC on where best to

invest resources for our enforcement, outreach, and education efforts.

The new software program will be utilized in conjunction with an online portal integrated with the HCRC website. Community members will be able to submit inquiries easily in a more user-friendly and accessible format that will lead applicants through the intake process.

## **Mediation Program**

The HCRC's voluntary mediation program completed its twenty-sixth full year on June 30, 2025. Complainants, respondents, and the HCRC, with the strong support of the Commissioners, want prompt and fair resolutions to discrimination complaints. To help accomplish this goal, the HCRC developed its voluntary mediation program, a process in which neutral third persons (often a team of two co-mediators with at least one attorney-mediator) help the parties discuss, clarify, and settle complaints.

The HCRC voluntary mediation program uses trained community mediators who are unbiased and do not rule on the merits of the complaint. The HCRC provides the mediators with the basic facts of each case needed to understand the dispute. The mediators then assist the parties to reach voluntary agreements. These agreements may include apologies, policy changes, monetary settlements, or other appropriate solutions. Mediation can save time, money and resources. It also can eliminate the stress of litigation and allow the parties to explain their side of the case and to control the process of resolving the disputes in a non-adversarial manner.

The HCRC works with trained, senior mediators from the Mediation Centers of Hawai'i (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. The HCRC Program Specialist - Mediation Coordinator facilitates the process by explaining, encouraging, referring, and reviewing mediation and its benefits to the parties. There are mediation centers on Oahu (Mediation Center of the Pacific), Maui (Maui Mediation Services), east Hawai'i (Ku'ikahi Mediation Center in Hilo), the West Hawai'i Mediation Center in Kailua- Kona, and Kauai (Kauai Economic Opportunity, Inc. Mediation Program). The centers charge fees on a sliding scale for the sessions, which can be waived or reduced if there is financial hardship.

Private mediation is also available if the parties choose. Private mediations generally utilize an evaluative approach, in which the law and possible damages are



emphasized. Private mediation is an important part of the HCRC mediation program. Parties are free to select commercial private mediators who charge market rates or private mediators from the Access ADR program, a reduced fee program of the MCP.

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

Since the inception of the HCRC's mediation program, all types of complaints have been eligible for voluntary mediation except for housing complaints. After much research and planning, at the end of FY 2017 the HCRC launched a pilot program to offer the mediation of housing complaints for the first time, with the HCRC's Program Specialist - Mediation Coordinator, Sharon Ferguson-Quick, personally conducting those mediations. Since then, the HCRC's housing mediation program has flourished under Ms. Ferguson-Quick's leadership, and it has become a standard component of the HCRC's overall mediation system.

In viewing all the mediation-related events throughout FY 2025, 34 cases were referred into mediation, and 19 mediations were completed (dispositions). Of the 19 dispositions, 13 resulted in mediated settlements (68.4%), and 6 resulted in no agreement (31.6%). Of the mediated settlements, 3 were in employment cases, and 2 of those were dual-filed with the EEOC. There were 9 mediated settlements of housing cases, all of which were dual-filed with HUD. There was also one mediated settlement of a public accommodations case.

The total disclosed monetary value of mediated agreements was \$59,056.61 with a wide variety of affirmative relief as well. During this period the HCRC had 9 mediation settlements; Mediation Center of the Pacific had 3 settlements; and Ku'ikahi Mediation Services had 1 settlement. The primary bases of discrimination of the 13 settlements were as follows: Race – 4; Retaliation – 4; Disability – 3; Age – 1; and Arrest and Court Record – 1. Many of the completed mediations also included charges on other protected bases.

Although monetary settlements were achieved in most agreements, almost all mediated agreements also involved some form of non-monetary affirmative relief. Examples of non-monetary relief (here, in an employment context) 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 and outreach. 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 is looking to strengthen and increase public education and outreach efforts.

This year, the HCRC continued to be an active participant in the fair housing committee, comprised of representatives from the housing departments of each county and the State, Hawai'i Housing Authority, Hawai'i Housing Finance and Development Corporation, Legal Aid Society of Hawai'i, Hawai'i Disability Rights Center, and other housing-related private and public entities. The committee met to learn and discuss the latest fair housing cases, legal issues, and recent developments in fair housing, to corroborate on local fair housing issues and concerns, and to work together to promote fair housing throughout the islands.

This year the HCRC continued to work with state and county housing agencies, community housing organizations, non-profit and for-profit organizations, and businesses to co-sponsor fair housing trainings throughout the state.

Representative trainees in the housing area have included members of the Board of Realtors, Property Managers Association, National Association of Residential Property Managers, landlords, tenants, homeless veterans, emergency shelter and transitional housing management/staff, case management staff, housing assistance/referral management/staff, and various property management companies

and community associations.

The largest fair housing training effort came in April, which is National Fair Housing Month. This year's training was conducted as a one-day statewide video conferencing event with more than 800 registered participants.

This year HCRC participated in numerous other outreach and education events such as:

- Participation in the Fair Housing for Our Future Laws & Litigation Conference.
- Participation in a series of The Council for Native Hawaiian Advancement's Summer O'ahu Renters Resource Fairs held in Mā'ili, Kaneohe, and Kalihi.
- Participation at the Disability Access Conference organized by the Disability and Communication Access Board.
- Participation at the William S. Richardson School of Law Public Interest Fair to promote public interest lawyering.
- Participation at Honolulu Pride Parade event.
- Participation at the Martin Luther King Jr. Day Parade.
- Participation in the Hawai'i Coalition for Civil Rights, a group of human, civil rights, and fair immigration organizations which include advocates, lawyers, educators, and community leaders.
- Participation in the International Association of Human Rights Agencies, a private, non-profit corporation consisting of human rights agencies across the United States that provides opportunities and forums for the exchange of ideas and information among human rights advocates.

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

This year HCRC utilized Instagram and LinkedIn to connect with the community to spread positive content about civil rights protections and diversity under Hawai'i state laws. The HCRC is looking forward to taking advantage of this no-cost platform to increase the speed and accessibility of disseminating information to the public to fulfill the HCRC's mission.

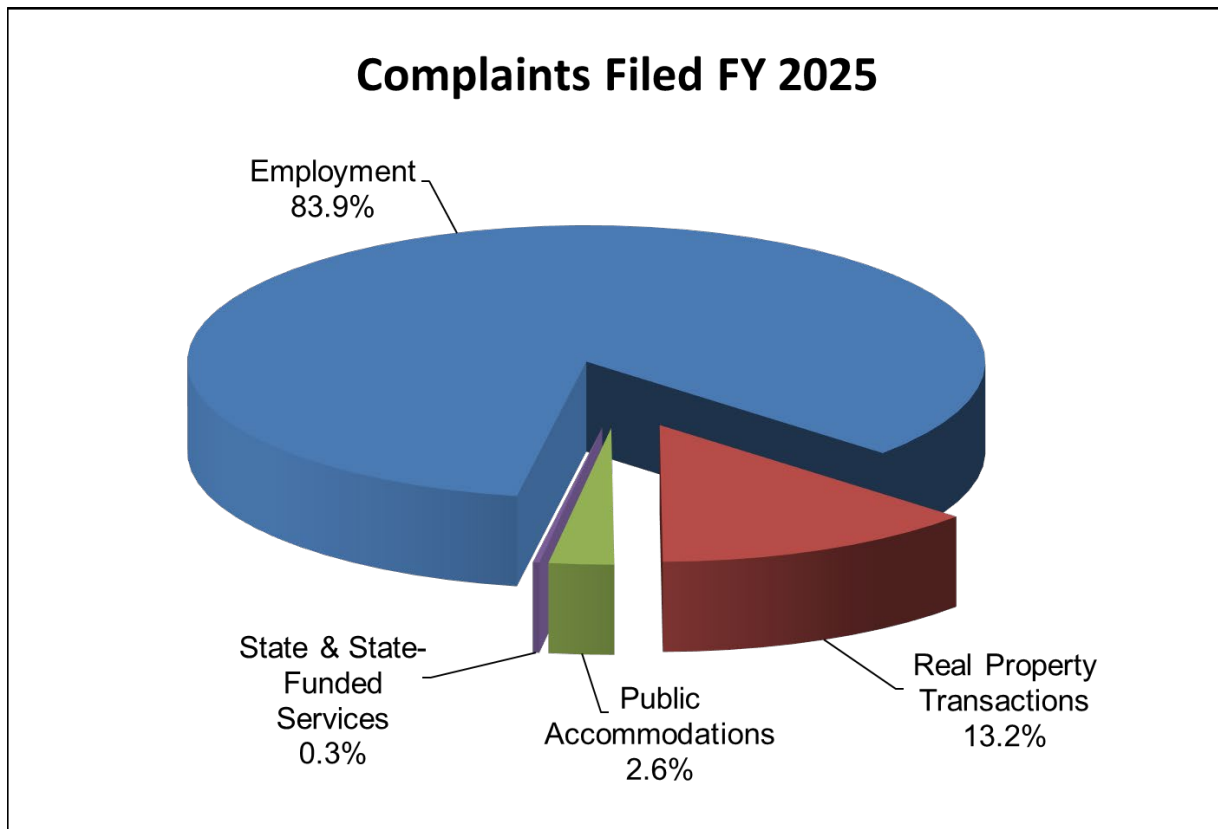
## Caseload Statistics

### **Intake:**

During FY 2025, HCRC investigators completed 765 intakes, and 379 discrimination complaints were filed with the HCRC, an average of 31.5 complaints a month.

Of the 379 complaints that were filed with the HCRC, 191 complaints originated with HCRC investigators (averaging 15.9 per month), and another 188 cases originated with the federal EEOC or HUD. These 188 cases were dual-filed under state law with the HCRC.

The 379 cases included 318 employment cases, 10 public accommodations cases, 50 real property transactions (housing) cases, and 1 access to state and state-funded services case. 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 379 complaints accepted by the HCRC consisted of 246 Honolulu County complaints, 58 Hawai'i County complaints, 54 Maui County complaints, and 23 Kauai County complaints. The number of complaints filed from each county was consistent with its proportion of resident population in the state (Honolulu County 69.0%; Hawai'i County 14.5%; Maui County 11.3%; and Kauai County 5.1%).

## Closures<sup>1</sup>

HCRC investigators and attorneys closed 193 cases during FY 2025 (a decrease from 235 cases in FY 2024) for an average closure rate of 16.0 cases per month. HCRC investigations resulted in cause determinations in 4 cases, a decrease from 9 cause determinations in FY 2024. As of June 30, 2025, there were 380 cases pending with HCRC investigators; on June 30, 2024, there were 367 pending cases.

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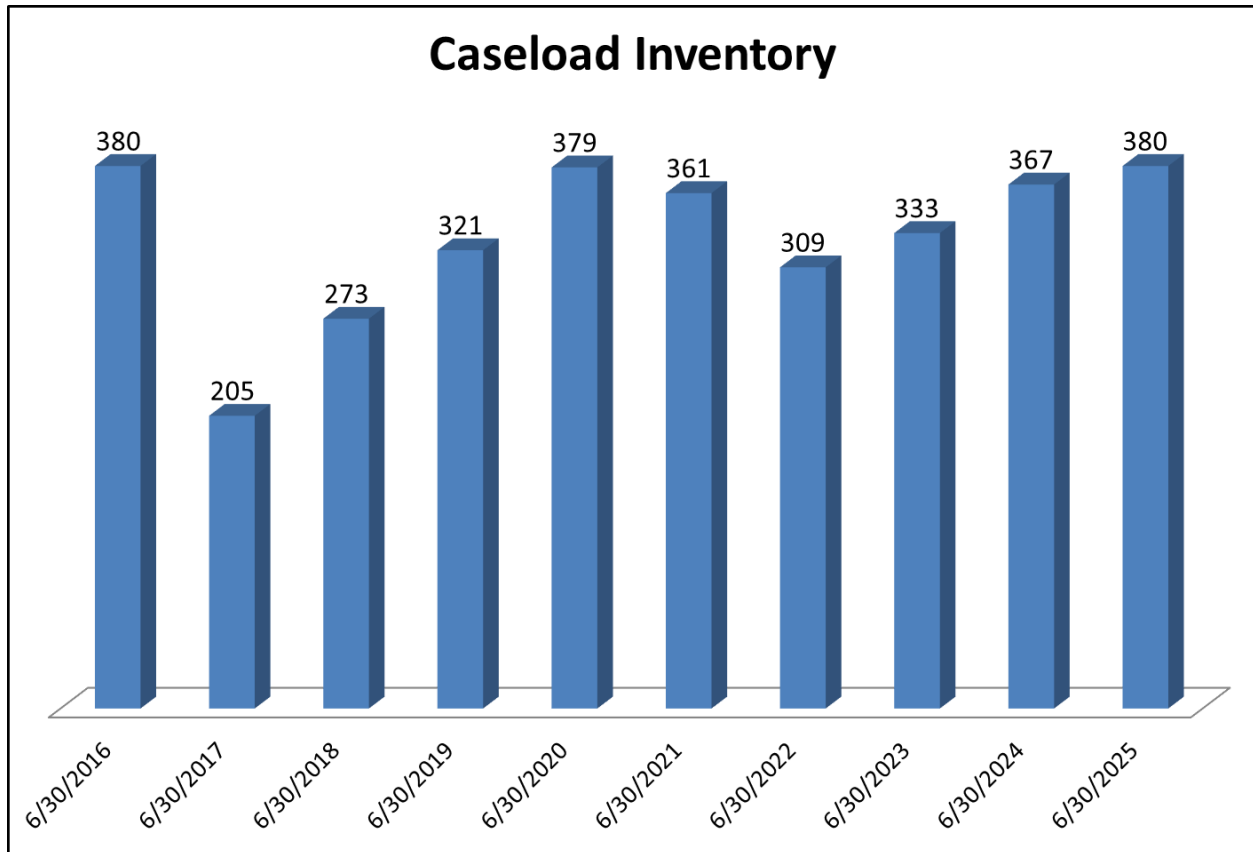
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<sup>1</sup> Analysis and Explanation of Closure Data.

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 2025, HCRC investigations resulted in 4 cause determinations, and 53 cases were closed on the basis of pre-determination settlement or resolution between parties. 89 cases were closed on the basis of no-cause determinations upon completion of investigation. The ratio of cause determinations and predetermination settlements/resolutions (57) 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 (146) for this fiscal year is 39.0%.



The average period for case closure by investigators was 617 days, as compared to 796 days for FY 2024, 584 days for FY 2023, and 475 days for FY 2022. A review of this fiscal year shows the following reasons for investigative closures:

Merit Closures	No. of Cases	% of Subtotal	% of Total Closures
Resolved by Parties	22	14.97%	11.40%
Pre-Determination Settlements	31	21.09%	16.06%
Cases Resolved by Attorneys	5	3.40%	2.59%
No Cause Determinations	<u>89</u>	<u>60.54%</u>	<u>46.11%</u>
<b>Subtotal</b>	<b>147</b>	<b>100.0%</b>	<b>76.17%</b>
<b>Non-merit Closures</b>	<b>No. of Cases</b>	<b>% of Subtotal</b>	<b>% of Total Closures</b>
Complainant Elected Court Action	21	45.65%	10.88%

Complainant Not Available	9	19.57%	4.66%
Complaint Withdrawn	8	17.39%	4.15%
Complaint Failed to Cooperate	4	8.70%	2.07%
Administratively Closed	1	2.17%	0.52%
Already Investigated by Other Agency	1	2.17%	0.52%
No Jurisdiction	1	2.17%	0.52%
No Significant Relief Available	<u>1</u>	<u>2.17%</u>	<u>0.52%</u>
<b>Subtotal</b>	<b>46</b>	<b>100.00%</b>	<b>23.83%</b>
<b>Total Number of Closures</b>	<b>193</b>		<b>100.00%</b>

## Employment Cases

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

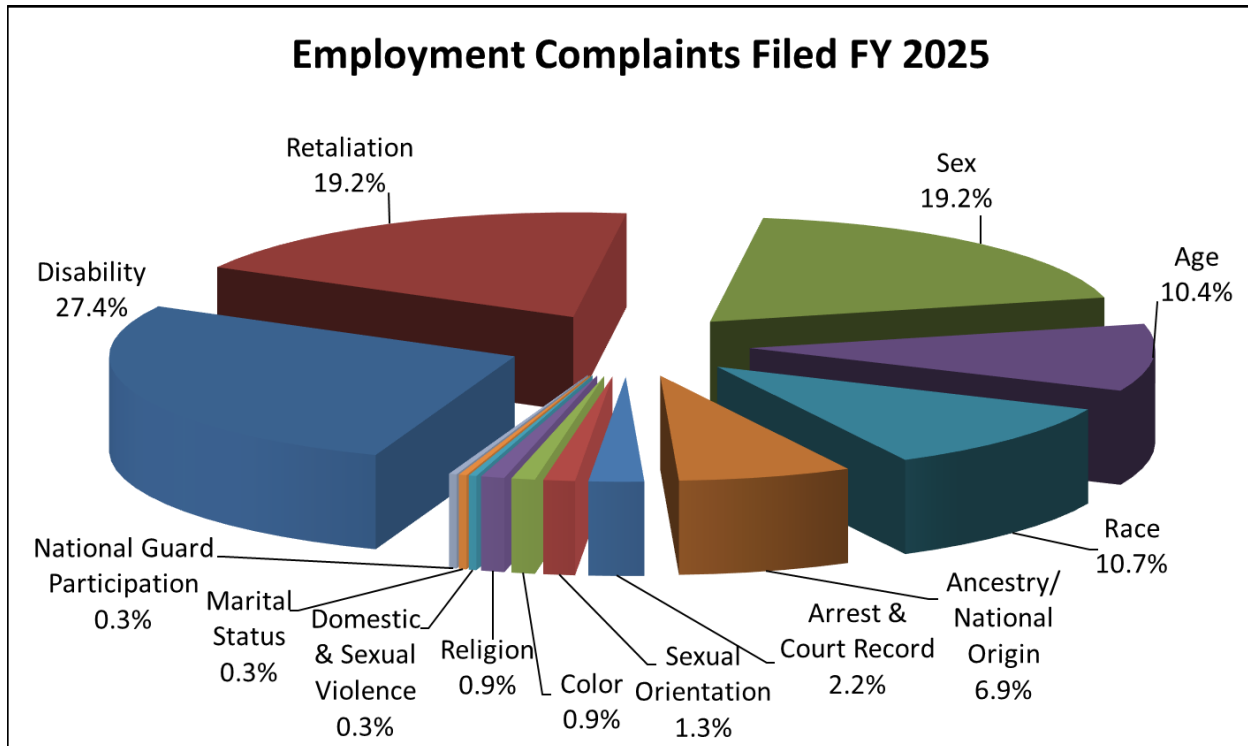
The HCRC has a work-share agreement with the EEOC. Under the work-share agreement, a case is filed with both agencies where there is concurrent jurisdiction. However, usually only the intake agency conducts the investigation, thereby eliminating duplicate enforcement activity. During the fiscal year a total of 318 employment cases were accepted by the HCRC. The HCRC was the intake agency for 137 of these cases, and the HCRC dual-filed another 176 cases originating with EEOC. Of the HCRC-originated cases, 81.7 % were also filed with EEOC.

Of the 318 employment complaints filed, the primary bases most cited were disability, in 87 cases (27.4%); retaliation, in 57 cases (19.2%); and sex, in 57 cases (19.2%). Of the sex discrimination complaints, 9 (14.7% of all sex cases) alleged sexual harassment as the primary basis, and 6 (9.8% of all sex cases) were primarily based on pregnancy.

The next most cited primary bases were race, in 34 cases (10.7%); age, in 33 cases (10.4%); ancestry/national origin, in 22 cases (6.9%); arrest and court record, in 7

cases (2.2%); sexual orientation, in 4 cases (1.3%); color and religion, in 3 cases each (0.9%); and domestic violence and sexual violence victim status, marital status, and National Guard participation, in 1 case each (0.3%). There were no cases primarily based on breastfeeding, child support obligations, credit history or credit report, or reproductive health decision.

The case closure period averaged 682 days for the 136 employment cases that were closed or caused by HCRC investigators during FY 2025.

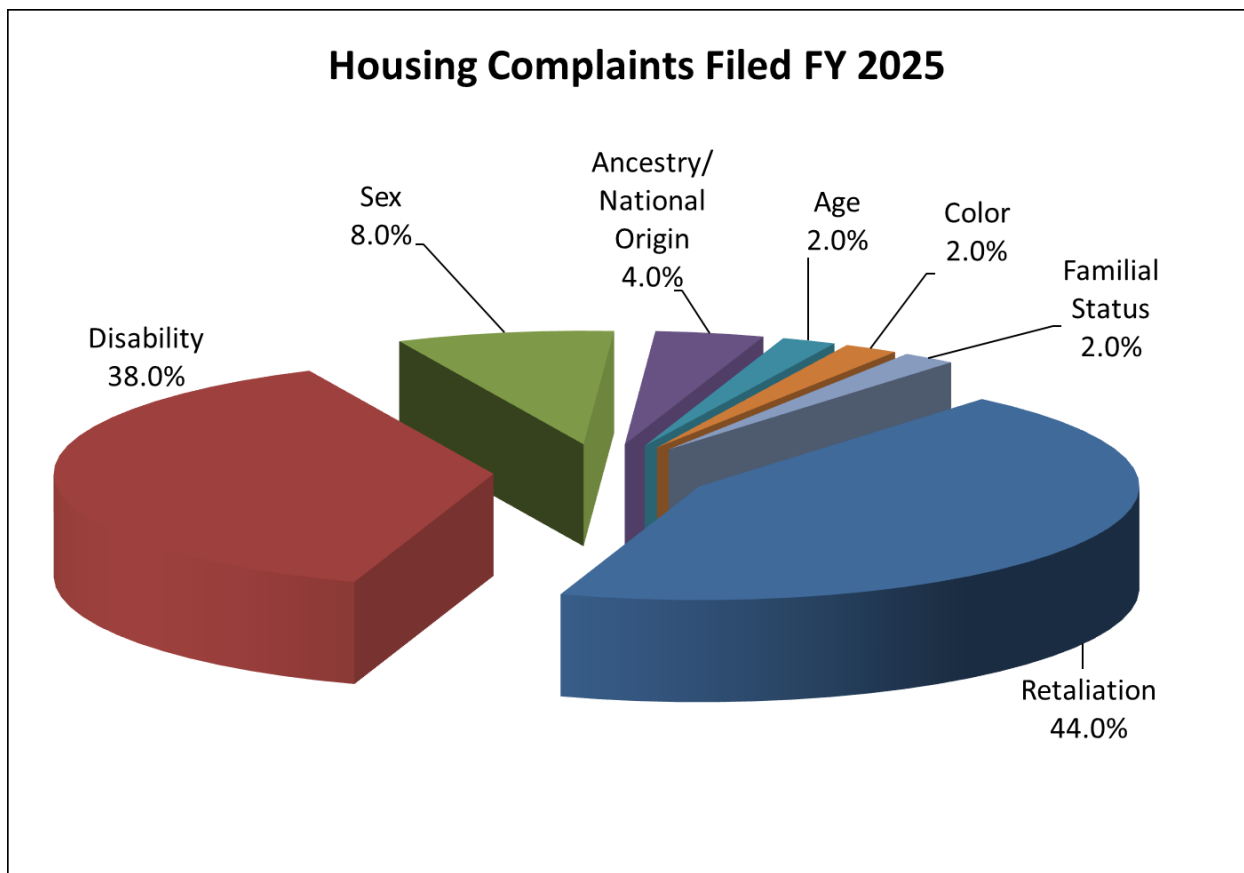


### Real Property Transactions (Housing) Cases

During FY 2025, the HCRC accepted 50 cases of housing discrimination. The primary bases most cited were retaliation, in 22 cases (44.0%); followed by disability, in 19 cases (38.0%); sex, in 4 cases (8.0%); race, in 2 cases (4.0%); and age, color, and familial status in 1 case (2.0%) each. There were no cases primarily based on ancestry/national origin, color, HIV infection, marital status, religion, or sexual orientation.

Housing case closures averaged 289 days for the 43 cases closed or caused during FY 2025.



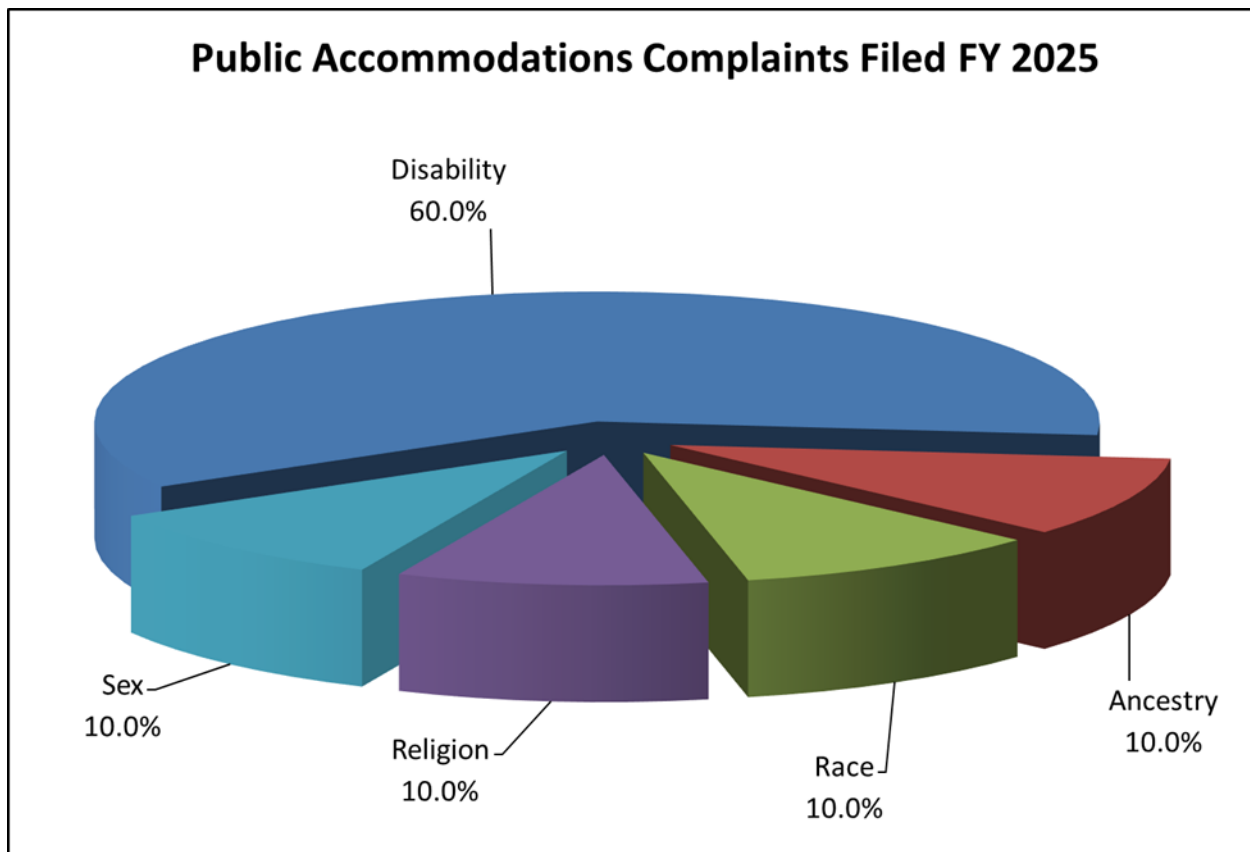


### Public Accommodations Cases

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, 10 new cases of public accommodations discrimination were accepted. Of these, the primary basis most cited was disability, in 6 cases (60.0%); followed by ancestry, race, retaliation, and sex, in 1 case (10.0%) each. There were no cases primarily based on color, retaliation, or sexual orientation.

Public accommodations case closures averaged 1106 days for the 13 cases closed or caused during FY 2025.



### **Access to State and State-funded Services Cases**

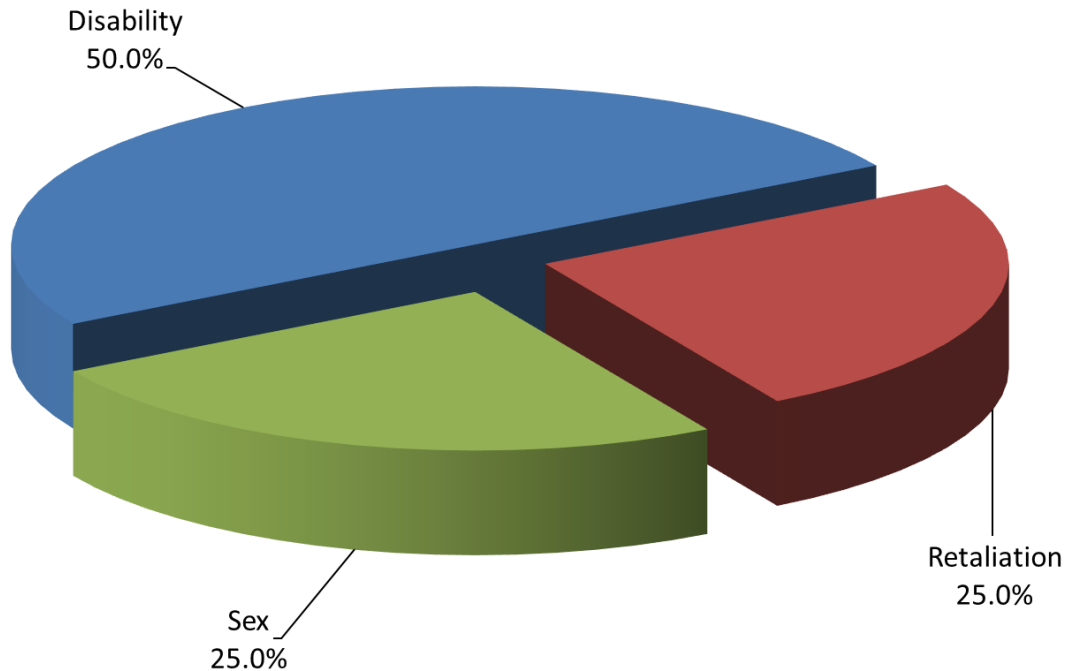
H.R.S § 368-1.5 prohibits state agencies, or any program or activity receiving state financial assistance, from excluding from participation, denying benefits or otherwise discriminating against persons with disabilities (the only protected class under this statute). During FY 2025, there was 1 case filed under § 368-1.5. There were no cases filed under § 368-1.5 that closed during the fiscal year.

### **Cause Cases**

When an investigation results in a recommendation that there is reasonable cause to believe that discrimination has occurred, the case is assigned to an HCRC enforcement attorney for legal action. In FY 2025, 4 recommendations for cause were brought forward for legal action. Of these cases, 3 (75.0%) were housing cases, and 1 (25.0%) was an employment case.

Of the 4 investigations with a cause recommendation, the primary bases were disability, in 2 cases (50.0%); and retaliation and sex, in 1 case (25.0%) each.

## Cause Determinations FY 2025



### 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 2025 the HCRC continued to successfully obtain monetary relief through settlement of complaints. In the 4 cause cases that were settled, HCRC enforcement attorneys obtained monetary settlements totaling \$50,000. Of the 42 cases settled prior to an investigative finding, 18 of those cases involved confidential settlements, the terms of which were not disclosed to the HCRC. Of the remaining 24 cases settled prior to an investigative finding, monetary relief totaled \$169,910.98. This figure includes pre-determination settlements obtained through HCRC investigators and settlements between the parties (\$110,854.37), as well as investigative settlements obtained through the HCRC mediation program (\$59,056.61). Collectively the HCRC's known monetary settlements for FY 2025 totaled \$219,910.98. Since the settlement terms are unknown for 18 closed cases, the actual total figure for all monetary settlements in FY 2024 is probably significantly higher than \$219,910.98.

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

In some instances, non-monetary relief can be an important element of a settlement. For example, some complainants have received a letter of apology pursuant to the terms of a settlement. A simple apology sometimes goes a long way towards healing the rift between a complainant and respondent, and this form of relief is often not available as a court ordered remedy. Some cases were resolved when an employer, housing provider, or public accommodation corrected an unlawful discriminatory policy or practice after notice of the violation. During FY 2025, 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 2025:

- The complainants in a housing case alleged that the respondent housing providers subjected them to discrimination on the basis of disability, familial status, and retaliation. Prior to an investigative finding the case was successfully mediated through the HCRC's mediation program. The terms of the mediated settlement included a payment of \$4,000 to the complainants, adjustments to respondents' house rules, the adoption and posting of an anti-discrimination policy, and mandatory anti-discrimination training for the respondents.
- The complainant in a public accommodation case alleged that the respondent business discriminated against her on the basis of her race and color. Prior to an investigative finding the case was successfully mediated through the HCRC's mediation program. The terms of the mediated settlement included a payment of \$500 and a letter of apology to the complainant.
- The complainant in a housing case alleged that the respondent housing provider discriminated against him on the basis of disability. The case was resolved prior to an investigative finding through a pre-determination settlement. The terms included a payment of \$3,000 to the complainant, the granting of a reasonable accommodation for the complainant, the respondent's adoption and dissemination of a non-discrimination policy, and mandatory anti-discrimination training.

- The complainant in an employment case alleged that the respondent employer refused to provide an accommodation and terminated her on the basis of pregnancy. The HCRC investigated the case and issued a Notice of Cause, finding that the respondent had unlawfully subjected the complainant to discriminatory practices. Thereafter, the case was settled for a payment of \$10,000 to the complainant, the respondent's posting of a non-discrimination policy, and mandatory anti-discrimination training for the respondent.
- The complainant in an employment case alleged that he was suspended and terminated on the basis of disability. The HCRC investigated the case and issued a Notice of Cause, finding that the respondent had unlawfully subjected the complainant to discriminatory practices. Thereafter, the case was settled for a payment of \$30,000 to the complainant, a review of the respondent's non-discrimination policy, and mandatory anti-discrimination training for the respondent.

## **HCRC Warning Letters**

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

## **Contested Cases**

### **Administrative Hearing**

On June 30, 2025, the Commission issued a final decision and order in MARCUS L. KAWATACHI, Executive Director, on behalf of the complaint filed by JUNKO KNIPE, Complainant vs. GARY SOMMER, as Trustee of the HOLUALOA RESIDENCE TRUST DATED September 18, 2017; PETER PRITCHARD, as Trustee of the HOLUALOA RESIDENCE TRUST DATED September 18, 2017, and GARY SOMMER, individually, docket number 24-001-H-D-SH-RET. This case involved discriminatory practices in housing based on disability and sex. The final order included an award of \$80,000 in

compensatory damages to the complainant and \$15,000 in punitive damages, along with equitable relief.

On November 12, 2024, the Executive Director docketed a housing discrimination case, docket number 24-002-H-D-F-S, MARCUS L. KAWATACHI, Executive Director, on behalf of the complaint filed by RALNA K.L. SHELDON, Complainant vs. FIONA MASAOY, Respondent. This case was not resolved by the end of the fiscal year.

## **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 2025 the HCRC had 28 positions (23 permanent and 5 temporary), divided into separate enforcement and adjudication sections.

### **Administrative Procedure**

Before the HCRC accepts a complaint of discrimination, a complaining person

must allege that: she, he, or they have been subjected to unlawful discrimination<sup>2</sup> because of a protected basis,<sup>3</sup> and, the unlawful discrimination occurred within the previous 180 days.<sup>4</sup>

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<sup>2</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 of women, or men, or any other protected basis.

<sup>3</sup> “Protected basis” is the criteria upon which it is unlawful for a respondent to discriminate. Protected bases vary depending on the statute involved:

- a. State Funded Services (HRS Chapter 368) The only protected basis is disability.
- b. Employment (HRS Chapter 378, Part I) The protected bases on which an employer, employment agency, or labor organization may not discriminate are: race, sex (which includes gender identity and expression), sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, domestic or sexual violence victim status, credit history, reproductive health decision, or lactating employees.
- c. Public Accommodations (HRS Chapter 489) The protected bases on which a public accommodation may not discriminate are race, sex (which includes gender identity and expression), sexual orientation, color, religion, ancestry, or disability.
- d. Housing (HRS Chapter 515) The protected bases on which an owner, a real estate broker or any person engaging in a real estate transaction, may not discriminate are race, sex (which includes gender identity and expression), sexual orientation, color, religion, marital status, familial status, ancestry, disability, age or HIV (human immunodeficiency virus) infection.

<sup>4</sup> Complaints filed with the HCRC usually involve a discrete act, such as termination, eviction, demotion, or involve acts that are ongoing and constitute a continuing violation. An example of a “continuing violation” is sexual harassment that began more than 180 days before the complaint is filed, but continued or ended less than 179 days before the complaint is filed. When discrimination involves a

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, and 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>5</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

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discrete act, such as termination, the HCRC can only accept a complaint within 180 days of that complained action.

<sup>5</sup> During FY 2025, of all 193 investigative and attorney case closures, 10.88% (21) were closed on the basis of the complainant electing court action. The remaining cases (172) were closed on the following bases: in 46.11% of the cases (89), the Executive Director found no cause and dismissed the complaint, 27.46% (53) of the investigation cases were settled prior to a cause determination or were resolved by the parties, 2.59% (5) of the cases were resolved by staff attorneys, and the remaining 12.96% of the cases (25) were closed because the complaint was withdrawn, the complainant failed to cooperate, the complainant was not available, the complaint had already been investigated by another agency, there was no jurisdiction, there was no significant relief available, or due to administrative closure.



present his/her/their 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/they have 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>6</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>7</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,

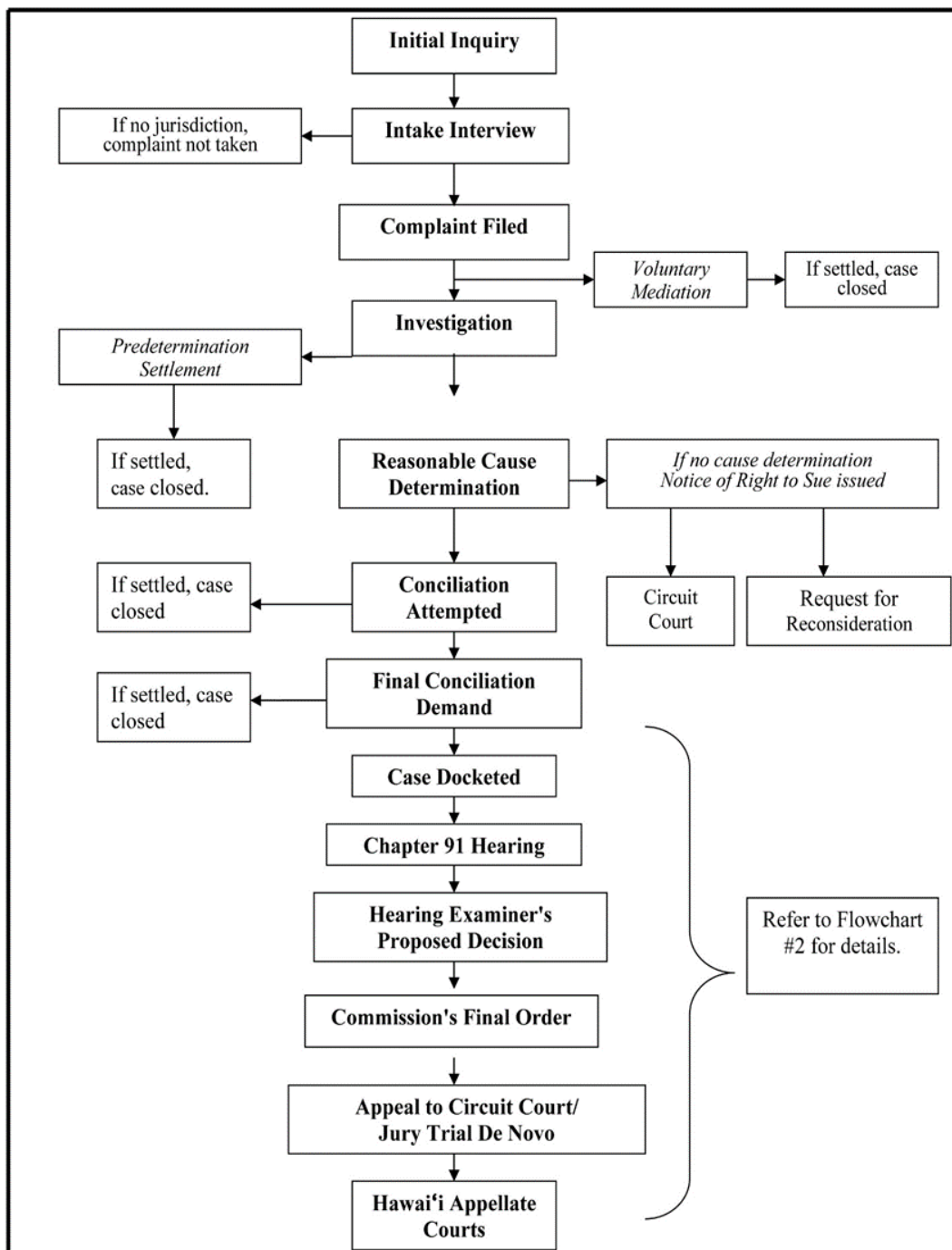
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<sup>6</sup> The HCRC enforcement, hearing and appeal procedures are illustrated in Flowchart # 1. In *SC/ Management Corporation, et. al. v. Darryllynne Sims, et. al.*, 101 Hawai'i 438, 71 P.3d 389 (2003), the Hawai'i Supreme Court held that "a respondent 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.

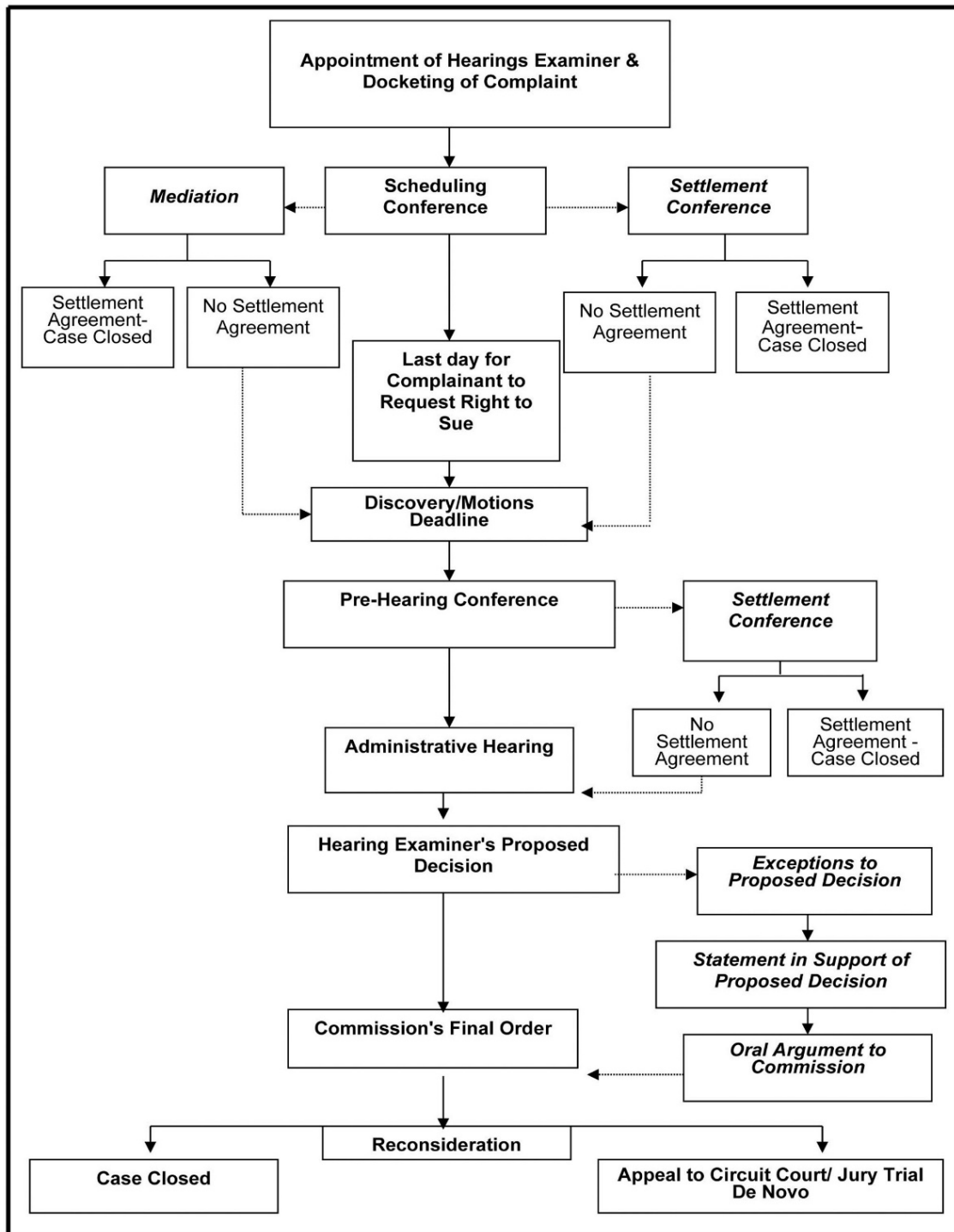
<sup>7</sup> HCRC contested case procedures are illustrated in Flowchart # 2.

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.

### HCRC Procedural Flowchart #1



## HCRC Contested Case Flowchart #2



## **Commissioners**

### **William J. Puette**

**Past Chair (term: 2019-2025)**

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

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

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

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

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

### **Alphonso Braggs**

**Current Chair (term: 2025-2029)**

A native of Wilmington, North Carolina, Alphonso Braggs began his career being active in local politics and community policy development at an early age. By the age of 16, he was elected as the Southeast U.S. Region Youth Council Treasurer.

After high school, he served honorably for 26 years in the U.S. Navy serving in tours from the Pentagon to Special Programs. As a combat veteran, he completed over ten arduous deployments including the North Pole.

A devoted social justice advocate, he is committed to defending civil and human rights. He serves on the NAACP National Board of Directors, the Political Action and Legislative Affairs Committee, International Affairs Committee, Veteran Affairs Subcommittee and the Constitution and Bylaws Committee.

In August of 2017, Mr. Braggs received a Presidential appointment to the U.S. Commission on Civil Rights State Advisory Committee. He is a longtime member of the Board of Directors, Japanese American Citizens League, Honolulu Chapter. He also serves on the Hawaii Department of Education Civil Rights Compliance Advisory Committee and the FBI Community Civil Rights Advisory Committee. He also serves as the Youth Programs Director and is a member of the District Diversity Equity and Inclusion Committee.

A resident of Hawaii since 1992, he earned a Bachelor of Science in Business Management, a Master of Business Administration, and a Certification in Diversity and Inclusion from Cornell University. Mr. Braggs is fully engaged in the development of future leaders; he mentors youth and aspiring entrepreneurs. He is a much sought after mentor, life skills coach, lecturer, motivational speaker, poet and author.

#### **Jon K. Matsuoka (term: 2019-2027)**

Dr. Jon K. Matsuoka completed his graduate studies in social work and psychology at the University of Michigan in 1985 and in the same year assumed a faculty position at the University of Hawai'i Myron B. Thompson School of Social Work. In 2000 he became dean of the school and remained in the position for 10 years until becoming President of Consuelo Foundation in 2010. After 6 years he left to form Pili Group Consultants. He has been a resident of Papakōlea for twenty-five years and enjoys backyard farming and raising bees.

#### **Arsima Muller (term: 2022-2027)**

Ms. Muller is a partner with the law firm of Carlsmith Ball LLP in Honolulu. Her practice includes administrative/regulatory law, with an emphasis on environmental and land use law. She actively practices in Hawai'i, Guam, and the Marshall Islands, where

she is originally from. She received her J.D. from The George Washington University Law School in Washington, DC and a B.A. in Economics and Political Science from Boston College in Massachusetts.

Ms. Muller is the current President of the Board of Directors of We Are Oceania, a non-profit organization providing support services to the Micronesian and Pacific Island communities in the State. She is also on the Board of Directors of the Legal Aid Society of Hawaii.

### **Raymond Nichols (term: 2025-2029)**

Raymond Nichols is a third-year law student at the William S. Richardson School of Law, where he focuses on family law, litigation, and public interest advocacy. He brings a deep commitment to justice, zealous representation, and client-centered service. He is currently a legal intern at Pacific Island Law LLC and hopes to continue there as an associate after graduation.

He holds a B.A. in History and discovered his passion for the law through his longstanding dedication to community service. Ray volunteers with Family Programs Hawaii's Project Visitation, supporting sibling groups separated in the foster care system, and participates in Richardson's Child Welfare Clinic. He also serves on the UH Manoa Division of Student Success Student Advisory Council and the Board of Directors for the NAACP Hawaii Chapter.

Prior to law school, Ray served 11 years in the U.S. Army as an Air Traffic Control Chief and Deputy Director of Airspace Management, leading complex operations across Hawaii, South Korea, Georgia, and Alabama.

Ray's legal experience includes roles as a Judicial Clerk for the First Circuit Court, volunteer with the Hawaii Supreme Court chambers, Legislative Aide at the Hawaii House of Representatives and intern with the Hawaii Innocence Project. He also served with the Hawaii Civil Rights Commission, where he conducted legal research, synthesized finds into actionable recommendations, investigated housing discrimination complaints and supported case resolution through mediation and data management.

### **HCRC Staff**

During FY 2025 the HCRC staff consisted of 28 positions: <sup>8</sup>

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<sup>8</sup> Staffing levels reflect permanent (23) and temporary (5) positions which were either filled or vacant during FY 2025.

Enforcement Staff:

- Executive Director
- Deputy Executive Director
- Enforcement Attorney (3)
- Enforcement Attorney (temporary) (2)
- Program Specialist V – Mediation Coordinator
- Legal Clerk
- Investigator-Supervisor V (2)
- Investigator IV (8)
- Investigator III-IV (temporary) (2)
- Administrative Assistant III
- Office Assistant IV (3)
- Office Assistant III (temporary)

Adjudication Staff:

- Chief Counsel
- Administrative Assistant II