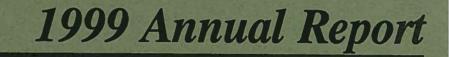
# Alaska State Commission for Human Rights



February 29, 2000

STATE OF ALASKA HUMAN RIGHTS COMMISSION

The Honorable Tony Knowles, Governor of Alaska The Honorable Drue Pearce, President, Alaska Senate The Honorable Brian Porter, Speaker, Alaska House of Representatives

On behalf of the Commission, I respectfully submit the 1999 Annual Report of the Alaska State Commission for Human Rights. This report includes information about Commission activities, as well as a review of the State's progress toward equal employment opportunity. The Commission is required by statute to make this assessment of State government and include it in its annual report at least once every three years.

I am particularly pleased to report that in 1999, the Commission eliminated its backlog of unassigned complaints. This tremendous accomplishment would not have been possible without your support and the additional resources you provided combined with the diligence of a talented and dedicated staff. Those who believe that they have experienced unlawful discrimination, the businesses that respond to their complaints, and all Alaskans will benefit from prompter resolution of these cases.

Last year we reported on the introduction of a mediation program which offers parties an alternative to investigation. As noted in this report the program has been well received and has resulted in settlements in approximately 60% of those cases where the parties chose to participate.

The Commission continued providing educational presentations to Alaskans on the State's Human Rights Law. Requests from businesses for training on sexual harassment and other areas of the law rose. Commission staff delivered 27 trainings in 1999. In December 1999, the Department of Housing and Urban Development awarded the Commission funds to travel to communities around the State and conduct fair housing education and outreach to housing recipients and housing providers. This grant will enhance the staff's ability to reach and educate Alaskans about their rights and responsibilities under the law.

The Commission will continue its commitment to meet the challenge of enforcing Alaska's human rights laws. We ask for your ongoing support in helping fulfill the vision of an Alaska that does not tolerate discrimination.

Cathy K. Mothof

Kathy K. Wisthoff Chairperson

## COMMISSIONERS

JOYCE E. BAMBERGER, Anchorage RUTH BENSON, Fairbanks JAMES H. CHASE, Anchorage MARTHA GORE, Anchorage AARON T. ISAACS, JR., Klawock CHRISTINE MARASIGAN, Kodiak KATHY WISTHOFF, Anchorage

#### COMMISSION STAFF

Paula M. Haley, Executive Director Stephen Koteff, Human Rights Advocate Patrick Lavin, Hearing Advocate Sharon O. Avery, Administrative Officer Lucinda G. Bay, Clerk IV M. Anne Keene, Docket Officer Amy Otto, Legal Secretary Margaret A. Taylor, Commission Secretary Evelyn A. Ramos, Director of Investigations Helen P. Sharratt, Director of Special Investigations Nanette Gay, Investigator Isabel Lee, Investigator Donald Miller, Investigator **Timothy Parker**, Investigator Kattaryna Stiles, Investigator Lisa Turrini, Investigator Paula Williams, Investigator Lai Wong, Investigator

Mary Southard, Mediator

Nathaniel Atwood, Hearing Examiner Donna Lilly, Legal Secretary

## ALASKA STATE COMMISSION FOR HUMAN RIGHTS

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FOR ADDITIONAL COPIES OF THIS REPORT, INFORMATION REGARDING ALASKA'S HUMAN RIGHTS LAW, OR TO FILE A COMPLAINT, PLEASE CONTACT THE COMMISSION AT THE ADDRESS OR PHONE NUMBERS ABOVE.

## COMMISSION'S MEDIATION PROGRAM

The Commission's in-house mediation program began in 1998 and its first mediations were conducted in 1999. The program



offers parties the opportunity to resolve the complaint through mediation rather than investigation. The program is voluntary – mediation occurs only if both parties agree to it and settlement occurs only if the parties agree on the terms of the settlement. Initially, mediations were held only in the Commission's Anchorage office. Now the program has expanded to provide telephone mediation to parties willing to pay for the cost of the telephone call.

How does mediation work? Mediations are confidential and each person attending the mediation signs a confidentiality agreement. At the mediation each party discusses his/her perspective regarding the complaint and presents some proposals to resolve the complaint. The mediator helps to facilitate the discussion to address any misunderstandings and see if a resolution can be reached that is acceptable to both parties. If a settlement is reached, the complaint will be dismissed. If the parties do not reach a settlement, the complaint will be transferred to the investigations section of the Commission for assignment to an investigator.

Parties generally appreciate being offered the opportunity to mediate the complaint, even those who choose not to mediate their case are pleased that the program is available. Most parties who mediate their cases would recommend the process to others. In addition to conducting formal mediations, the program also conducts settlement negotiations when the parties prefer this process over mediation. Occasionally, a party will withdraw a complaint because the matter was settled by the parties shortly after they receive the Commission's letter offering mediation.

In 1999, the mediation program facilitated settlements valued at \$102,802. The settlements included training in discrimination laws, letters of reference, policy changes, jobs and/or backpay or other financial compensation. The overall settlement rate for cases in the mediation program is 58% for 1999.

The response to the program has included such comments as: "I believe mediation is an excellent idea"; "We appreciate (the mediation materials) and no doubt will make use of this service in the future"; "We see it as an alternative in resolving disputes"; "I appreciate the availability of the mediation option"; "I thought (the mediator) did everything she could to gain a settlement ... I found the process to (be) very positive"; and "We agree that mediation can be a useful tool to bring certain cases to a mutually satisfactory resolution."

#### CUT BACK IS A SET BACK

A Black customer service representative alleged that her employer treated her differently and terminated her on the basis of her race. The worker alleged that her employer cut her hours from full-time to part-time, used racially derogatory language, and cursed at her. After contact by the agency's mediator, the employer offered to settle for \$3,500 in backpay and the worker accepted.

#### GIVE AND TAKE

A 64 year-old grocery store worker alleged that her employer terminated her based on her age and her physical disability, a neurological disorder. The worker alleged that her employer gave her approval to take personal and medical leave, but that she was later terminated for her leave usage. After contact by the agency's mediator, the store owner and worker agreed to settle this complaint for \$2,720.

#### FLAGGING FOR EQUALITY

A male road flagger alleged that a company hired less experienced female flaggers before it hired him, gave him fewer hours and retaliated against him after he complained by laying him off. After contact by the agency's mediator, the employer offered to pay the worker \$2,000 in backpay and the worker accepted.

## FAIR HOUSING INITIATIVES PROJECT

Last spring, the Alaska State Commission for Human Rights submitted a grant application to the United States Department of Housing and Urban

Development (HUD) for funding under HUD's Fair Housing Initiatives Program to conduct fair housing and outreach throughout Alaska. The Commission last received funding to conduct fair housing education and outreach in Alaska in 1991.

In December 1999 HUD notified the Commission that its project, entitled "Fair Housing Education and Outreach in Alaska" was selected to receive the full \$59,246 requested. According to HUD Secretary Andrew Cuomo, the competition for funds was fierce, with 220 grant applications seeking more than \$50 million in assistance, even though Congress had only allocated \$15 million. The Commission is one of the 62 organizations nationwide that will share these monies earmarked for addressing the issue of housing discrimination.

The success of the Commission's grant application will make it possible for agency staff to travel to communities around the state in order to conduct fair housing training and outreach. Through workshops and the distribution of fair housing materials in several different languages, the Commission's eighteen month project is designed to inform housing recipients, their advocates, and the agencies that serve them, as well as housing providers, including realtors, landlords, and property managers, of their respective rights and obligations under the Federal Fair Housing Act, and State and local fair housing laws. The Commission hopes to begin this exciting project on March 1, 2000.

## **PUBLIC HEARING CASES**

Note: In all of the following public hearing cases, unless otherwise noted, the Commission staff found that substantial evidence existed to support the complainants' allegations.

In Abbott v. King Salmon Restaurant, complainant alleged that respondent refused to hire him as a food server in respondent's restaurant because of his sex, male. A public hearing scheduled to begin on February 18, 1999, was continued pending a possible settlement between the parties. The settlement agreement, in which respondent agreed to pay complainant \$4,000 in backpay, was approved by the Commission on August 12, 1999.

#### BAD JUDGMENT

A laborer filed complaints against two partners in a joint venture construction project alleging that they fired him after he had worked only one day, as they perceived him to be physically disabled due to his disclosure on the post-hire medical questionnaire that he had mild epilepsy and back problems. The partners denied the allegations and asserted that other employees observed the laborer taking frequent breaks and not performing the assigned work. Staff investigated the allegations and found no evidence that the laborer had failed to perform the work assigned to him. Evidence showed that the partners terminated the laborer because of medical history conditions. The Commission staff determined that substantial evidence supported the laborer's complaint of discrimination. disability Ar conciliation, the partners agreed to provide the laborer \$3,229 in backpay, adopt a policy against discrimination, change the laborer's separation status from ineligible to eligible for rehire, expunge the laborer's file, and provide training to management regarding disability discrimination.

In Acuna v. North Slope Borough, complainant alleged that she was discriminated against on the basis of her race, Asian, and National Origin, Filipino, when she applied for a position as a payroll specialist with the North Slope Borough. Complainant alleged that the Borough refused to hire her in accordance with its ordinance which requires employment preferences for Native Americans. Commission staff found substantial evidence that the Borough's employment preference violates the Human Rights Law. At the end of 1999 the Commission had not yet scheduled a public hearing.

In Amarok v. Bering Straight School District, complainant alleged that respondent refused to hire her as a cook because of her pregnancy. The Commission staff found no substantial evidence to support complainant's allegations, but found substantial evidence that respondent's hiring practices violated the disability protection provisions of the Human Rights Law. Staff found that respondent asked impermissible disability-related questions when it interviewed applicants for employment. The parties reached a settlement which required respondent to train its hiring personnel in the applicable disability provisions of the law. The Commission approved the settlement agreement on June 24, 1999.

In Beebe v. Russian American Company, complainant alleged that she was terminated from her position as a clerk because her employer perceived her to be disabled. Complainant alleged that her employer believed she had an eating disorder and required her to seek counseling or face termination of her employment. A public hearing scheduled to begin April 6, 1999, was continued, due to the sale of respondent company.

In Beegan v. McLean Electric, complainant alleged that he was discriminated against on the basis of his age and race, Caucasian, when respondent refused to hire him as an electrician. The Commission staff found no substantial evidence to support complainant's allegations of race discrimination, but did find substantial evidence to support the allegation of discrimination based on age. Complainant requested an entry of default based on respondent's failure to cooperate or appear at the hearing. On October 11, 1999, the Hearing Examiner issued a preliminary entry of default against respondent. At the end of 1999, a motion for default judgment was pending.

#### RECONCILED ACCOUNT

A female Alaska Native bookkeeper filed a complaint alleging that her employer denied her a pay raise on the basis of her sex and race. She alleged that the employer conditioned her raise upon the occurrence of certain events, whereas a male Caucasian employee received his raise unconditionally. Shortly after receiving notice of the complaint, the employer contacted Commission staff and offered to settle the matter. In a Predetermination Settlement, the employer agreed to provide the bookkeeper with a retroactive pay raise and train its management in the laws prohibiting discrimination.

#### THE PRICE OF A SEAT

A sales clerk alleged that his employer discriminated against him on the basis of his age, 56, and his physical disability, the deterioration of a lance injury, by reducing his pay whenever he used a stool to sit at work, restricting his absences for medical appointments and lowering his vacation accrual rate. The sales clerk further alleged that he was forced to resign as a result of these changes. Shortly after investigation began, the parties entered into a Predetermination Settlement wherein the employer agreed to pay the sales clerk \$2,300.

In Brooks v. Laborer's International Union, complainant alleged that she was treated differently because of her race, Black, and American Indian (Creek), when respondent refused to dispatch her to a job. A public hearing was held May 17-20, 1999. On October 12, 1999, the Hearing Examiner recommended that the Commission dismiss the case. The Commission issued a final order of dismissal on November 22, 1999.

In Caissie v. Golden Valley Electric Association, complainant alleged that respondent did not hire him for the position of right-of-way maintenance forester because of his age, and that respondent retaliated against him for filing an age discrimination complaint. The Commission approved a settlement agreement on April 12, 1999, in which respondent agreed to pay Mr. Caissie \$12,000 in backpay.

In Cox v. Alaska Women's Club, complainant alleged that the respondent discriminated against him on the basis of his sex, male, when respondent denied complainant membership in and access to its females-only health club. Commission staff found substantial evidence that respondent's practice violated the Human Rights Law because the statute did not allow exceptions for gender discrimination in health clubs. The Commission has scheduled a public hearing to begin April 12, 2000.

In Dunlap v. General Communications Inc. (GCI), complainant alleged that respondent discriminated against her on the basis of her sex, female, when it failed to pay her at a rate comparable to her male coworker. At the end of 1999, a hearing had not yet been scheduled.

In Eylar v. Western Geophysical, Inc., complainant alleged that respondent discriminated against her on the basis of a perceived disability, back impairment, when it refused to hire her for the position of cook. Complainant alleged that she had previously worked as a cook for respondent and had successfully performed all of the required job duties. At the end of 1999, the Commission had not yet scheduled a public hearing.

In Hinrichs v. SOA, Department of Administration, Division of Longevity Programs, Anchorage Pioneers' Home, complainant alleged that respondent discriminated against her on the basis of her disability. The Commission staff found that there was no substantial evidence to support complainant's allegations. Staff determined, however, that respondent articulated a policy that no employee was eligible for light duty work. The staff determined that such a policy, if applied, would foreclose respondent's managers or

#### THE RIGHT RESPONSE

A female housekeeper filed a complaint alleging that a male coworker subjected her to sexual harassment and that her employer failed to take action to stop the harassment after she reported it. The employer denied the allegation. Staff investigated the complaint and found that the employer immediately looked into the matter. Although the employer was unable to substantiate the housekeeper's allegations, it reviewed its sexual harassment policy with the male co-worker, and warned him that any substantiated violations could result in disciplinary action up to and including termination. Having determined that the employer took timely reasonable action in response to the complaint, Commission staff dismissed the case with a finding of no substantial evidence.

#### TECHNICAL CORRECTION

A 61 year-old technician filed a complaint alleging that his employer treated him less favorably than significantly younger technicians regarding job assignments, disciplinary action, evaluations, and supervisory oversight. During investigation, the parties agreed to settle the case. The employer paid the technician \$8,800, provided a job reference, and expunged his personnel file.

supervisors from providing certain reasonable accommodations for qualified persons with disabilities. The staff therefore found substantial evidence that this policy violates the disability provisions of the Human Rights Law. The parties entered into a settlement agreement which provided that respondent will clarify that it does not have a "no light duty" policy, and that respondent will train its managers and supervisors regarding the disability provisions of the Human Rights Law. The Commission approved the settlement on April 29, 1999.

In Holmes v. Price Waterhouse, complainant alleged that she was terminated from her employment as a senior tax manager because of her sex and her status as a parent. A public hearing was held July 14-16, 1999. On October 6, 1999, the Hearing Examiner recommended that the Commission dismiss the case. At the end of 1999 a final decision by the Commission was pending.

In Johnson v. SOA, Department of Health and Social Services, the Commission investigated two complaints in which complainant alleged that he was treated differently in his position as a social worker because of his race, Black, and that he was terminated in retaliation for filing a discrimination complaint. The parties reached a settlement in which respondent agreed to pay \$133,150 in backpay to complainant. The agreement was approved by the Commission on May 26, 1999.

In Luck v. North Slope Borough, complainant alleged that the respondent discriminated against her on the basis of her race, Asian, and national origin, Filipino, when she was subjected to racial harassment and hostile treatment and then terminated from her position as a residential aid. At the end of 1999, a public hearing was scheduled to begin on January 31, 2000.

In Lynch v. Dependable Vicky's, the Commission investigated two complaints in which complainants, a husband and wife, alleged that they were treated differently and terminated because of race. Complainants alleged that respondent refused to dispatch non-white employees to jobs where homeowners requested white house cleaners. In September 1998 the Hearing Examiner stayed the case based on respondent's owners' representations that they had filed personal bankruptcy actions.

#### PAYBACK

A female human resources manager filed a discrimination complaint alleging that her employer paid her a lower salary than her male predecessors. She further alleged that after she complained io management that she was being paid less because of her sex, her employer retaliated by demoting her. During the investigation, the employer offered to settle the complaint by paying the manager \$64,900 in return for the manager agreeing to dismiss the complaint.

#### AN "F" IN FAIRNESS

A teacher's aide filed a complaint alleging that her employer failed to rehire her for a position that she previously had held for over twenty years on the basis of her age, 65. The employer denied that it discriminated against the teacher's aide and asserted that there were fewer available positions due to budget cuts and that those that were hired had superior qualifications for the position. Staff investigated the complaint and found that several of the significantly younger successful applicants had no prior applicable experience. In a Conciliation Agreement, the employer agreed to pay the aide \$14,157, develop a policy against discrimination. and train its management in the laws prohibiting discrimination.

In Magness v. Doyon/Universal Ogden Services, complainant alleged the respondent discriminated against her on the basis of her sex when it refused to hire her as a kitchen helper. Commission staff found substantial evidence that respondent failed to hire complainant because complainant's work assignment would have been at a remote camp without sufficient accommodations for female workers. A public hearing scheduled to begin on September 28, 1999, was postponed, pending a possible settlement between the parties. At the end of 1999, an agreement in which respondent agreed to pay complainant \$13,000 in backpay and seek to insure that future work sites contained sufficient accommodations for both sexes was pending approval by the Commission.

In Meyer v. SOA, Department of Fish and Game, complainant alleged she was treated differently because of her sex. Staff found that substantial evidence did not exist to support the allegation. On appeal, the Alaska Supreme Court clarified the Commission's standards for determining substantial evidence, and remanded the case to the Commission for a public hearing. An order scheduling a public hearing for May 11, 1998, was vacated based on a pending agreement between the parties to settle the case. A settlement agreement in which respondent agreed to pay complainant \$137,152 was approved by the Commission on May 6, 1999.

In Morgan v. KNEB TV Sitka News Bureau, complainant alleged that she was sexually harassed and subsequently terminated from her position as a sales manager in retaliation for opposing discriminatory practices. A public hearing scheduled to begin on March 22, 1999, was continued pending a possible settlement between the parties. On July 27, 1999, the Commission approved a settlement agreement in which respondent agreed to pay \$8,000 in backpay to complainant.

In Olson v. Chevron Pipeline Company and J & L Oilfield Maintenance, the Commission investigated two cases in which the complainant alleged that he was terminated from his employment because of his disability. Complainant alleged that although he had been diagnosed with diabetes, he was able to perform his job as a dock worker without an accommodation. A settlement agreement in which Chevron Pipe Line Company agreed to pay complainant \$30,000 was approved by the Commission on May 3, 1999. At the end of 1999, a separate settlement agreement between complainant and J & L Oilfield maintenance Company was pending.

#### MAKING UP FOR A MISSED OPPORTUNITY

An administrative clerk alleged that her employer refused her request for a flexible work schedule which she required for ladney dialysis. She alleged that, after denying her the opportunity for a flexible work schedule where she could make up missed work and failing to offer an alternative, her employer terminated her when she did not complete her work on time. In addition, she alleged that she was subjected to different terms and conditions of employment and terminated her on the basis of her age. Respondent denied the allegations. Investigation failed to support the clerk's allegations of age discrimination. Staff found, however, that the employer discriminated against the clerk by failing to provide her with a reasonable accommodation and terminating her. In a Conciliation Agreement the employer agreed to pay the clerk \$15,000 in backpay, develop a policy outlining its obligations under the Alaska Human Rights Law, expunge her personnel file, and train management on the laws prohibiting discrimination. particularly regarding persons with disabilities.

In *Perry v. King Salmon Restaurant*, complainant alleged that respondent refused to hire him as a food server in respondent's restaurant because of his sex, male. A public hearing scheduled to begin on February 19, 1999, was continued pending a possible settlement between the parties. The settlement agreement, in which respondent agreed to pay complainant \$2,500 in backpay, was approved by the Commission on August 20, 1999.

In Raad v. Fairbanks North Star Borough School District, complainant alleged that respondent failed to hire her for several teaching positions because of her national origin, Lebanese, and religion, Muslim, and in retaliation for filing a prior complaint of discrimination. Complainant alleged that although she was well qualified as a science and math teacher, she was not hired for 31 separate positions that were available over a three year period. The Commission held a public hearing November 29 through December 10, 1999. At the end of 1999, a preliminary recommended decision by the Hearing Examiner was pending.

In **Russell v. Norcon Inc.**, complainant alleged that respondent refused to hire him as a journeyman wireman because of his physical disability. Commission staff found substantial evidence of discrimination and that respondent illegally required job applicants to complete pre-employment medical questionnaires. The Commission held a public hearing on January 26-29, 1999. At the end of 1999, a preliminary recommended decision by the Hearing Examiner was pending.

In *Rutzler v. Alaska Pacific University*, complainant alleged that because of her marital status, single, respondent imposed different terms and conditions on her student housing tenancy than those imposed on married students. A public hearing scheduled to begin on February 10, 1999, was continued pending the outcome of <u>Thomas v. Anchorage Equal</u> <u>Rights Commission</u>, a case pending in the Ninth Circuit Court of Appeals. The appellate court has been asked to decide whether the law prohibiting discrimination in housing against unmarried couples applies to landlords who claim that their religious beliefs do not permit them to rent to couples who are not married.

In Searle v. Gold Rush Saloon, complainant alleged that her employer sexually harassed her while she performed her duties as a waitress at respondent's saloon in Fairbanks. A hearing scheduled for July 1998 was continued pending completion of a preliminary settlement agreement between the parties.

#### DIFFERING ACCOUNTS

The assistant manager of a store filed a complaint of discrimination alleging his employer terminated him on the basis of his race, Black, and national origin, Gambian. The assistant manager alleged that, although he had consistently received very good evaluations, he came under scrutiny after a stock audit and was subjected to less favorable terms and conditions of employment following a change in During investigation supervisors. respondent offered to settle the case for backpay in the amount of \$3,295. The assistant manager accepted and the parties signed a Predetermination Settlement, and the Commission dismissed the case.

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#### UNSAVORY ACTIONS

A female cook alleged that her supervisor subjected her to sexual harassment, and that within two weeks her employer terminated her in retaliation for opposing the unlawful During discrimination. the investigation, the employer offered to settle the complaint and paid the cook \$2500, provided her with a letter of recommendation, and trained its managers in the laws prohibiting discrimination with an emphasis on preventing and eliminating sexual harassment.

In Shepard v. General Securities Services Corporation, complainant alleged that respondent discriminated against her when she was terminated on the basis of her sex. The parties stipulated to a dismissal of the case based on *res judicata* because complainant fully litigated her claims in a separate forum. On December 3, 1998, the Hearing Examiner issued a recommended order dismissing the complaint. The case was dismissed by the Commission on August 27, 1999.

In Smith v. Bergmann Hotel, complainant alleged that respondent discriminated against her on the basis of her sex, female, and terminated her in retaliation for opposing sexual harassment in the workplace. The Commission held a public hearing November 1-4, 1999. At the end of 1999, a preliminary recommended decision by the Hearing Examiner was pending.

In Valencia v. International Seafoods of Alaska, complainant alleged that respondent terminated her on the basis of her national origin, Salvadoran. The Commission staff found no substantial evidence to support complainant's allegations, but found substantial evidence that respondent's hiring practices violated the disability protection provisions of the Human Rights Law. Commission staff found that respondent impermissibly requested disability-related information from job applicants. On February 3, 1999, the Commission approved a settlement in which respondent agreed to revise its hiring procedures in accordance with the relevant provisions of the Human Rights Law.

In Warner v. Chugach Electric Association, complainant alleged that respondent refused to hire him as a lineman because of his age and because complainant had previously filed a discrimination complaint against respondent. A hearing scheduled for June 1998 was continued pending completion of a proposed settlement agreement. On May 26, 1999, the Commission approved a final agreement in which respondent agreed to pay complainant \$10,000 in backpay.

In Wynne v. SOA, Department of Administration, Division of Longevity Programs, Fairbanks Pioneers' Home, complainant alleged that respondent discriminated against her on the basis of her disability. The Commission staff found that there was no substantial evidence to support complainant's allegations. Staff determined, however, that respondent articulated a policy that no employee was eligible for light duty work. The staff determined that such a policy, if applied, would foreclose respondent's managers or

#### MORE THAN MAN'S BEST FRIEND A visually impaired Alaskan who uses a service dog filed a complaint alleging that a taxi company denied him services because the driver would not allow his service dog to accompany him in the taxi. The initial investigation was conducted by a sister civil rights agency who dismissed the case because the driver no longer worked for the taxi company. The Commission continued the investigation because the complaint was against the company. rather than the driver. The company agreed to settle the complaint by issuing a letter of apology and training its drivers regarding their legal obligations with respect to passengers travelling with service animals.

#### SHORT CHANGED

A marketer filed a complaint alleging that her employer afforded her fewer overtime opportunities and paid her less than her Caucasian colleagues. She also alleged that her employer subjected her to different terms and conditions of employment on the basis of her sex. While denying the allegations, the employer offered and the employee agreed to settle the case for \$800. supervisors from providing certain reasonable accommodations for qualified persons with disabilities. The staff therefore found substantial evidence that this policy violates the disability provisions of the Human Rights Law. The parties entered into a settlement agreement which provided that respondent will clarify that it does not have a "no light duty" policy, and that respondent will train its managers and supervisors regarding the disability provisions of the Human Rights Law. The Commission approved the settlement on April 29, 1999.

## LITIGATION



In Thomas v. Anchorage Equal Rights Commission, the plaintiffs sued the Municipality of Anchorage, Anchorage Equal Rights Commission and Paula Haley, in her capacity as Executive Director of the Alaska State Commission for Human Rights, to prevent her enforcement of the provisions of the Human Rights Law which prohibit marital status discrimination in housing. The plaintiffs claimed that their right to freedom of religion would be violated if they were required to rent apartments to unmarried couples. United States District Court Judge Russell Holland ruled in favor of the plaintiffs in a decision contrary to the Alaska Supreme Court's opinion in <u>Swanner v. AERC</u>, 874 P.2d 274 (Alaska 1994). The decision was appealed to the Ninth Circuit Court of Appeals, which heard oral arguments in the case in July 1998. On January 14, 1999, a divided panel of the Ninth Circuit Court of Appeals upheld the District Court's decision. A Petition for Rehearing was filed on January 28, 1999. On October 19, 1999, the Ninth Circuit ordered that the case be reheard by the *en banc* court and withdrew the three judge panel opinion.

In McLeod v. Alaska State Commission for Human Rights, complainant appealed the staff's determination that her claims of race and gender discrimination were not supported by substantial evidence. Complainant had alleged that the Anchorage Department of Health and Human Services discriminated against her when she applied for a license to operate a fast food cart. The Alaska superior court affirmed the Commission's decision, and complainant appealed to the Alaska Supreme Court. The appeal was withdrawn pursuant to a settlement agreement between the complainant and the Municipality of Anchorage.

In Shely v. Municipality of Anchorage, Anchorage Police Department, complainant alleged that he was not selected for the Anchorage Police Academy on the basis of his age and national origin. After a hearing, the Commission entered a Final Order finding that the Municipality discriminated against complainant on the basis of his age. The Municipality

#### COSTLY STEREOTYPE

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A man with a partial arm filed a complaint alleging that the store where he applied to work as a sales clerk failed to hire him because of his physical disability. The man also alleged that a store employee told him that he was not hired because the employer believed that his disability would prevent him from operating certain equipment. The employer denied the allegations. Staff investigated the complaint and found that the man was qualified for the position, that the store had several vacancies at the time and that one of the successful applicants had no prior work experience, while the rejected man did. Investigation also revealed that the employer hired more than 20 people in the same department at the time that the man's application was on file. Investigation also found that the employer asked pre-employment regarding the man's questions physical limitations which violated the Alaska Human Rights Law. In a Conciliation Agreement, the employer agreed to pay the man \$4,300 in backpay, train its managers and staff who screen applications on disability provisions of the Alaska Human Rights Law, and develop a policy regarding compliance with the law.

of Anchorage appealed the Commission's Final Order to superior court. On December 29, 1999, the court issued a decision that affirmed in part and reversed in part the Commission's order.

In Jenkins v. Alaska State Commission for Human Rights, complainant alleged discrimination on the basis of her sex when Natchiq, Inc. failed to hire her for a laborer's position on the North Slope. Staff issued a determination of not substantial evidence of discrimination. Complainant appealed the finding to the superior court, which affirmed the Commission's decision. Complainant has appealed to the Alaska Supreme Court.

In Hardy v. State of Alaska, Department of Transportation and the Alaska State Commission for Human Rights, complainant filed a complaint alleging discrimination on the basis of her race. Staff investigated and issued a finding of not substantial evidence of discrimination. When complainant's request for reconsideration was denied because the request was made untimely, complainant appealed to the U.S. District Court. An answer to the complaint was filed on November 29, 1999.

In LeSuer v. Alaska Regional Hospital, complainant filed a complaint with the Anchorage Equal Rights Commission (AERC) alleging that respondent subjected her to sexual harassment. Under the worksharing agreement with the AERC, the complaint was co-filed with the Alaska State Commission for Human Rights. Commission staff found that during the AERC's investigation, respondent offered to settle the case for substantially full relief under the law, which complainant refused. Complainant's Alaska State Commission for Human Rights case was closed due to that refusal to accept substantially full relief. Complainant has appealed to the Superior Court.

#### PLAYING DOCTOR

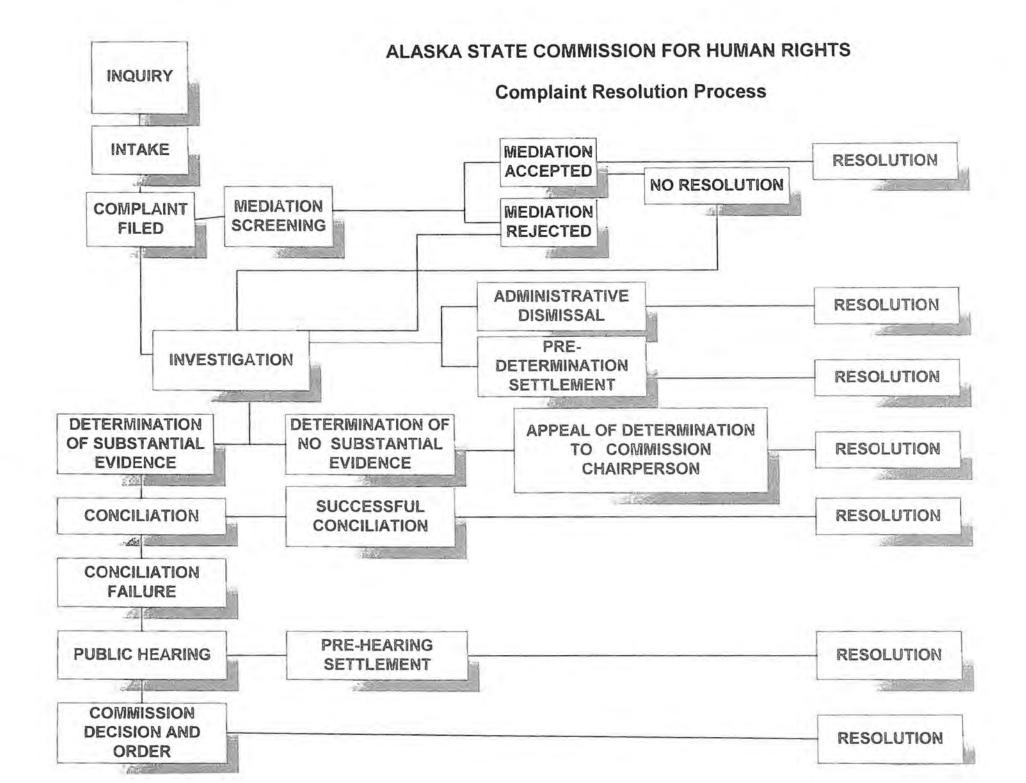
An engineer assistant alleged that her employer refused to accept the release provided by her physician that allowed her to return to work following a period of in-patient treatment, and terminated her on the basis of her mental disability. Despite the physician's release, she alleged that her employer did not believe that she was fit for duty. Respondent denied the allegations. Shortly after the complaint was assigned for investigation, the parties entered into a settlement agreement. The employer agreed to pay the assistant \$50,000 and provide her with a letter of recommendation. In return, the assistant withdrew her complaint with the Commission.

#### LABORING AGAINST RACIAL BLAS

A Black laborer filed a complaint alleging that his employer fired him the day after hiring him because of his race. The laborer stated that, when the foreman fired him, he made a racially offensive comment. The employer denied that the foreman used any racial epithets or fired the laborer because he was Black and asserted that it fired him due to his poor work performance. Staff investigated the case and found substantial evidence to support the worker's allegations of race discrimination. In a Conciliation Agreement the employer agreed to: pay the laborer \$1,000 in backpay, develop and distribute to all employees a statement of its policy against discrimination, and remove from his personnel file all references to the complaint.

#### PENALTY FOR PUNISHMENT

A customer service representative at a financial institution filed complaints alleging that her supervisor failed to accommodate her disability, and that when she complained to senior management about her supervisor's treatment of her, the supervisor retaliated by subjecting her to a series of negative employment actions. Shortly after investigation began, the employer proposed terms of settlement which included backpay in the amount of \$2,044 based on the assumption that she would have been promoted, and training for its supervisors on disability discrimination.



## **1999 CASE PROCESSING STATISTICS**

#### ANALYSIS OF FILINGS BY COMPLAINANT'S SEX

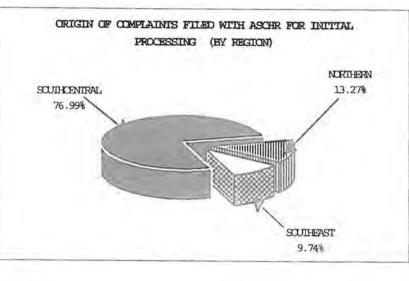
Female	180
Male	159
Executive Director	1
Total Filings	340

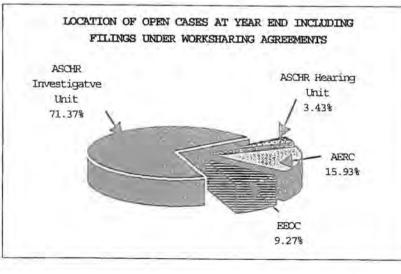
#### ANALYSIS OF FILINGS BY COMPLAINANT'S RACE

Caucasian	163
Black	75
Alaska Native	30
Unknown	29
Hispanic	18
Asian	12
Other	7
American Indian	5
Executive Director	1
Total Filings	340

#### ANALYSIS OF FILINGS BY TYPE

Employment	299
Public Accommodation	15
<b>Government Practices</b>	13
Housing	12
Finance	1
Total Filings	340





#### ANALYSIS OF FILINGS BY BASIS

Basis	Single Basis Complaint	Multiple Basis Complaint
Race/Color	59	49
Sex	46	69
Age	37	35
Physical Disability	37	32
Pregnancy	11	3
Retaliation for Filing	8	12
National Origin	7	20
Mental Disability	7	7
Retaliation	5	39
Parenthood	1	1
Religion	0	3
Marital Status	0	1
Multiple Bases	122	
Total Filings	340	271

#### ANALYSIS OF FILINGS BY ISSUE

Issue	Single Issue Complaint	Multiple Issue Complaint		
Discharge	68	107		
Terms & Conditions	50	90		
Failure to Hire	49	10		
Failure to Promote	10	9		
Sexual Harassment	7	37		
Other	6	9		
Denied Service	6	0		
Pay Equity	3	12		
Harassment	2	22		
Demotion	1	9		
Failure to Rent	1	1		
Eviction	0	3		
Multiple Issue	137			
Total Filings	340	309		

REASON FOR CLOSURE	ON FOR CLOSURE CLOSURES	
MEDIATION:	151	2.76%
Mediation - Successful Settlement	9	1.65%
Mediation - Complaint Withdrawn with Successful Settlement	1	.18%
Mediation - Complaint Withdrawn	1	.18%
Mediation - Predetermination Settlement (PDS)	4	.75%
ADMINISTRATIVE:	84	15.44%
Complaint Withdrawn	40	7.35%
Lack of Jurisdiction	6	1.10%
Complainant Not Available	9	1.65%
Failure of Complainant to Proceed	15	2.76%
Complainant to Court	7	1.29%
Administrative Dismissal	7	1.29%
NOT SUBSTANTIAL EVIDENCE	370	68.01%
CONCILIATION/SETTLEMENT:	60	11.03%
Complaint Withdrawn with Successful Settlement	9	1.65%
Predetermination Settlement (PDS)	26	4.78%
Substantial Evidence/ Conciliation Agreement	25	4.60%
HEARING:	15	2.76%
Decision for Respondent	1	.18%
Decision - Other	1	.18%
Pre-Hearing Settlement	13	2.40%
TOTAL 1999 CLOSURES	544	100%

<sup>1</sup>This number does not include 5 settlements negotiated in 1999 which closed in early 2000.

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300				
200				611
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#### SUMMARY OF CLOSURES

	19	1998		Detail of 1999 Closures						
CATEGORY OF CLOSURE				AS	CHR	HR EEOC		AERC		
	No.	No. % No. %	No.	%	No.	%	No.	%		
Mediation		not av	ailable		151	3.2			-	-
Administrative	104	22.2	96	15.8	65	13.9	8	24.2	11	25.6
Not Substantial Evidence	293	62.6	417	68.8	328	70.1	23	69.7	19	44.2
Conciliation/Settlement	58	12.4	69	11.4	45	9.6	2	6.1	13	30.2
Hearing	13	2.8	24	4.0	15	3.2	0	0	0	0
	17.5				40	58 <sup>2</sup>	3	13	4	3
TOTAL CLOSURES	4	68	64	)6			5	44		

<sup>2</sup>This number does not include completed investigations of 24 cases which are still in conciliation or have been transferred to the Hearing Unit.

## FILINGS CLOSURES AND YEAR END INVENTORY OF CASES

## EEO PROGRESS IN STATE GOVERNMENT

Alaska Statute 18.80.060(6) requires the Commission to "make an overall assessment, at least every three years, of the progress made toward equal employment opportunity by every department of State government; results of the assessment shall be included in the annual report." The Commission staff received the requested statistics from the office of the Governor, Office of Equal Employment Opportunity (hereinafter Office of EEO) in November 1999. After review and analysis of these statistics, the Director of Investigations interviewed a number of Commissioners, Deputy Commissioners, Human Resource Managers, and Administrative Service Directors about the progress made within their departments toward equal employment opportunity as shown in the statistics.

The statistics reveal a slight gain in the total number of minority and female employees in state government between 1996 and 1999. The statistics indicate a continuing upward trend in the number of minorities and females at the highest monthly salary levels. Since 1996, the percentage of minority and female employees at the highest salary brackets has continued to rise.

Although minority and female participation increased only slightly during the last three years, department officials interviewed for this report are optimistic about the future. They believe that Workplace Alaska, the State's new Internet-based recruitment system, and initiatives such as Work Star, the State's welfare-to-work program, provide opportunities for the State to achieve higher gains in minority and female employment. Some departments are implementing creative and innovative programs to promote and enhance racial and ethnic diversity in their workforces.

In this report, the Commission provides statistics which parallel those used in its 1987, 1990, 1993, and 1996 Annual Reports. The charts shown throughout this report reveal that the total number of permanent, full-time state employees decreased by 67, from 12,077 in 1996 to 12,010 in 1999, a loss of .5 percent. Although the total number of permanent, full-time employees decreased slightly, the State posted a small gain of one percent in both its minority and female participation in the workforce. In 1999, minorities comprised 17.2 percent of the State's permanent, full-time work force and females 47.5 percent.

In 1998, the Governor signed the State's revised Affirmative Action Plan. The Plan identifies specific hiring goals for minorities and women by job classes in both permanent and seasonal employment categories based upon estimated availability rates. The Office of EEO has delayed implementation of this plan until the Office could verify current workforce statistics and receive updated workforce availability data from the 2000 U.S. Census. Since 1998, the Office of EEO has made a substantial effort to update its computer system in order to access current workforce data maintained by the Department of Administration and provide departments in the executive branch with more accurate statistics.

### WORKPLACE ALASKA AND THE EXPANDED CERTIFICATION PROGRAM

After test-piloting the project with the Departments of Environmental Conservation and Education in March 1997, the State of Alaska incorporated all positions in the classified service in State government in November 1998 into "Workplace Alaska," an Internet-based

recruitment system. The State abandoned the old recruitment method whereby applicants applied for job classes if and when they were open to recruitment. Under the old system, the State Division of Personnel reviewed the applications and placed qualified applicants on certified registers which departmental hiring managers relied upon to fill vacancies. Workplace Alaska is an on-line, vacancy-based recruitment method whereby applicants apply for positions whenever a specific vacancy occurs and is posted on the Internet. The new system allows hiring managers to request recruitment via the Internet and uses the Internet as the primary means of advertising vacancies. The system provides applicants with specific information about a position vacancy, including the required and desired qualifications, gives applicants a method to apply, stores the applicant's information, and provides a means of reporting hiring information. Information about an applicant's age, gender or ethnicity is obtained through an optional questionnaire which is not reported to the hiring manager.

With Workplace Alaska, the State continues to use the Expanded Certification Program that it adopted in 1981 as a tool to increase minority and female participation in the executive branch. Under this program, hiring officials are required to consider minority and female applicants for positions where they are not adequately represented. The Office of EEO provides departments with quarterly reports called the "Expanded Assessment Workforce Under-utilization Report" and the "Expanded Assessment Under-utilization Report for Women" on positions where minorities and women are under-represented. Department officials interviewed for this report expressed optimism that, with Workplace Alaska and information on where minorities and women are under-utilized when they fill vacancies, they could increase minority and female participation in their departments in the future. Department officials were nearly unanimous in praising the benefits of filling vacancies through Workplace Alaska. They indicated that the new recruitment system provides them with a larger pool of qualified applicants who are interested in and available for current vacancies. Some officials stated that Workplace Alaska, in tandem with use of under-utilization reports, provides an opportunity for the State to improve its equal employment opportunity profile.

#### SUCCESSFUL EFFORTS

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The Director of Investigations met with department officials to find out what worked for those departments that achieved gains in minority and female participation in their workforces. Despite a seven percent reduction in its total number of permanent, full-time employees, the **Department of Education and Early Development** posted the highest increase in minority employment among all departments in the executive branch. In 1999, minorities comprised 13.1 percent of the department's 473 permanent, full-time employees as compared to 10.1 percent of a total of 513 workers in 1993, a three percent increase. The department's Commissioner, Director of Administrative Services, and Human Resources Manager attribute the improvement to several factors including targeted recruitment, a vigorous outreach program, the flexibility afforded by Workplace Alaska, and better guidance to managers and supervisors on recruitment and selection procedures. Officials stated that, when a vacancy occurs, the Human Resources staff reviews the position with the hiring manager for minority or female underrepresentation before the vacancy is posted on Workplace Alaska. To broaden its applicant pool, the department advertises vacancies in major metropolitan area newspapers and in smaller local newspapers across Alaska. It also posts notices on Internet web sites of professional organizations in the state, or nationally, if the vacancy is left unfilled after exhausting recruitment efforts statewide. The department extends the normal ten-day application deadline under Workplace Alaska to afford applicants from rural areas additional time to apply. Depending on where the position is located, contacts are made with various Alaska Native and other minority organizations statewide or locally and with

appropriate professional organizations. The Human Resources staff is directly involved throughout the hiring process from application screening to interviews and final selection. Officials stated that the department saw an opportunity to increase its minority representation when a number of the administrative and teaching staff retired from Mt. Edgecumbe High School. The department conducted vigorous recruitment efforts through Workplace Alaska, newspaper advertising, and one-on-one contacts with Alaska Native and other minority organizations to fill the vacancies at Mt. Edgecumbe High School in Sitka and at Alyeska Central School in Juneau. The department is finalizing a booklet for managers and supervisors on the department's hiring guidelines. The department's Human Resources Manager stated that she developed the booklet to assist hiring managers and supervisors when the department was chosen as a pilot agency to test Workplace Alaska. The booklet contains step-by-step instructions on using Workplace Alaska and appendices that cover issues such as anti-discrimination laws, the Americans with Disabilities Act, Family Leave laws, and alcohol and drugs. The booklet provides tips for developing good listening skills and techniques in legal interviewing, screening and scoring, and checking references. The department will make this handbook available on its Internet web site for quick access by hiring officials. The department plans to focus its efforts on increasing racial and ethnic diversity among its professional staff to reflect a cross section of the diverse population of the State.

Despite 6.6 percent fewer permanent, full-time employees, the Department of Environmental Conservation showed the highest percentage gain in female participation. In 1999, women comprised 46.9 percent of the department's 418 permanent, full-time employees as compared to 42.9 percent of a total of 448 workers in 1993, a four percent increase. The department's Commissioner, Director of Administrative Services, Human Resources Manager, and Personnel Officer attribute the increase to recruitment via Workplace Alaska, additional advertisement of vacancies through the newspapers, use of a "Quality Employee Team" process, and proactive involvement by the department's Human Resources staff in employment decisions. Department officials stated that Workplace Alaska has allowed the department to target recruitment efforts that are tailored to each position vacancy. When filling positions, the department's Human Resources staff reviews the hiring manager's request for recruitment and reviews with the hiring manager interview questions and suggestions developed by the Quality Employee Team. The team, composed of the department's six division directors and the Human Resources Manager, meets once a month or when needed to discuss staff issues or recruitment for specific vacancies. The team assists in developing interview questions designed to elicit information not only about an applicant's qualifications and experience but also about the applicant's skills and abilities to perform specific job functions. The department conducts interviews by teams consisting of the hiring manager or supervisor and staff members from within the department or from other state agencies who would be working with the prospective employee or would be using the prospective employee's work product or services. Officials stated that the department considers gender balance and racial/ethnic representation on each interview team to ensure that hiring decisions are made from diverse perspectives. Officials also stated that to encourage employees to recognize and promote diversity within the department, a consultant was hired to identify and evaluate the different communication styles of employees. The department has also conducted training on cross-cultural communications to make employees understand that people communicate in different ways and that the department welcomes and celebrates gender and cultural diversity. The department plans to improve its minority participation by emphasizing with hiring managers the importance of identifying positions where minorities are not adequately represented and ensuring that qualified minority applicants are recruited and selected.

The Department of Community and Economic Development continues to show increases in both its minority and female participation. In 1999, minorities comprised 18.9 percent and women 61.2 percent of the department's 397 permanent, full-time employees as compared to 16.4 percent minorities and 58.4 percent females of its 365 permanent, full-time workers in 1996, a 2.5 percent and 2.8 percent increase, respectively. The department's Deputy Commissioner cited several factors as having contributed to these gains. The department's participation in the Work Star Program, a welfare-to-work initiative, has helped to increase its minority profile. Recruitment through Workplace Alaska has created larger hiring pools of qualified applicants and contributed to the percentage gains. The Deputy Commissioner stated that, in addition to posting job vacancies on Workplace Alaska, the department continues to advertise in newspapers to broaden its applicant pool for specific positions. The department attributes its high percentage of female participation both to the large number of job classes that are predominately female occupations and to the fact that more and more qualified women apply for positions in the department. The Deputy Commissioner stated that while the department makes no special efforts to increase its female participation, it is making a conscious effort to improve its minority representation and to place qualified minorities and women in high level positions. The Deputy Commissioner stated further that the leadership philosophy within the department is one of welcoming diversity. He indicated that underscoring this philosophy among the department's hiring managers and supervisors has become more necessary since the department took over responsibility for the Division of Rural Development, an agency formerly with the Department of Community and Regional Affairs. With this new responsibility, the Deputy Commissioner stated that the department has adopted a more regional focus in its employment decisions and program delivery.

The Department of Military and Veterans Affairs also continues to post gains in both minority and female participation. In 1999, minorities comprised 15.2 percent and women 27.4 percent of the department's 197 permanent, full-time employees as compared to 12.9 percent minorities and 24.7 percent females of its 170 permanent, full-time workers in 1996, a 2.3 percent and 2.7 percent increase, respectively. The department's Human Resources Manager attributes these gains to better recruitment efforts through Workplace Alaska and direct counseling with hiring managers by the Human Resources staff. When filling vacancies, the Human Resources staff reviews with hiring managers and supervisors the job request, posting of the vacancy on Workplace Alaska, the applicant profile, and the under-utilization report to ensure that the interview pool includes persons from under-utilized categories. The Human Resources Manager stated that the retirement of several of the department's male employees who participated in the State's Retirement Incentive Program created vacancies, many of which were filled by minorities and women. The Human Resources Manager also attributes the increase in minority participation to staff growth at armories in Bethel and other regions and to the creation of new job classes at the Alaska Military Youth Academy. The Human Resources Manager plans to make policy recommendations to the Commissioner that the department consider applicants from under-utilized groups when requesting workers from Local 71 and to open all recruitment via Workplace Alaska to the general public.

For the first time since 1987, the Department of Fish and Game posted more than a full percentage gain in minority participation and the first time that it showed improvement in both its minority and female profiles. Although it remains at the bottom of the list ranking minority participation in the work force among all departments in the executive branch, the department has begun to show progress in increasing the number of minorities among its permanent, full-time workers. In 1999, minorities comprised 7.1 percent of the department's 721 permanent, full-time employees and females comprised 38.1 percent, as compared to 5.3 percent minorities and 36.8 percent females of a total of 718 permanent, full-time workers in 1996. The department's Commissioner, Deputy Commissioner, Director of Administrative Services, and Human Resources Manager attribute the gains to several factors. The department continues to hire subsistence harvest monitors and other seasonal, non-permanent workers through local Job Service centers under a local-hire policy and by waiving Workplace Alaska requirements. It maintains close contacts with Job Service staff throughout the state to hire seasonal workers. The department revised its online hiring system to allow Human Resources staff to transition seasonal job applicants into Workplace Alaska for future permanent, full-time positions. Officials stated that when vacancies for permanent, full-time positions occur, both applicants for and employees in seasonal positions are included in the applicant pool. Members of the Human Resources staff regularly update information on applicants and employees for seasonal and permanent, full-time positions on fish counting and weir projects. The department also continues its college intern program and outreach efforts to attract minorities and women to careers in fish and game. The department also cites the retirement of 81 employees, a majority of whom were Caucasian males. Although the positions have either been eliminated or remained unfilled, the department notes that the vacancies resulted in an increase in the proportion of female to male employees in the department.

Although overall progress is slow, the department plans to continue the upward trend in its minority and female participation by enhancing its recruitment database and creating a diversity team. Because Workplace Alaska is not designed to collect applicant flow data, the department requested and received permission to download data from the system into its own computer database to collect applicant flow data. From this data, the department will determine percentages of minorities and women who apply for positions within the department through Workplace Alaska and focus its outreach efforts on those groups that are not adequately represented as shown by the statistics. After surveying employees on how to improve the leadership and management of the department, a diversity team was created in the fall of 1999. The team is composed of representatives from each division and aims to increase diversity in the department's workforce and among participants in various programs run by the department. The team will design a program to enhance outreach efforts to reach various minority and female organizations in both urban and rural areas.

#### BACKSLIDING/BARRIERS

For the first time since 1987, the Department of Public Safety showed a reduction in its female employment and posted its smallest gain in minority participation. In 1999, with 16.6 percent fewer permanent, full-time employees, women comprised 35.9 percent and minorities 18 percent of the department's 672 permanent, full-time employees as compared to 42.9 percent females and 17.7 percent minorities in 1996, a seven percent decrease and .3 percent increase, respectively. The department's Deputy Commissioner and Human Resources Manager stated that the decrease in female participation and slight gain in minority representation do not reflect the department's lessened commitment to equal employment opportunity. They attribute the change to the elimination of 18 State Trooper positions and the transfer of two divisions out of the department, the Division of Motor Vehicles to the Department of Administration, and the Division of Motor Vehicles, the department

lost many positions that are predominantly held by women. Consequently, the number of female employees in the department dropped considerably. The department plans to focus its recruitment efforts in the years ahead to increase both female and minority employment in law enforcement/protective services positions and in technical, professional and paraprofessional positions. To attract minority and female applicants, the department participates in school career fairs, conducts outreach in military bases and with Alaska Native and other minority groups in the State, and advertises position vacancies in newspapers and on television. The department maintains internship programs for students to become State Troopers and for technical and professional positions in the State Crime Lab. Officials stated that the department has an open recruitment policy so that it continuously receives applications year-round from interested applicants for various positions in the department. To make it easier for prospective applicants to obtain information about positions in the department and to apply for jobs, it has created a link between Workplace Alaska and the department's Internet web site. The link allows interested persons to quickly access information about various positions in the department or apply for positions.

While not losing ground, the Department of Natural Resources made no progress in its minority representation during the last three years. In 1999, as in 1996, the department's total number of permanent, full-time employees declined by nine percent in 1996, and eight percent in 1999. In 1999, as in 1996, minorities comprised 9.2 percent of the department's 501 permanent, full-time employees. The department's Commissioner and Human Resources Manager expressed disappointment that the department has made no improvement in its minority profile. They indicated that one-third of the department's employees are seasonal workers who work primarily in rural communities and that minority participation in the seasonal job classes is higher than that in permanent, full-time positions. Department officials stated that the department regularly reminds hiring managers about their EEO responsibilities at monthly management meetings and rates their EEO accomplishments as part of performance reviews. In addition to these efforts, the department plans to increase its outreach initiatives with Alaska Native and other minority organizations in the State to encourage more minorities to apply for positions in the department. The department also plans to encourage hiring managers to use, whenever

1999 State of Ale (Permanent Full-			
Rate	Males	Femaleo	Total
African American	217	218	435
Aleska Native/Native American	356	432	788
Asian/Pecific Islander	244	342	586
Caucasian	5,353	4,570	9,923
Hispanic	124	138	262
Unknown	6	10	16
Total	6,300	5,710	12,010

1999 State of Ala (Permanent Part-	1 m 0 - 0 - 00 - 1		
Rese	Maleo	Females	Telei
African American	2	7	9
Alaska Native/Notive American	2	12	14
Asian/Pacific Islander	3	13	16
Ceucasian	20	103	123
Hispanic	2	0	2
Unknown	0	0	0
Tetal	29	135	164

possible, the open competitive recruitment method when filling vacancies through Workplace Alaska so that members of the general public may apply.

### THE ROLE OF THE OFFICE OF EEO

In an interview, Office of EEO Director Thelma Buchholdt indicated that she is pleased that the number of women and minorities in higher salary brackets in state government continues to rise. However, she indicated that she had hoped for a larger increase in minority and female employment in the executive branch. Director Buchholdt stated that normal attrition among state workers combined with a hiring freeze during this period contributed to the slow progress. She indicated that the current language in the State's regulation on affirmative action (2 AAC 07.175) stating that hiring managers "consider" or "may" appoint an eligible applicant remains a challenge for the State in achieving higher percentage gains in its minority or female profiles. Director Buchholdt stated that after revision of the State's Affirmative Action Plan in 1998, a major undertaking as well as an accomplishment for the Office of EEO was the Y2K computer software upgrade. The office discarded its outdated computer program and replaced it with a more reliable system to obtain workforce data for statistical analysis. The new computer program uses data extracted from the Department of Administration, Division of Finance. Director Buchholdt stated that after the new computer program was put in place, the Office of EEO determined that there were inaccuracies in the data produced under the old program. She indicated that correcting these errors required considerable time, effort and expense for her agency to accomplish. Director Buchholdt stated that when these corrections are completed and the Office's new data system is running without further glitches, the Office of EEO would be able to provide more accurate statistics to the departments in the executive branch. She also hopes that with the new program the Office of EEO could provide the departments with statistical information on minority and female employees by job classes.

Governor Tony Knowles signed the State's revised Affirmative Action Plan on February 27, 1998. However, Director Buchholdt stated that the Office of EEO is delaying implementation of the Plan until the statistical data being extracted by the new computer program has been verified. She stated that the departments are unable to set EEO goals identified in the Plan until this verification has been completed. She indicated that an updated version of the Affirmation Action Plan will be issued in the next few months and implemented after the Governor's signature.

1993 Sinte of Alm (Pers, sector Secon			
Repe	Micheo	Penneten	Totel
African American	5	4	9
Alasta Netive/Native American	57	17	74
Asina/Pecific Islander	5	13	18
Cencesies	681	330	1,011
Hispanic	11	7	19
Unknown	2	0	2
Totel	761	371	1,132

		1999 - 1999		ථ \$26500128
Yeor.	Milmarfieles	Pencentage	Francisco	Pencentago
1990	1,992	14.6	6,132	43.1
1991	2,056	15.0	6,188	45.3
1992	2,052	15.0	6,194	45.2
1993	1,977	14.7	6,087	45.3
1994	2,027	15.1	6,102	45.4
1995	2,062	15.1	6,228	45.6
1595	2,144	15.8	6,205	45.7
1557	2,130	16.1	6,122	46.0
1998	2,197	16.5	6,161	46.2
1999	2,231	16.8	6,216	46.7

In addition to providing departments with quarterly under-utilization reports, the Office of EEO conducted training on various topics. Between 1997 and 1999, the Office of EEO conducted ten training sessions on employment topics such as "Race and the Workplace," "Cultural Diversity," "The Buck Stops Here: Managing a Diverse Staff," "But I Meant: Communication in a Diverse Workforce," "Sexual Harassment in the Workplace," and "Key Issues in Employee Relations Law: Equal Employment Opportunity." Director Buchholdt and her staff conducted outreach with at least 48 minority and advocacy organizations, federal, state and municipal agencies, educational institutions, and community and civic organizations on multiple occasions in the last three years.

Director Buchholdt stated that the Office of EEO provided other types of assistance to the departments in the executive branch. She indicated that the Office of EEO assisted each department with the federal coding of classified and exempt job classifications. She stated that her office responded to specific requests from other departments as well. The Department of Administration received assistance with coding new classified positions. The Department of Education and Early Development received statistical information for a federal grant application for the Alaska Vocational Technical Center. The Department of Natural Resources regularly received assistance with under-utilization statistics and verification of job classes. The Departments of Fish & Game and Natural Resources received assistance to identify a method of demonstrating non-permanent and welfare-to-work program participants in their EEO reports.

During interviews department officials stated that the Office of EEO continues to provide them with quarterly under-utilization reports on a regular basis. These reports are required under the State's Expanded Certification Program. However, department officials expressed uncertainty about the accuracy of the data contained in these reports. Some officials also stated that they are unaware of other types of services the Office of EEO provides which might assist them in their efforts to increase minority and female participation in their departments. Other department officials indicated that the Office of EEO needs to be more visible and suggested that it market its services to agencies in the executive branch more aggressively. Department officials indicated that they would like the Office of EEO to work collaboratively with them to improve the State's equal employment opportunity profile. Specifically, department officials interviewed for this report indicated that the Office of

Emp	din Native/Notive Ame doyed By The State of time, Permanent Part- 1950 - 1959	Alasta
Vear	Number Employed	Percentage Of Worlsforce
1990	965	7.1
1591	965	7.1
1992	932	6.8
1993	\$72	6.5
1994	892	6.6
1995	855	6.3
1996	884	6.5
1997	847	6.4
1998	864	6.5
1999	876	6.6

1	time, Permanent Part- 1990 - 1999	dine, and seasons
Year	Number Employed	Percentage of Workforcs
1950	399	2.9
1991	416	3.0
1992	421	3.1
1993	414	3.1
1994	419	3.1
1995	431	3.2
1996	439	3.2
1997	425	3.2
1998	448	3.4
1999	453	3.4

EEO could assist them by providing more accurate under-utilization report statistics. They requested that the Office of EEO provide up-to-date statistics on the number of minorities and women by job classes to assist them in tracking positions where minorities and women tend to cluster and where they are not adequately represented. They also suggested that the Office of EEO collaborate with them in their recruitment efforts by conducting outreach in various communities to better educate the public on the use of Workplace Alaska to apply for jobs in state government. Officials stated that they would like the Office of EEO to provide training on equal employment opportunity and diversity issues and workshops on "training the trainer." They suggested that the Office of EEO regularly inform departments of the types of training it offers including schedules and course content. Department officials suggested that the Office of EEO also focus its attention on retaining minorities and women already working for the State by conducting workshops with employee groups about job issues.

In response to comments from department officials as to how the Office of EEO may assist them, Director Buchholdt stated that the Office of EEO is interested in working with every department in the executive branch to foster better cooperation with the State's equal employment opportunity and affirmative action efforts. She encourages each department to become more familiar with the provisions of Executive Order No. 91 and AS 44.19.450-44.19.458, the State's EEO/Affirmative Action statute. As to the request that the Office of EEO conduct training aimed at retaining current minority employees, Director Buchholdt stated that her office could assist by providing diversity training and encouraging minority workers to seek job training. As to the call for more outreach with minority groups on the use of Workplace Alaska, Director Buchholdt stated that her office offers assistance on a one-to-one basis during outreach visits to minority organizations and at Job Fairs. She indicated that because responsibility for recruitment lies with the hiring managers and supervisors of each department, recruitment efforts by the Office of EEO are not a substitute for the hiring managers' vigorous and enthusiastic recruitment and hiring of women and minorities.

As to future plans, Director Buchholdt stated that upon completion of the new computer program, the Office of EEO would soon be able to provide the departments with more accurate workforce statistical and under-utilization analyses to better assist them with

	Employed By The Sta time, Permanent Part- 1990 - 1999	
Vear	Number Employed	Percentage of Workforce
1990	201	1,5
1991	220	1.6
1992	226	1.6
1993	227	1.7
1994	240	1.8
1995	249	1.8
1996	277	2.0
1997	279	2.1
1990	281	2.1
1999	282	2.1

Permanent Full-	time, Permanent Part- 1990 - 1999	dire, end Sessenal
Year	Number Employed	Percentage of Workforce
1950	427	3.1
1591	455.	3.3
1592	473	3.5
1993	464	3.5
1994	476	3.5
1995	527	3.9
1996	544	4.0
1997	599	4.5
1998	604	4.5
1999	620	4.7

their equal employment and affirmative action responsibilities. To be more responsive to the training needs of the various departments, she stated that the Office of EEO plans to provide more frequent training reminders to department Commissioners and Human Resources Managers in subject areas that are relevant to their needs. She plans to explore a training strategy whereby the Office of EEO offers training on a limited number of topics on a fixed schedule for a given year. She indicated that this plan would enable the Office of EEO to reach more departments with its limited training resources. Director Buchholdt added that the Office of EEO intends to continue to fulfill its duties and responsibilities as required under federal and state equal employment opportunity and affirmative action laws.

#### NO DATA ON PERSONS WITH DISABILITIES

The State does not maintain statistics on persons with disabilities working in state government. Individuals with disabilities who are currently employed or who are applying for employment with the State are not included in the under-utilization reports provided to hiring officials. Because there are no federal or state requirements to maintain or monitor statistics on persons with disabilities working for the State, the Office of EEO does not plan to collect this data.

	Trend Analysis tives Employed By The St 9-time, Permanent Part-0 1990 - 1999	
Veor	Number of Alcoho Natives Employed	Percentage of Total Worldforce
1990	706	5.2
1991	690	5.0
1992	666	4.9
1993	631	4.7
1994	641	4.8
1995	612	4.5
1996	635	4.7
1997	625	4.7
1996	641	4.8
1999	657	4.9

		Employed By The Sta Permanent Full-time 1999 Monthly Salarie	6) - C	
Salary Group	Total Employees in Salary Range	Percentage of Total Employees	Number of Minority Employees	Minority Percentage of Selary Range
>6999	212	1.8	14	6.6
6000 - 6999	488	4.1	29	5.9
5000 - 5999	1,080	9.0	87	8.1
4000 - 4999	2,794	23.3	279	10.0
3000 - 3999	3,701	30.8	630	17.0
2000 - 2999	3,459	28.8	953	27.6
<2000	276	2.3	79	28.6
Tetal	12,010	100.1*	2,071	17.2

<sup>o</sup>Percentages have been rounded

		mployed By The Stat Permanent Full-time 1999 Monthly Scharte		
Salary Group	Totel Employees in Solary Range	Percentage of Total Employees	Number of Female Employees	Female Percentage of Solary Range
>6999	212	1.8	48	22.6
6000 - 6999	488	4.1	131	26.8
5000 - 5999	1,080	9.0	305	28.2
4000 - 4999	2,794	23.3	943	33.8
3000 - 3999	3,701	30.8	1,658	44.8
2000 - 2999	3,459	28.8	2,400	69.4
<2000	276	2.3	225	81.5
Total	12,010	160.1*	5,710	\$7.9

\*Percentages have been rounded

## STATE OF ALASKA EMPLOYMENT PROFILE MINORITIES FOR THE YEARS 1996 AND 1999 (PERMANENT FULL-TIME)

		1996			1999			
Department	Employees Minorities Minority Em	Total Employees	Number Minorities	Percentage Minority	Percentage Increase/ Decrease			
Office of the Governor	166	17	10.2	163	19	11.7	+1.5	
Administration	1,031	228	22.1	1,208	277	22.9	+0.8	
Community & Economic Development	365	60	16.4	397	75	18.9	+2.5	
former Community & Regional Affairs	169	36	21.3	3	1	33.3	+12.0	
Corrections	1,288	253	19.6	1,259	257	20.4	+0.8	
Education & Early Development	513	52	10.1	473	62	13.1	+3.0	
Environmental Conservation	448	45	10.0	418	47	11.2	+1.2	
Fish & Game	718	38	5.3	721	51	7.1	+1.8	
Health & Social Services	1,877	379	20.2	1,952	419	21.5	+1.3	
Labor & Workforce Development	557	110	19.7	581	107	18.4	-1.3	
Law	396	49	12.4	400	45	11.3	-1.1	
Military & Veterans Affairs	170	22	12.9	197	30	15.2	+2.3	
Natural Resources	544	50	9.2	501	46	9.2	0.0	
Public Safety	806	143	17.7	672	121	18.0	+0.3	
Revenue	439	88	20.0	425	90	21.2	+1.2	
Transportation & Public Facilities	2,590	377	14.6	2,640	424	16.1	+1.5	
Total	12,077	1,947	16.1	12,010	2,071	17.2	+1.1	

## Ranking Departments by Percentage of Minorities

Department	1999 Totola		
former Community & Regional Affairs	33.3		
Administration	22.9		
Health & Social Services	21.5		
Revenue	21.2		
Corrections	20.4		
Community & Economic Development	18.9		
Labor & Workforce Development	18.4		
Public Safety	18.0		
Transportation & Public Facilities	16.1		
Military & Veterans Affairs	13.2		
Education & Early Development	13,1		
Office of the Governor	11.7		
Law	11.3		
Environmental Conservation	11.2		
Natural Resources	9.2		
Fish & Game	7.1		

## STATE OF ALASKA EMPLOYMENT PROFILE

## Females For The Years 1996 And 1999 (Permanent Full-time)

		1996			Female Percentage		
Department		Percentage Female	lacrease/ Decrease				
Office of the Governor	166	113	68.1	163	115	70.6	+2.5
Administration	1,031	672	65.2	1,208	827	68.5	+3.3
Community & Economic Development	365	213	58.4	397	243	61.2	+2.8
former Community & Regional Affairs	169	97	57.4	3	1	33.3	-24.1
Corrections	1,288	397	30.8	1,259	415	33.0	+2.2
Education & Early Development	513	324	63.2	473	297	62.8	-0.4
Environmental Conservation	448	192	42.9	418	196	46.9	+4.0
Fish & Game	718	264	36.8	721	275	38.1	+1.3
Health & Social Services	1,877	1,200	63.9	1,952	1,269	65.0	+1.1
Labor & Workforce Development	557	325	58.3	581	341	58.7	+0.4
Law	396	252	63.6	400	263	65.8	+2.2
Military & Veterans Affairs	170	42	24.7	197	54	27.4	+2.7
Natural Resources	544	260	47.8	501	241	48.1	+0.3
Public Safety	806	346	42.9	672	241	35.9	-7.0
Revenue	439	251	57.2	425	253	59.5	+2.3
Transportation & Public Facilities	2,590	656	25.3	2,640	679	25.7	+0.4
Total	12,077	5,604	46.4	12,010	5,710	47.5	+1.1

## RANKING DEPARTMENTS BY PERCENTAGE OF FEMALES

Dependencent	1959 Tetala		
Office of the Governor	70.6		
Administration	68.5		
Law	65.0		
Health & Social Services	65.0		
Education & Early Development	62.8		
Community & Economic Development	61,2		
Revenue	59.3		
Lebor & Workforce Development	58.7		
Natural Resources	48.1		
Environmental Conservation	46.9		
Fich & Gome	38.1		
Public Safety	35.9		
former Community & Regional Affairs	33.3		
Corrections	33.0		
Militory & Veterans Affairs	27.4		
Transportation & Public Facilities	25.7		



**Back row left to right:** Commissioner Jim Chase, Commissioner Ruth Benson, Commissioner Kathy Wisthoff, Commissioner Aaron Isaacs. Front row left to right: Commissioner Martha Gore, Commissioner Christine Marasigan, Commissioner Joyce Bamberger. Alaska State Commission for Human Rights 800 A Street, Suite 204 Anchorage, AK 99501-3669