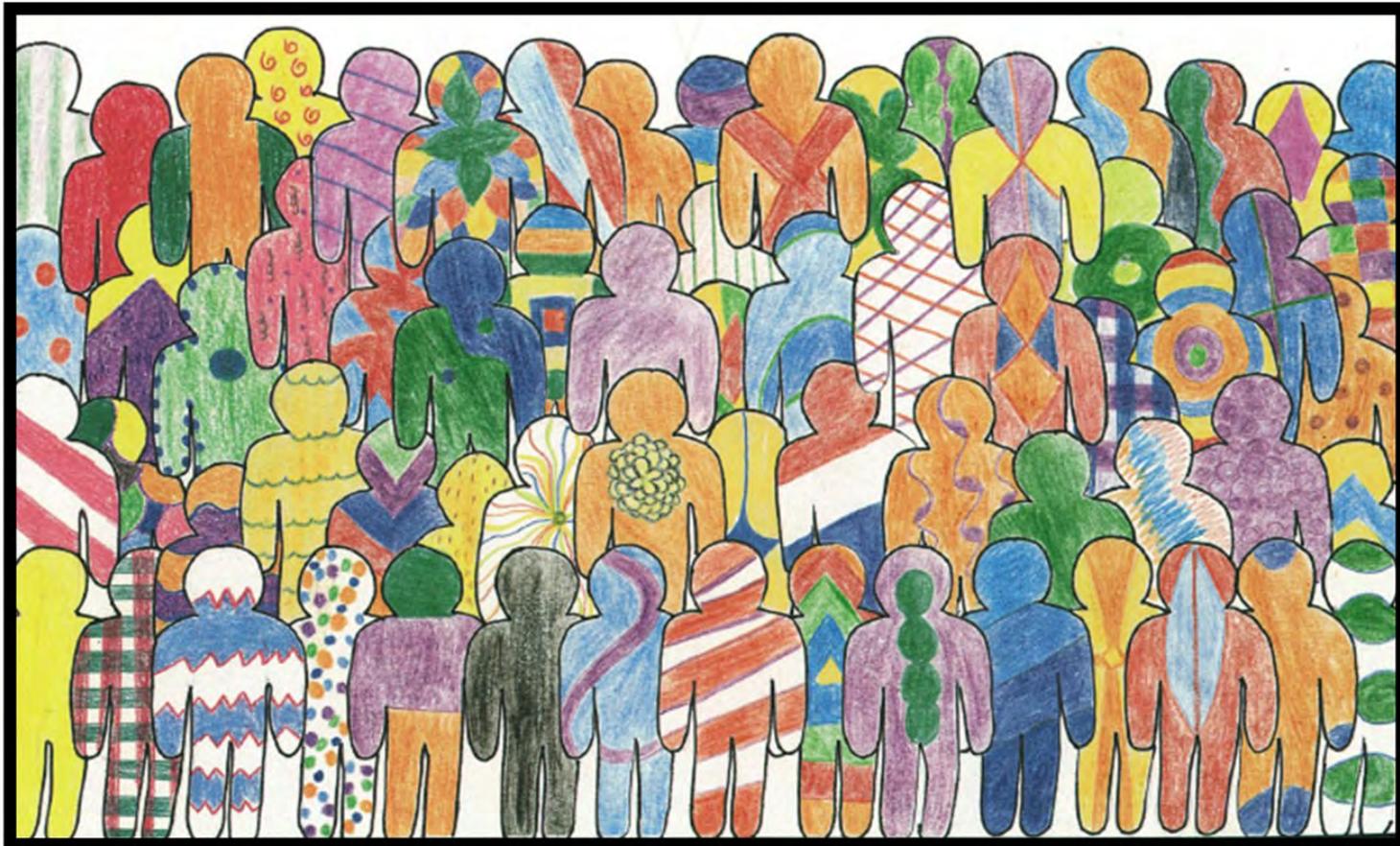


# ALASKA STATE COMMISSION FOR HUMAN RIGHTS



2016 ANNUAL REPORT



**ALASKA STATE COMMISSION  
FOR HUMAN RIGHTS**

**800 A Street, Suite 204  
Anchorage, Alaska 99501-3669**

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**1-907-274-4692**

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**<http://humanrights.alaska.gov/>**

Discrimination not only threatens the rights and privileges of the inhabitants of the state, but also menaces the institutions of the state and threatens peace, order, health, safety, and general welfare of the state and its inhabitants. Therefore, it is the policy of the state and the purpose of the Alaska Human Rights Law to eliminate and prevent discrimination.

Alaska Statute 18.80.200



The Honorable Bill Walker, Governor of Alaska  
 The Honorable Pete Kelly, President, Alaska Senate  
 The Honorable Bryce E. Edgmon, Speaker, Alaska House of Representatives

On behalf of the Commission, I respectfully submit the 2016 Annual Report of the Alaska State Commission for Human Rights. The Commission is entering its 54<sup>th</sup> year as Alaska's civil rights enforcement and education agency.

2016 was a year of change for the Commission. Longtime Chairperson Lester Lunceford submitted his resignation at the end of the year. He is to be commended for his many years on the Commission. His contributions have been invaluable over the years and he will be missed. The Commission also hired a new Executive Director after 28 year veteran Paula Haley retired. We developed our first ever 5-year strategic plan, an executive summary of which is contained in this report, and we have expanded our role to partner with other human rights agencies in outreach efforts in order to fulfill our vision of a discrimination free Alaska.

Our mediation program continues to draw accolades from participants who find our process fair to all parties. In 2016 we successfully mediated 28 of 42 cases, a 67% success rate.

This year we processed a total of 1674 inquiries, resulting in 363 complaints filed. The Commission saw a slight increase in complaints based on religion, parenthood and marital status. Our determinations of substantial evidence increased by 56% despite a decrease in complaints filed. Our case processing time improved significantly and we expect that to continue as we streamline internal processes. Staff has been working diligently to eliminate any and all backlogs, reducing open cases by 20% (91 cases) over year-end 2015.

The Commissioners and staff continue to be committed to the mission of eliminating and preventing discrimination by educating the public, conducting impartial investigations and fully enforcing the Alaska human rights law. The Commissioners ask for your continued support to see that the Commission is able to continue this important work

Kathryn Dodge  
 Acting Chairperson

### Contents

Commission and Staff	<b>2</b>
Complaint Resolution Process	<b>3</b>
Public Hearing Cases	<b>4-9, 12</b>
Summary of Closures	<b>10-11</b>
Litigation	<b>13-16</b>
Community Outreach	<b>17</b>
Strategic Planning	<b>18-19</b>
ASCHR Information	<b>20</b>

## COMMISSIONERS

**CHRISTA J. BRUCE**, Ketchikan  
**MICHELE CHRISTIANSEN**, Anchorage  
**KATHRYN E. DODGE**, Fairbanks  
**JASON B. HART**, Anchorage  
**BRANDON NAKASATO**, Anchorage  
**LESTER C. LUNCEFORD**, Anchorage  
**GRACE E. MERKES**, Sterling



**Alaska**  
**State**  
**Commission for**  
**Human**  
**Rights**

## COMMISSION STAFF

**Marti Buscaglia**, Executive Director

**Sarah Monkton**, Chief of Enforcement

**Stephen Koteff**, Human Rights Advocate

**Sara Bloom**, Human Rights Attorney

**Scott Damerow**, Administrative Officer

**Lindsey Coons**, Docket Officer

**Carolyn Thomas**, Law Office Assistant

**Shari Ketchum**, Commission Secretary

**Or'lanthia Lloyd**, Office Assistant

**Nanette C. Gay**, Investigations Director

**Matthew J. Jendrusina**, Investigations Director

**Linda Allen**, Investigator

**Gita Franklin**, Investigator

**Antoinette Hamilton**, Investigator

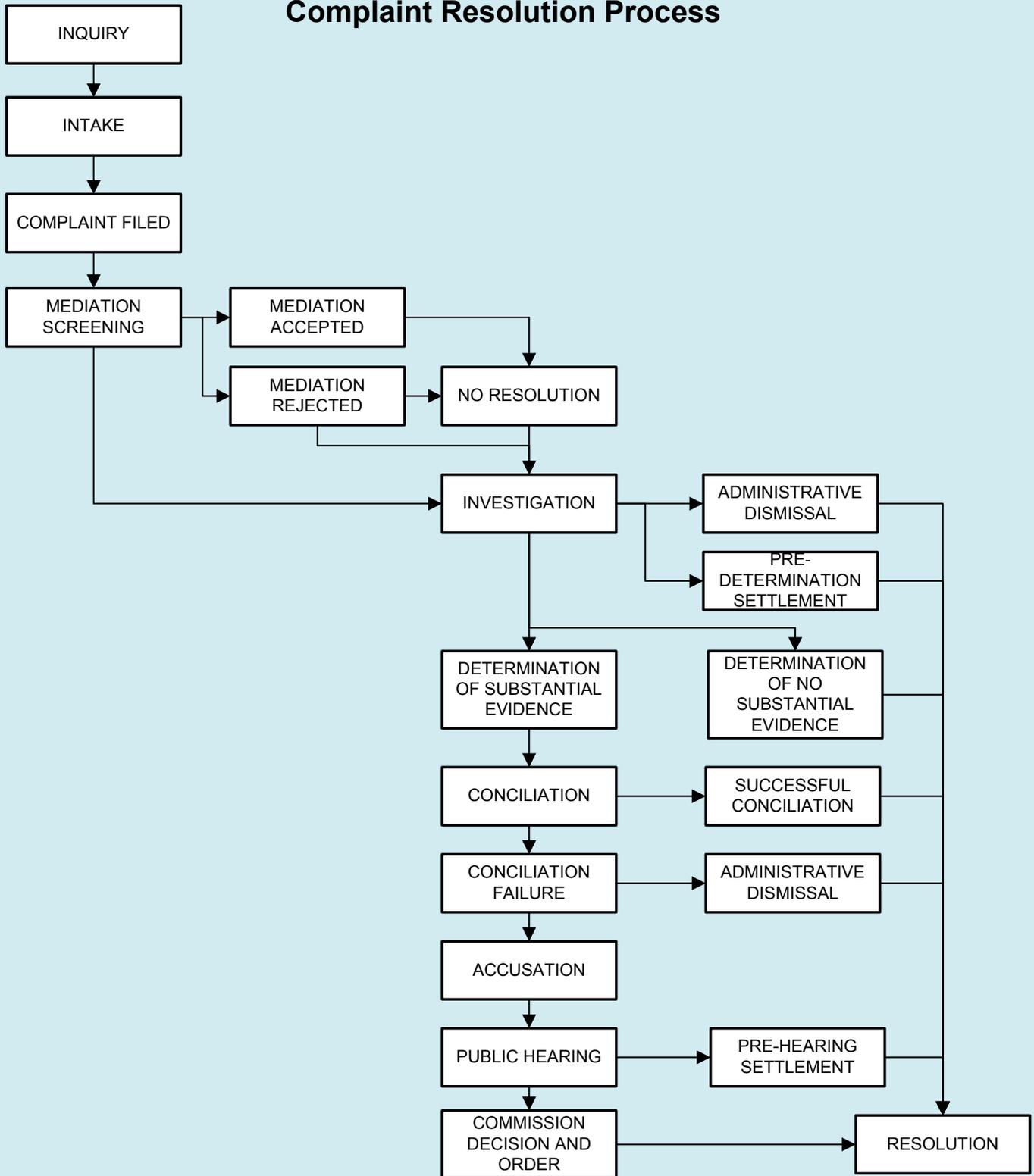
**Breanne Lee**, Investigator

**Mark Loper**, Investigator

**Jocelyn Thammavongsa**, Investigator

**Patricia Watts**, Investigator

## ALASKA STATE COMMISSION FOR HUMAN RIGHTS Complaint Resolution Process



### Job Security

A 70-year-old security guard alleged that her employer discriminated against her because of her age and treated her as disabled when it terminated her employment immediately after she notified her supervisor that she might need surgery. The security guard had worked for the employer off and on for more than 25 years, and had recently returned to work following an on-the-job injury. Commission staff found substantial evidence of discrimination and the parties agreed to conciliate the case. The employer paid \$7,548 in back pay to the security guard, adopted a non-discrimination policy, and provided training to its managers, supervisors and other employees on the laws prohibiting discrimination in employment.

### Limited Adventures

The Commission's Executive Director filed a complaint alleging that a company that offers outdoor excursions was engaging in a practice of denying its services to persons with disabilities and women who are pregnant. Commission staff investigated and found substantial evidence of discrimination. The company conciliated the case and agreed to revise its marketing materials and website to delete discriminatory language, revise the waiver form it requires customers to sign, and adopt a policy stating its commitment to accommodate persons with disabilities. The company also provided training to its managers and supervisors on the laws prohibiting disability discrimination.

## PUBLIC HEARING CASES

In the following cases, unless otherwise noted, the Commission staff found substantial evidence existed to support the complainants' allegations. Informal conciliation efforts were unsuccessful, and the staff referred the cases to the Commission for public hearing.

In *Claude Blake v. Sumitomo Metal Mining Pogo, LLC*, complainant alleged that respondent discriminated against him on the basis of his race, African-American, and age, fifty-one, when it refused to hire him into a permanent full-time surface equipment operator position. Complainant also alleged that he was subjected to a hostile work environment because of his race. A hearing scheduled for November 14-16, 2016 was vacated when the parties agreed to settle the case. The parties executed a settlement agreement in which respondent agreed to pay complainant \$70,000 in back pay and to provide training to its managers, supervisors, and employees on the laws prohibiting discrimination in employment. At the end of 2016, Commission staff was monitoring compliance with the agreement.



In *Jennifer Bozine v. Alaska Sales and Service, Inc.*, complainant alleged that she was discriminated against because of her sex when she was involuntarily transferred out of respondent's body shop while a less experienced male coworker was not transferred, and that she was forced to resign because she was prevented from pursuing her career as an automobile body painter. A hearing was held on March 2-3, 2015. On September 23, 2015, the administrative law judge issued a decision recommending dismissal of the case. On February 29, 2016, the hearing commissioners adopted the ALJ's recommended decision and dismissed the case.

In *Dennis Brown v. State of Alaska, Department of Corrections, Division of Institutions*, complainant, who was incarcerated in one of respondent's

facilities, alleged that respondent discriminated against him because of his disability when it refused to provide him with a cell that was accessible to persons with disabilities. A hearing scheduled for January 12–13, 2016, was continued when the parties agreed to settle the case. The parties entered into an agreement in which respondent agreed to provide appropriate facilities for inmates with disabilities and to modify its policies to ensure that accommodations provided to inmates were not withdrawn without conducting an individual assessments. On September 15, 2016, the Commission granted the Executive Director’s request to dismiss the case.

In ***Paula Buston v. Alaska Ship Supply***, complainant alleged that she was subjected to a hostile work environment by one of her coworkers and that respondent retaliated against her for complainant about the hostile work environment by terminating her employment. A public hearing is scheduled for March 20-22, 2017.

In ***Daren Cummings v. Alaska Logistics, LLC***, complainant alleged that respondent discriminated against him when it refused to investigate or remedy his complaint that a coworker had sexually harassed him, and that as a result his working environment had become so intolerable that he was forced to resign. A hearing scheduled for November 16–18, 2015, was continued after the parties agreed to settle the case. A final settlement agreement was executed on November 10, in which respondent agreed to pay complainant \$53,000 and to obtain training for its Alaska employees on the provisions of the Human Rights Law prohibiting discrimination in the area of employment. n February 8, 2016, the Executive Director filed a motion to dismiss based on respondent’s compliance with the settlement. The Commission granted the motion on March 29, 2016.

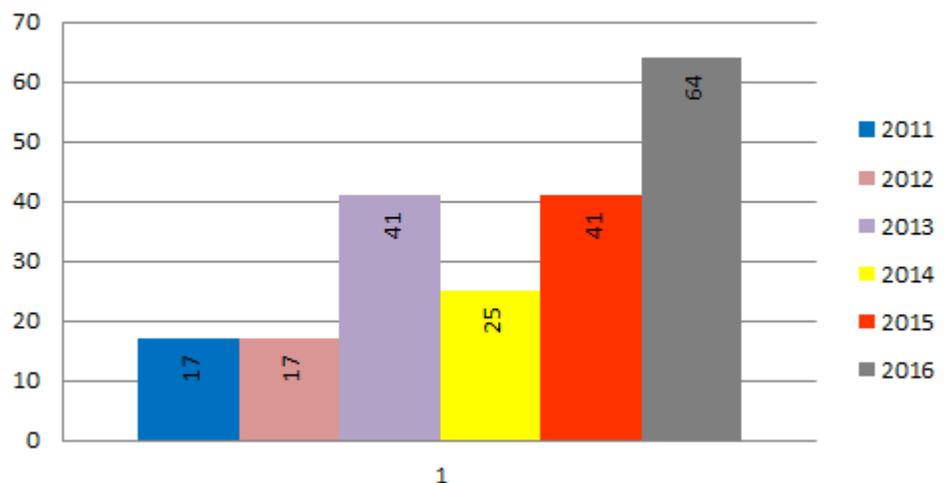
In ***Julia Echeverria v. Caribou Corp., d/b/a Caribou Family Restaurant, Caribou’s Tooth, Inc., Jackie Ray Morrell, and Elizabeth C. Johnson***, complainant alleged that respondent subjected her to a hostile work environment based on her sex and terminated her employment for complaining about discrimination. Complainant also alleged that respondent retaliated against her by attempting to induce her new employer to fire her after she filed a complaint of discrimination with the Commission. A hearing was held over the course of three days on March 31, April 1, and May 12, 2016. On July 27, 2016, the ALJ issued a recommended decision finding that the Executive Director had proven all of Ms. Echeverria’s allegations and recommending that the Commission award Ms. Echeverria back pay in the amount of \$36,623, plus interest, and front pay in the amount of \$7,180, and that the respondent

**Co-worker Indiscretion**

A cook who worked in an Anchorage restaurant alleged that he was discriminated against because of his age and treated as disabled, and that after he filed a discrimination complaint his employer retaliated by terminating him. The Commission’s investigation found that coworkers called the cook old and remarked about his poor eyesight. Investigation also found that after the cook filed a discrimination complaint he was threatened with physical harm by coworkers and his employer was aware of the threats but took no action. Commission staff found substantial evidence of discrimination. The parties reached a conciliation agreement in which the employer agreed to pay the cook \$10,000 and provide anti-discrimination training to its management and employees.

Substantial Evidence determinations issued each calendar year.

**SE Determinations Issued by Year**



### Blind Excursions

A blind cruise ship passenger alleged he was denied access to a shore excursion available to other passengers. He said the company's booking agent told him his vision impairment would prevent his participation and refused to consider a possible accommodation for his disability or to identify the excursion operator so the passenger could contact the operator. Commission staff found substantial evidence of discrimination and the parties agreed to conciliate the case. The company adopted a non-discrimination policy and procedures for engaging in an interactive process with passengers with disabilities to ensure that no passenger will be denied services or access to activities in Alaska without first determining whether a reasonable accommodation would be possible.

### Religious Matters

A seasonal sales associate alleged discrimination because of religion when her employment was terminated and she was evicted from employee housing for violating her employer's policy against alcohol on the premises. She alleged that her Mormon coworkers/housemates who violated the same policy in the same incident were not fired or evicted. The employer asserted that it discharged the non-Mormon associate because she failed to accept responsibility for her actions. Commission staff found substantial evidence of discrimination and the parties agreed to conciliate the case. The employer paid the associate \$2500 in back pay and provided training to its managers and supervisors on the laws prohibiting discrimination in employment.



Photo Credit: Colleen Roman

receive training in the laws prohibiting discrimination in employment. On December 30, 2016, the Commission issued a final order adopting all of the ALJ's recommendations.

In *Paula Haley, Connor Carle, and Sydney Peterson v. Sullivan's of Alaska, Inc., d/b/a Sullivan's Steakhouse*, the Executive Director and two individual complainants filed three separate complaints against respondent, alleging that respondent terminated the employment of at least five employees, including Mr. Carle and Ms. Peterson, because they were under the age of eighteen. A hearing was held on May 4-7, 2015. On June 14, 2016, the ALJ issued a recommended decision finding that the Human Rights Law does not protect persons under eighteen from age discrimination. The Executive Director filed objections to the recommended decision on June 30, 2016. The ALJ did not rule on the objections and forwarded the unchanged recommendation to the Commission on November 29, 2016. At the end of 2016, a decision by the Commission was pending.

In *Jetta Haynes v. Naomi Lee and Jung Lee, d/b/a Lily's Family Restaurant*, complainant alleged that one of respondent's owners subjected her to a hostile work environment based on her sex when he sexually assaulted her, and made her working conditions so intolerable that she had no choice but to resign. At the end of 2016, a hearing date in the case had not yet been set.

In *Denise Kichura v. Wasilla Health System, LLC*, complainant alleged that she was subjected to unwelcome sexual advances by her supervisor and that her supervisor denied her a promotion after she rejected the advances. Complainant also alleged that she was forced to resign after she complained to respondent about her supervisor's conduct and nothing was done. A

hearing scheduled for March 4–6, 2014, was vacated after the parties reached a settlement in which respondent agreed to provide training to its managers and supervisors on the provisions of the Human Rights Law. On September 26, 2016, the Executive Director moved to dismiss the case because respondent had substantially complied with the settlement’s terms. The Commission granted the motion and dismissed the case.

In *Mustafa Iflazoglu v. Anchorage Lakefront Limited Partnership, d/b/a Millennium Hotel & M&C Hotel Interests, Inc.*, complainant alleged that respondent terminated his employment because of his race, Arab, sex, national origin, Turkish, and religion, Muslim. A public hearing was scheduled for June 20–24, 2016, was continued and the parties reached an agreement to settle the case, in which respondent agreed to pay complainant \$65,625 in back pay and to train its management employees on the laws prohibiting discrimination in employment. On August 29, 2016, the Commission granted the Executive Director’s motion to dismiss the case after respondent complied with the terms of the settlement.

In *Frank Olson v. State of Alaska, Department of Corrections, Division of Institutions*, complainant, who was incarcerated at one of respondent’s facilities, alleged that respondent discriminated against him because of his disability when it refused to continue a reasonable accommodation in the form of a cell that was accessible to persons with disabilities when he was transferred from another facility. A hearing scheduled for January 12–13, 2016, was continued when the parties agreed to settle the case. The parties

**Evicted!**

A tenant with a mentally disabled child alleged that her landlord discriminated against her on the basis of her association with this disability. She was served with an eviction notice two days after there was an incident involving her child but that more severe incidents involving non-disabled tenants did not result in eviction notices. Complainant moved shortly after receiving this eviction notice.

The parties reached a predetermination settlement in which the landlord agreed to waive all damage claims against the tenant (estimated at \$2,700 including rent, utilities, and cleaning fee). The landlord also agreed to dismiss any pending eviction claims against this tenant.

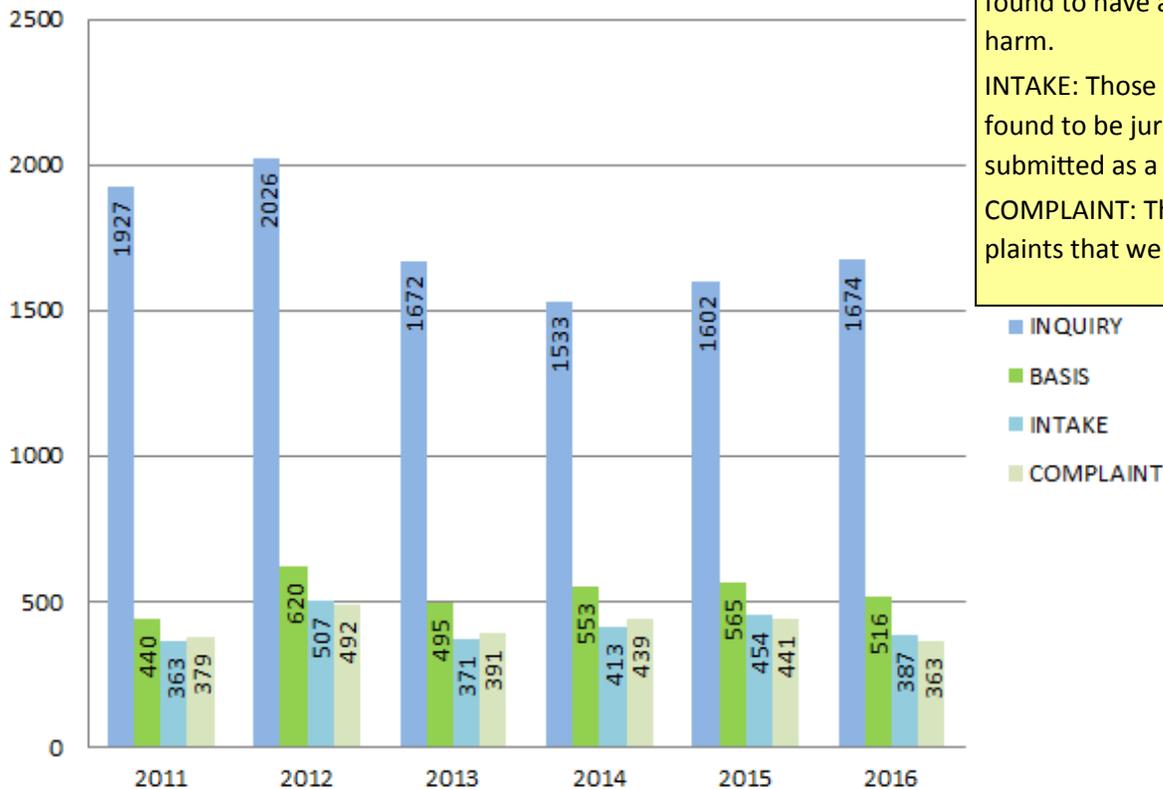
**INQUIRY:** The number of inquires ASCHR investigators received.

**BASIS:** The number of Inquiries found to have a valid Basis and harm.

**INTAKE:** Those Inquiries that were found to be jurisdictional and were submitted as a Complaint.

**COMPLAINT:** The number of Complaints that were Filed.

**Inquiries and Complaints by Year**





### Silent Treatment

A female human resources manager alleged that her employer discriminated against her on the basis of her sex and retaliated against her. She said that her direct supervisor sexually harassed her by offensive comments and conduct over 6 years of employment and when she complained to him, he did not speak to her for weeks at a time making it difficult for her to perform her duties. After complaining to her employer, she was placed on administrative leave, no corrective action was taken, and she was terminated within a month.

The parties mediated the complaint and settlement was reached. The employer agreed to pay \$25,000, and provide her with a neutral reference when contacted by prospective employers.

entered into an agreement in which respondent agreed to provide appropriate facilities for inmates with disabilities and to modify its policies to ensure that accommodations provided to inmates were not withdrawn without conducting an individual assessments. On May 24, 2016, the Commission granted the Executive Director's request to dismiss the case.

In *Olga Pawlaczyk v. Meritage Management Company LLC, d/b/a Inlet Tower*, complainant alleged that her employment as a housekeeping supervisor was terminated because of her national origin, Polish. An accusation was issued on April 17, 2015. The Executive Director subsequently learned that respondent had withheld information during the investigation that would have led her to dismiss the case. On October 12, 2015, the Executive Director filed a motion requesting that the administrative law judge recommend dismissal of the case and issue sanctions against respondent for its failure to disclose information. On February 23, 2016, the administrative law judge denied the Executive Director's motion for sanctions and recommended dismissal of the case. On July 5, 2016, the Commission issued a final order dismissing the case.

In *David Register v. State of Alaska, Department of Public Safety, Division of Alaska State Troopers*, complainant alleged that as a recruit in respondent's training program for Village Public Safety Officers he was subjected to a hostile environment based on his sex when other recruits were ordered to scrub him with brushes in the shower. At the end of 2016, a public hearing was scheduled for March 6-8, 2017.

In *Francis Roach v. Friendship Mission*, complainant alleged that he was discriminated against because of his disability when respondent refused his service dog admission to its homeless shelter. The parties agreed that the

case should be subject to summary adjudication and briefing. At the end of 2016, briefing was scheduled to be completed by January 6, 2017.

In *Harry Ross v. Alaska Railroad Corporation*, complainant alleged that respondent failed to promote him because of his race, Black. After a public hearing, the Commission dismissed the case. Complainant appealed the decision to superior court, and on March 30, 2012, the court reversed the Commission's decision and remanded the case to the Commission. The Commission referred the matter to the Office of Administrative Hearings, and the parties briefed the issues on remand to an administrative law judge. Briefing was completed on December 11, 2012. On April 28, 2014, the administrative law judge issued a decision recommending that the Commission again dismiss the case. On May 19, 2014, the ALJ forwarded the record to the Commission. On August 30, 2016, the Commission issued a final order dismissing the case.

In *Boris Sar v. Federal Express Corporation*, complainant alleged that respondent discriminated against him based on his disability when it refused to hire him as a courier because he is deaf. A public hearing is scheduled for May 9-12, 2017.

In *Makaen Serr v. ICE Services, Inc.*, complainant alleged that respondent treated her as a person with a disability when it terminated her employment as a dishwasher working at respondent's facility on the North Slope. Complainant asserted that she was fully capable of performing her job and that she was considered a valuable employee by her superiors in the company. A hearing scheduled for February 24-25, 2015, was continued after the parties entered into a settlement in which respondent agreed to pay complainant \$60,000 and to obtain training for its supervisors and

#### Filings by Complainant's Age

20 year and under	7
21 - 40 years	138
41 - 60 years	170
61 years and older	47
Director's Charge	1

#### Filings by Complainant's Race

Caucasian	188
Black	59
Native	44
Hispanic	24
Asian	19
Other	13
Unknown	12
American Indian	3
Director's Charge	1

#### Filings by Basis

	Single	Multiple
Physical Disability	56	45
Race/Color	36	63
Sex	23	73
Age	29	45
Retaliation	5	57
Mental Disability	21	22
National Origin	2	24
Religion	14	7
Retaliation For Filing	10	7
Pregnancy	9	6
Parenthood	2	3
Marital Status	2	3
Change in Marital Status	0	1
Multiple Issues	154	
Total Filings	363	

#### Filings by Issue

	Single	Multiple
Terms and Conditions	48	169
Fired	49	137
Harassment	3	45
Failure to Accommodate	12	35
Failure to Hire	21	7
Sexual Harassment	8	20
Other	4	12
Denied Service	6	6
Failure to Promote	2	7
Eviction	2	5
Demotion	1	5
Denied Credit	0	2
Failure to Rent	1	0
Failure to Dispatch	0	1
Multiple Issues	206	
Total Filings	363	

**Passing the Test**

A student alleged that the school discriminated against her on the basis of her pregnancy and disability, when it removed her from its program. During the school year, she provided the school with a doctor's note ordering bedrest due to complications with her pregnancy so she was not able to attend school. She took her remaining exams in December and in January requested retroactive withdrawal from the course due to her pregnancy and disability. Her request was denied and she was removed from the program.

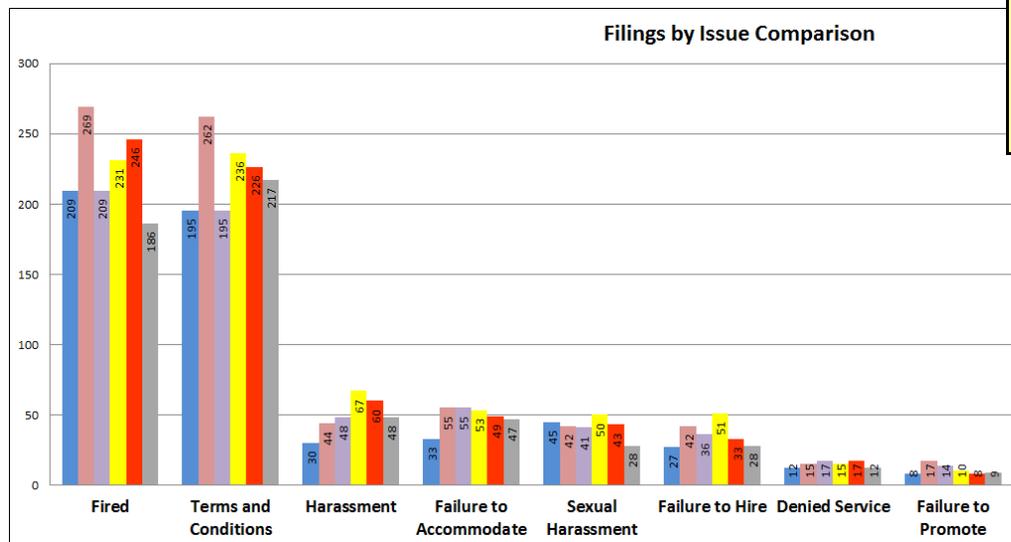
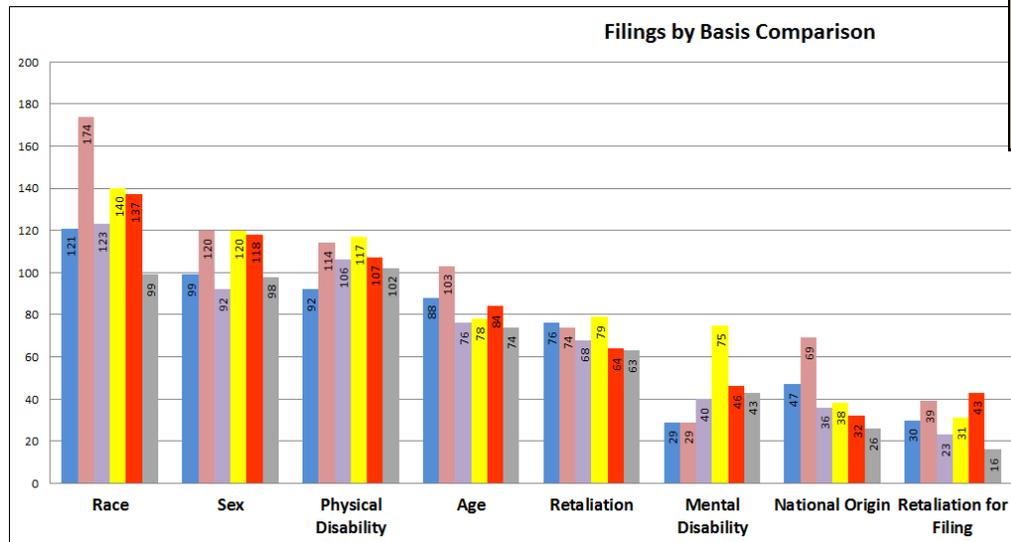
The parties reached a predetermination settlement in which the school agreed to allow her to retake the necessary test, to offer her tutoring, and allow her to reenter its program provided she is successful in meeting the standards set for satisfactory academic progress after the completion of this test.

**Equal Pay for Equal Work**

A female project manager alleged that her employer discriminated against her on the basis of her sex and retaliated against her. She said that she was paid less than male managers and that her supervisor subjected her to harassment and intimidation but did not treat male coworkers the same. No corrective action was taken and she was demoted one week later. The complainant said her working conditions became so intolerable that she felt she had no other choice but to resign.

The parties reached a predetermination settlement in which the employer agreed to pay her \$8,000.

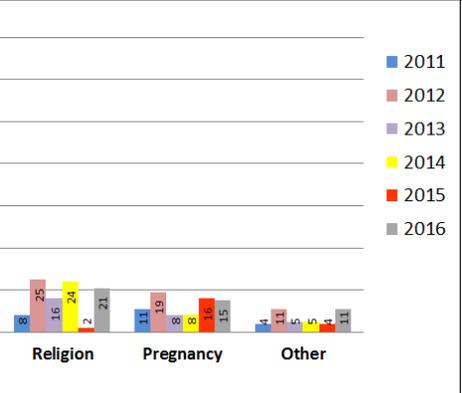
Category of Closure	2011	
	ASCHR	EEOC
Mediation	30	0
Administrative	51	11
Not Substantial Evidence	274	33
Conciliation and Settlement	19	3
Hearing	1	0
<b>Subtotal</b>	<b>375</b>	<b>47</b>
<b>TOTAL</b>	<b>422</b>	



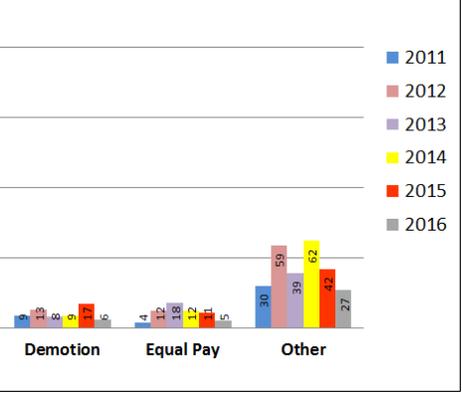
### Summary of Closures (2011-2016)

2012		2013		2014		2015		2016	
ASCHR	EEOC								
18	9	18	0	15	3	22	1	28	0
38	6	52	1	25	0	27	5	35	3
270	46	313	22	310	17	286	18	301	33
22	2	19	5	33	3	30	3	28	4
14	0	11	0	14	0	12	1	22	0
<b>362</b>	<b>63</b>	<b>413</b>	<b>28</b>	<b>397</b>	<b>23</b>	<b>377</b>	<b>28</b>	<b>414</b>	<b>40</b>
<b>425</b>		<b>441</b>		<b>420</b>		<b>405</b>		<b>452</b>	

Number of complaints filed by basis by calendar year.



Number of complaints filed by issue (harm) by calendar year.



### ANALYSIS OF 2016 CLOSURES

REASON FOR CLOSURE	
<b>NOT SUBSTANTIAL EVIDENCE</b>	<b>334</b>
<b>MEDIATION</b>	<b>28</b>
Mediation Successful	18
Mediation-Predetermination Settlement	8
Mediation-Complaint Withdrawn	2
<b>ADMINISTRATIVE</b>	<b>38</b>
Complaint Withdrawn	16
Lack of Jurisdiction	9
Tribal Sovereign Immunity	9
Administrative Dismissal	2
Complainant to Court	1
Complainant not Available	1
<b>CONCILIATION AND SETTLEMENT</b>	<b>32</b>
Substantial Evidence - Conciliation Finalized	27
Predetermination Settlement	5
<b>HEARING</b>	<b>22</b>
Administrative Dismissal by Hearing Unit	10
Prehearing Settlement	7
Decision for Complainant	2
Decision for Respondent	3
<b>Total Closures</b>	<b>454</b>



### Mediation in Action

A 51-year-old female systems network administrator alleged that her employer discriminated against her on the basis of her sex and her age. She was a long time employee who had received promotions and satisfactory evaluations under her prior manager. Her new manager began to treat her differently than her younger male coworkers by speaking to her harshly, giving her write-ups for minor mistakes, giving her poor evaluations, and decreasing her work assignments and did not treat the younger male coworkers similarly. Prior to the mediation, complainant retired and found another position elsewhere. The parties agreed to mediation and a settlement was reached. Respondent agreed to pay complainant the sum of \$17,500.

managers on the provisions of the Human Rights Law prohibiting discrimination on the basis of disability and the obligation to provide reasonable accommodations to employees with disabilities. On October 11, 2016, the Executive Director filed an unopposed motion to dismiss the case after the terms of the agreement were substantially satisfied, and the Commission granted the motion on October 14, 2016.

In *Andrea Westfall v. ICE Services, Inc.*, complainant alleged that respondent treated her as a person with a disability when it refused to hire her for a lead cook position at respondent's facility on the North Slope. Complainant

asserted that although she was respondent's preferred candidate, respondent rejected her application solely because she was taking a prescribed medication. After the accusation was filed, the parties entered into a settlement in which respondent agreed to pay complainant \$7,632 and to obtain training for its supervisors and managers on the provisions of the Human Rights Law prohibiting discrimination on the basis of disability and the obligation to provide reasonable accommodations to employees with disabilities. On October 11, 2016, the Executive Director filed an unopposed motion to dismiss the case after the terms of the agreement were substantially satisfied, and the Commission granted the motion on October 14, 2016.

In *Doretta Wheeler v. State of Alaska, Department of Health and Social Services, Palmer Pioneer Home*, complainant alleged that respondent discriminated against her because of her age, fifty-eight, and disability when it terminated her employment and subsequently refused to rehire her. A hearing was held on January 6–9, 2015. On October 30, 2015, the administrative law judge recommended that the Commission find that respondent discriminated against Ms. Wheeler and award her \$84,716 in back pay, plus interest, and conduct training on the provisions of the Human Rights Law. On March 7, 2106, the Commission adopted the administrative law judge's recommendation on back pay and, in addition, ordered the Respondent reinstate Ms. Wheeler to her position.

In *Steve Williamson v. North Slope Borough, Search & Rescue Department*, complainant alleged that respondent terminated his employment as a pilot because of his disability when it refused to grant him leave to regain his FAA certification after the certification was suspended because of his heart condition. A public hearing is scheduled for February 27-March 3, 2017.

## LITIGATION

In *Alaska State Commission for Human Rights v. Dori Lynne Anderson*, the Commission filed an action in superior court to compel a witness to respond to questions during an investigative interview. At issue is the Commission’s authority to require witness interviews to be conducted confidentially when the Commission investigates allegations of discrimination. The witness refused to answer questions unless she was accompanied by a third person of her choosing. The superior court dismissed the Commission’s enforcement action, and the Commission appealed the dismissal to the Alaska Supreme Court. At the end of 2016, briefing in the case had not been completed.

In *David Arbuckle v. Human Rights Commission*, complainant alleged that he was terminated from his position as a maintenance specialist with the State of Alaska because of his disability. Commission staff did not find substantial evidence to support complainant’s allegations and closed the case. On September 14, 2015, complainant filed an appeal with the superior court. The Commission filed a motion for remand to address issues that were not fully investigated before the case was closed. The court granted the motion and remanded the case on January 28, 2016.

In *Russell Baker v. Alaska State Commission for Human Rights*, complainant alleged that he was discriminated against in the terms and conditions of his employment as a pilot for Fed Ex in Hong Kong based on his marital status, and that his employment was terminated in retaliation for filing a complaint with the

### Filings by Type

Employment	303
Public Accommodation	25
Government Practices	19
Housing	14
Finance	2

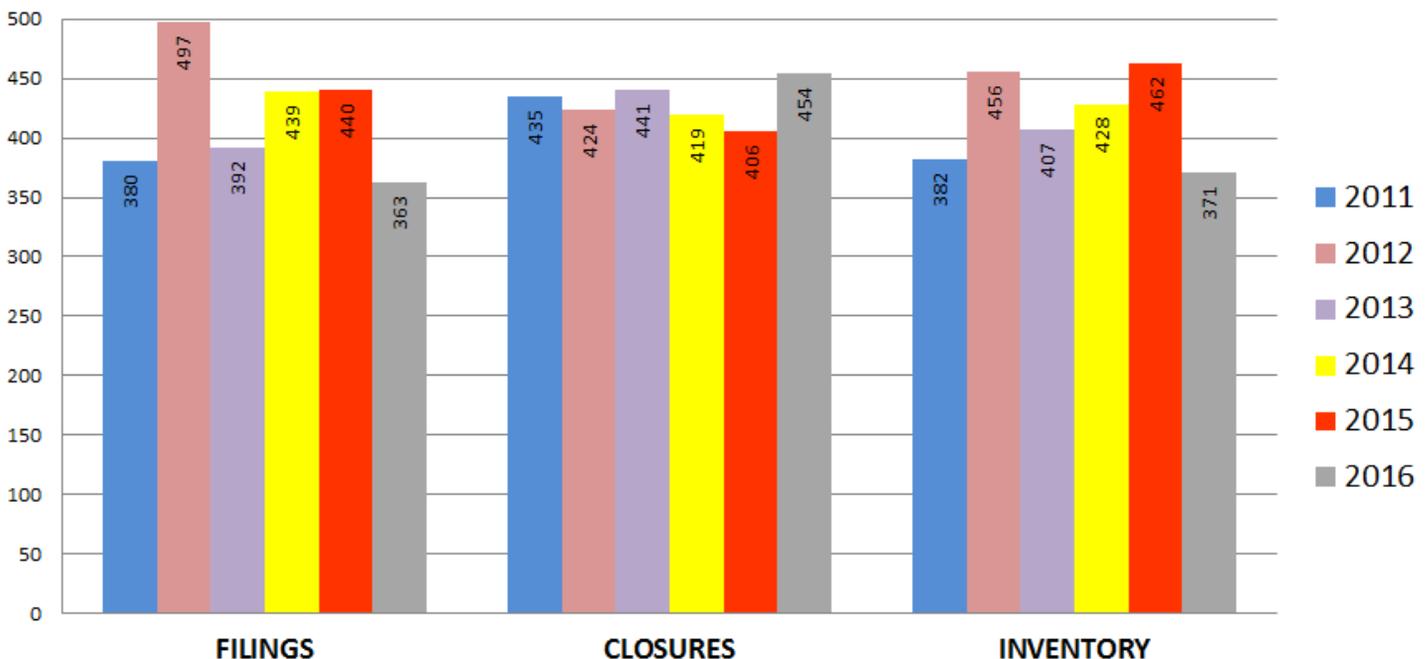
### Filings by Complainant's Sex

Female	190
Male	172
Director's Charge	1

### Filings and Closures by Year

**FILINGS:** The number of complaints filed in each calendar year.  
**CLOSURES:** The number of cases closed (ASCHR+EEOC) in each year.  
**INVENTORY:** The number of open cases carried over to the next calendar year.

Filings, Closures, and Inventory by Year



### Secure Offer

A male security officer alleged that his employer discriminated against him on the basis of his sex, treated him as if he were disabled and retaliated against him for complaining about discrimination. He said that his knee condition did not impair his ability to perform his job tasks. However, his supervisors commented about his walk, asked how long he intended to work and belittled him in front of coworkers and clients. His supervisors notified him he would be reprimanded for falsifying documents, which he denied. After he complained to his employer, its investigation supported his harassment allegations and asserted that corrective action would be taken. Two weeks later he was terminated for falsification and lying. He said a female coworker was not terminated for similar actions. The parties agreed to mediate this complaint. The parties reached a settlement in which the employer agreed to pay him \$50,000.

### Teach Our Children Well

A parent representing her disabled minor son alleged that her daycare provider discriminated against her on the basis of her son's disability by charging her an extra \$200 a month because of his disability. She said that her son does not receive daycare care services which are any different than those provided to non-disabled children. The parties reached a predetermination settlement in which the provider agreed to 1) pay her \$600 and give her a written apology and 2) charge the same fee for daycare services for children with disabilities and children without disabilities and to not charge an extra fee for disabled children.

Commission. Commission staff determined that the Commission did not have the authority to resolve complainant's allegations of marital status discrimination because complainant was employed by an out-of-state company in another country. Commission staff also determined that complainant's allegations of retaliation were not supported by substantial evidence. On July 27, 2015, complainant appealed the decisions to superior court. On May 9, 2016, the court remanded the cases to the Commission for further investigation and finding that the Commission had the authority to resolve complainant's marital status complaint.

In *Russell Baker v. Alaska State Commission for Human Rights*, complainant alleged that he was discriminated against based on his age when he was laid off from his position as pilot for Guardian Flight. Commission staff did not find substantial evidence to support complainant's allegations and closed the case. On May 25, 2016, complainant appealed the Commission's decision to superior court. At the end of 2016, briefing was complete but an oral argument date had not yet been set.

In *Frank Bauer v. Alaska State Commission for Human Rights*, complainant alleged that his employer, D & L Construction, discriminated against him in the terms and conditions of his employment as a landfill attendant based on his age, fifty-six, and his religion, Church of Jesus Christ of Latter-Day Saints. Commission staff did not find substantial evidence to support complainant's allegations and closed the case. Complainant appealed to the superior court on October 5, 2016. At the end of 2016, briefing had not yet been completed.

In *Kimberley Bernhardt v. Alaska State Commission for Human Rights*, complainant alleged that her employer, Interstate Brands Corporation, discriminated against her because of her physical disability when it refused to provide her with a reasonable accommodation and terminated her employment. On December 23, 2011, the Commission staff closed the case because complainant filed a complaint in superior court alleging the same violations of AS 18.80 as were alleged in her Commission complaint. Complainant appealed the decision to superior court. The appeal was stayed pending resolution of Chapter 11 bankruptcy proceedings filed by Interstate Brands Corporation. On January 15, 2016, the court dismissed the appeal based on an agreement of the parties.

In *Dennis Brown v. City and Borough of Juneau*, complainant alleged that he was discriminated against based on his disability when a bus operated by the respondent refused to allow him to board. Commission staff found that complainant was refused boarding but that the respondent took appropriate remedial action and dismissed the complaint for lack of substantial evidence. Complainant appealed the Commission's decision on May 19, 2015. On November 25, 2016, the court dismissed the appeal for lack of prosecution.

In *Natalie Hall v. Human Rights Commission*, complainant alleged that she was discriminated against because of her sex when she was subjected to unwelcome behavior of a sexual nature in the workplace. Commission staff

determined that complainant's allegation was not filed timely and dismissed the case. Complainant appealed to the superior court on July 2, 2015. On May 19, 2016, the court dismissed the appeal for lack of prosecution.

In *Angela Harrison v. Alaska State Commission for Human Rights*, complainant alleged that the State of Alaska, Division of Health Care Services, discriminated against her based on her race, Black, when she was subjected to racially derogatory remarks, and her physical disability when she was not allowed to flex her schedule. Commission staff did not find substantial evidence to support complainant's allegations and closed the case. Complainant appealed the dismissal of her case to superior court on February 18, 2016. On April 27, 2016, the court granted complainant's request to dismiss the appeal.

In *Connie Jacobs-Morin v. Alaska State Commission for Human Rights*, complainant filed three complaints alleging that 1) Mechanical Construction and Consulting, Inc., discriminated against her based on her sex when she was subjected to a hostile work environment and forced to resign, 2) she was discriminated against based on her sex and retaliated against for complaining about discrimination by SNC Lavalin Constructors, Inc., and that 3) she was discriminated against by her union, United Association Local 367, when the union failed to take any action when she reported that she was discriminated against on the job site. Commission staff determined that complainant's allegations of discrimination based on sex against her employers were supported by substantial evidence, but that her allegations of constructive discharge and termination were not supported by substantial evidence. Commission staff did not find substantial evidence to support complainant's allegations against her union. Complainant appealed the portions of the Commission staff's decisions that were adverse to her on October 26, 2016. At the end of 2016, the records on appeal had not yet been filed with the court.

In *Gilma Rodas v. Alaska State Commission for Human Rights*, complainant alleged that her employer, Ocean Beauty Seafoods, LLC, discriminated against her because of her physical disability when it refused to provide her with a reasonable accommodation and terminated her employment. Commission staff did not find substantial evidence to support complainant's allegations and closed the case. On November 30, 2012, complainant filed an appeal with the superior court. On September 30, 2016, the court dismissed the appeal for lack of prosecution.

In *Harry Ross v. Alaska State Commission for Human Rights*, complainant alleged that the Alaska Railroad Corporation failed to promote him because of his race, Black. After a hearing, the Commission dismissed the case. Complainant appealed the decision to superior court, and the court reversed the Commission's decision and remanded the case to the Commission. The parties had briefed the issues on remand to an administrative law

### Dog Fight

A customer with a disability alleged that a motel refused to reserve a room for her if she was accompanied by her service dog, citing a "no pets" policy. The motel asserted that it tried to give the customer a phone number for another place that allowed "pets," but the customer objected and ended the conversation. Commission staff found substantial evidence of disability discrimination because the Alaska Human Rights Law does not allow a public accommodation to refuse its services to a person with a disability because the person is accompanied by a service dog. The parties signed a conciliation agreement that required the motel to obtain training for its staff regarding service animals and the laws prohibiting disability discrimination.



### Made to Order

A 56-year-old server alleged that her employer discriminated against her on the basis of her age and treated her as if she were disabled. Two months after her hire, she hurt her back while lifting a heavy tray and her supervisor told her she was too old. After the supervisor was subsequently promoted, she began to target her for discipline over minor mistakes on order forms. The supervisor extended her probation for an additional 30 days and then terminated her during this period. The parties agreed to mediation and a settlement was reached.

Respondent agreed to pay complainant the sum of \$2,000 and complainant agreed to be responsible for any taxes due on this sum. Both parties agreed to keep this complaint and the terms of this settlement confidential and not disclose this information to third parties.

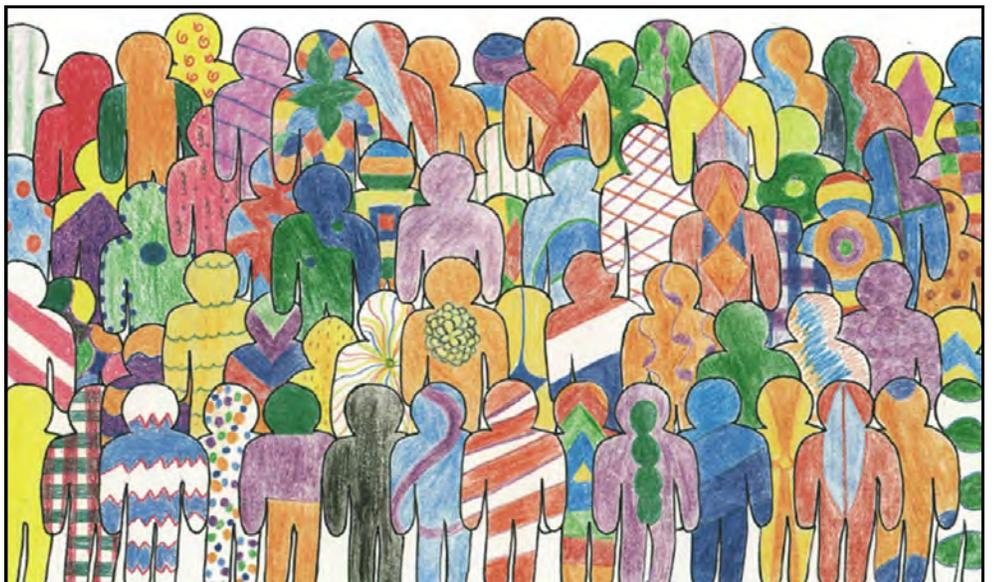
### When Dogs Fly ...

A woman whose husband has a disability and uses a service dog alleged that they were discriminated against by a company that offers wilderness flightseeing tours that include a brief stop to walk around and take pictures. The company refused to transport the service dog. Commission staff found substantial evidence of disability discrimination because the company failed to consider if a reasonable accommodation was possible. The parties conciliated the case and the company adopted a policy that requires it to always engage in a discussion with a disabled customer to try to find an accommodation that will allow access to the company's services. The company also obtained training for its managers and supervisors on disability discrimination and the reasonable accommodation process.

judge who recommended that the case again be dismissed. On August 30, 2016, the Commission adopted the ALJ's recommendation for dismissal and closed the case. Complainant appealed to the superior court on September 27, 2016. At the end of 2016, briefing had not yet been completed.

In *Salesia Rush v. Alaska State Commission for Human Rights*, complainant alleged that the State of Alaska, Department of Health and Social Services, discriminated against her on the basis of her race, African-American, age, forty-seven, and retaliated against her for filing a previous complaint with the Commission when it forced her to resign from her position. Commission staff did not find substantial evidence to support complainant's allegations and closed the case. On June 30, 2016, complainant appealed the decision to superior court. The Commission filed a motion for remand to address issues that were not fully investigated before the case was closed. The court granted the motion and remanded the case on September 22, 2016.

In *State of Alaska, Department of Health and Social Services, Division of Pioneer Homes v. Alaska State Commission for Human Rights*, the Executive Director alleged in a hearing before the Commission that the State discriminated against Doretta Wheeler because of her disability when it terminated her employment as a Certified Nurse Aide. A hearing was held on January 6-9, 2015. On October 30, 2015, the administrative law judge recommended that the Commission find that respondent discriminated against Ms. Wheeler and award her \$84,716 in back pay, plus interest, and conduct training on the provisions of the Human Rights Law. On March 7, 2016, the Commission adopted the administrative law judge's recommendation on back pay and, in addition, ordered the Respondent reinstate Ms. Wheeler to her position. On March 30, 2016, the State appealed the Commission's final order to superior court. At the end of 2016, briefing had not yet been completed.



## COMMUNITY OUTREACH

In 2016, the Commission renewed its focus on outreach. Informing the public of the resources available to them through ASCHR is paramount to our mission and enhances our reputation as a valuable resource to the public. It is important for the business community to see us as an ally in helping them to train their managers and inform their employees of the laws against discrimination. It is as important for workers, tenants and the general public to know their rights under the law and to feel free to exercise those rights under protection of the law.

### Outreach Conducted in 2016

- Legislative staff training
- Anchorage Chamber of Commerce “Make It Monday” Forum
- EEOC Annual FEPA meeting
- CLE – Workplace Harassment and Disability Law
- Presentation to the Alaska Bar on changes at ASCHR and EEOC new developments with Bill Tamayo, EEOC Director, San Francisco District Office
- Visit to Ketchikan
  - 4 high school classes
  - Meeting with Alaska Native leaders
  - Chamber of Commerce Workshop
  - Chamber of Commerce Luncheon Presentation
  - Meeting with Ketchikan Community Leaders
  - Talk Radio guest with KRBD and KTKN
  - Interviews with Ketchikan Daily News, KPU TV
- FBI meeting on referrals
- DOJ training on immigration
- Islamic Community Center Anchorage, Alaska (ICCAA) meeting for research and referrals
- UAA Multicultural Community Focus Group
- Human Trafficking Working Group/Enforcement Subgroup
- Diversity, Equity, Inclusion Community Engagement Meetings
- “Know your Rights” Community Roundtable
- Workplace Discrimination in Alaska joint workshop with AERC
- Community Conversation on Diverse, Immigrant and Refugee Populations in Anchorage
- Media interviews with Alaska Public Radio, Your Alaska Link

## STRATEGIC PLAN 2017-2022

### MISSION

**To eliminate and prevent  
discrimination for all Alaskans**

### VISION

**An Alaska free of discrimination**

### GUIDING PRINCIPLES

- Integrity in all we do
- An organization built on mutual respect
- Data-driven and accountable
- Promoters of equality for all Alaskans
- Meaningful application of resources
- Continuous improvement
- Respectful representation of the constituents we serve
- Enforcement is a tool, not a goal

### PURPOSE STATEMENT

“Discrimination not only threatens the rights and privileges of the inhabitants of the state, but also menaces the institutions of the state and threatens peace, order, health, safety, and general welfare of the state and its inhabitants. Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination. It is also the policy of the state to encourage and enable physically and mentally disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment.”

AS 18.80

### EXECUTIVE SUMMARY

The Alaska State Commission for Human Rights was established in 1963 by Statute (A.S. 18.80.10 et seq.) with the overarching goal of eliminating and preventing discrimination in the State of Alaska. The purpose was twofold, to be a resource for public education on discrimination and to be an enforcement agency.

As the years progressed, although the education component was never abandoned, it became less and less prevalent and enforcement took a major role. A recent study (2016) conducted by EEOC shows that prevention training can result in fewer complaints of discrimination if the training transitions from the current focus on employer liability to a more inclusive, culturally based training that includes workplace civility and bystander intervention training. The commitment to a harassment free workplace must start at the top and be part of a company’s culture. ASCHR has the opportunity to become a major player in restructuring training to include effective prevention training. It must be a critical part of our mission to educate the public on the law, what constitutes discrimination and how to prevent it in the workplace, in places of public accommodation, in housing, in financial institutions and in government services.

Conducting this outreach throughout the State will greatly enhance our effectiveness and promote the achievement of our mission. Business owners and managers, state agencies and landlords need to see us as a resource to help them address internal factors that contribute to incidents of discrimination. Too often, we are viewed as the enemy because they see us or hear from us only after a complaint has been filed.

We also should be at the leading edge of analyzing our statute and making recommendations for change that will help us better serve all Alaskans. As social change takes place and the business climate follows suit, we must ensure our laws and regulations under AS 18.80 are addressing the needs and concerns of our constituents, the people of Alaska.

Internally, ASCHR has an opportunity to improve our efficiency by implementing and applying technology, by monitoring workflow throughout each step of the process to ensure timely resolution of all cases and by providing opportunities for professional development for our employees.

In the past five years we have taken 8,819 inquiries, processed 2,122 complaints and found substantial evidence in 188 of those complaints. These statistics are similar to those of other state and federal human rights agencies. Factors contributing to this figure include allegations, even when founded in truth, that are difficult to corroborate, employers that settle with the complainant prior to a finding of discrimination, and our own successful mediation program which resolves cases prior to the investigation process by providing an opportunity for complainant and respondent to communicate and understand each other’s viewpoints.

Our mediation program has an extremely high success rate with 64% of mediated cases settled prior to investigation. In 2016 we offered mediation in 200 cases, there were 42 mediations held with 26 successful closures.

Our strategic plan will address ways to increase participation in this program. Among other strategies, our most important priority will be to divert an investigator position to mediation and outreach. This individual will be tasked with increasing mediation cases by a minimum of 10% annually as well as conducting outreach and training.

Our final, and perhaps biggest challenge, will be to deal with our counter-cyclical nature. When the economy is down, complaints go up. Proper allocation of resources will be essential to maintaining our agency as an effective deterrent to discrimination in a State that is rapidly changing and hosts the most diverse school district in the nation.

In this era of increased fiscal responsibility, we must aspire to self-sufficiency and innovate in order to increase our scope throughout Alaska. We will seek out grants, look for potential revenue streams and seek partnerships that add an element of sustainable self-sufficiency. We are dedicated to providing excellent service despite a declining budget forecast, and have identified efficiencies and opportunities – in technology, case processing, and community partnerships – that will allow us to move closer to our vision.

### **STRATEGIC GOALS**

#### **Goal 1: Create an environment where people feel appreciated and valued.**

- Employee succession plan
- Opportunity for Advancement
- Training & professional development
- Increased Staff/Commission Interaction
- Improved inter-agency and intra-agency communication
- Enhance teambuilding opportunities

#### **Goal 2: Become a respected and welcomed resource to the community through public education, information and training**

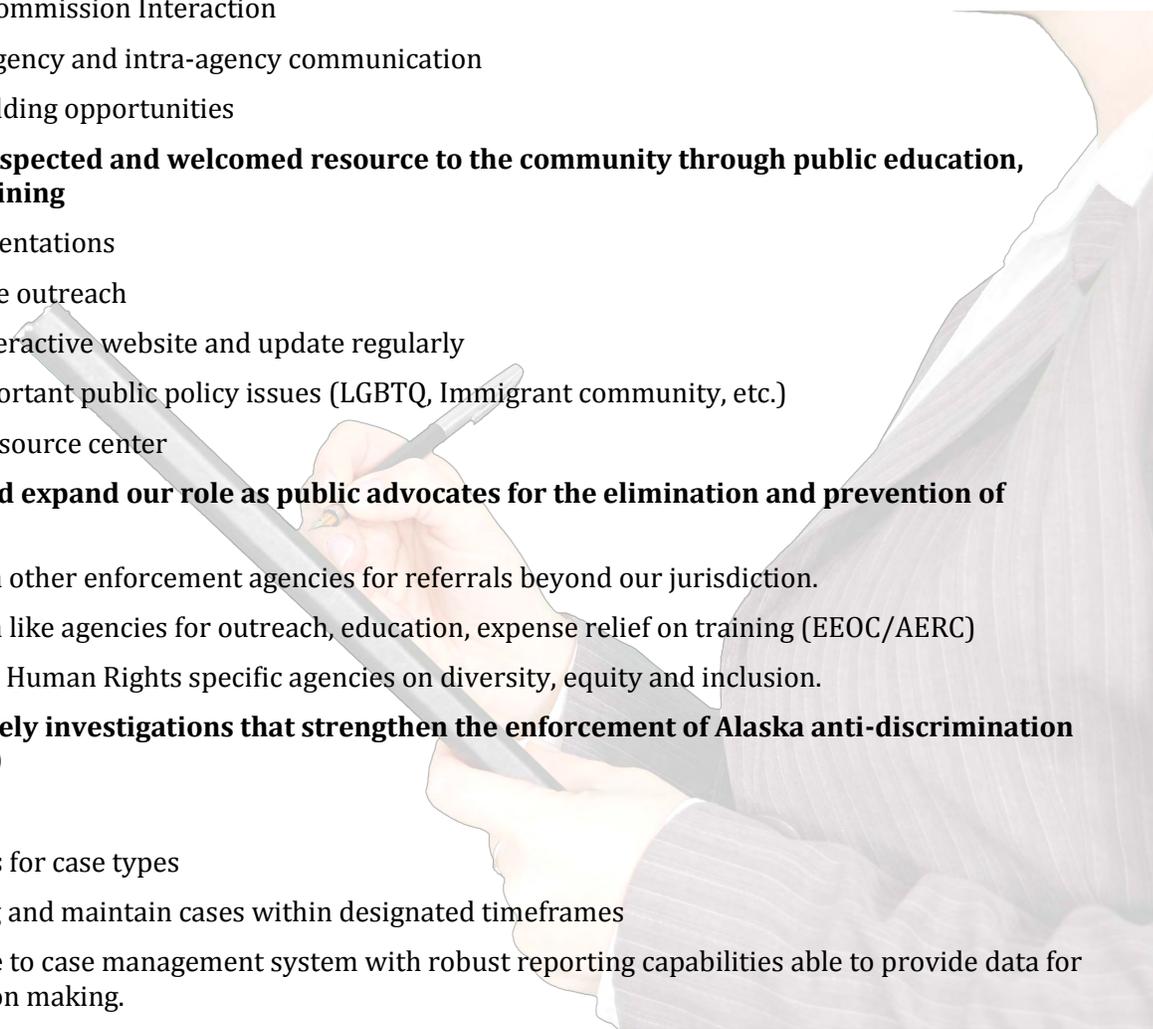
- Outreach via presentations
- Worker's resource outreach
- Create a more interactive website and update regularly
- Advocacy for important public policy issues (LGBTQ, Immigrant community, etc.)
- Create training resource center

#### **Goal 3: Continue and expand our role as public advocates for the elimination and prevention of discrimination**

- Partnerships with other enforcement agencies for referrals beyond our jurisdiction.
- Partnerships with like agencies for outreach, education, expense relief on training (EEOC/AERC)
- Involvement with Human Rights specific agencies on diversity, equity and inclusion.

#### **Goal 4: Conduct timely investigations that strengthen the enforcement of Alaska anti-discrimination laws under AS 18.80**

- Process Mapping
- Develop timelines for case types
- Eliminate backlog and maintain cases within designated timeframes
- Upgrade database to case management system with robust reporting capabilities able to provide data for thoughtful decision making.



### What is the Human Rights Commission?

The Alaska State Commission for Human Rights is the state agency which enforces the Alaska Human Rights Law. The Commission consists of seven people appointed by the Governor and confirmed by the Legislature. The Commission is located in Anchorage. The Commission has statewide powers and accepts complaints from all regions of the state.



### How Can The Commission Help You?

If you believe that you have experienced discrimination, contact the Commission staff. We will provide information about your rights under Alaska Human Rights Law and may assist you to file a complaint, if appropriate.

If you have questions about your rights or responsibilities under the Alaska Human Rights Law, please call the Commission for information.

### What does the Human Rights Commission Do?

#### *The Commission staff:*

- ◆ **Accepts** complaints of discrimination from persons alleging violations of Alaska Human Rights Law;
- ◆ **Investigates** complaints in a fair and impartial manner;
- ◆ **Attempts** early settlement of complaints whenever possible;
- ◆ **Dismisses** complaints when no violation of Alaska Human Rights Law has occurred;
- ◆ **Conciliates** (helps to resolve) complaints when Alaska Human Rights Law has been violated;
- ◆ **Presents** cases at public hearing before the Commission where investigation has found substantial evidence that discrimination occurred;
- ◆ **Gives** technical assistance and advice on Alaska Human Rights Law; and
- ◆ **Conducts** workshops and training for employers, unions, landlords, businesses, and others who must comply with the Alaska Human Rights Law.

# SUPPORT HUMAN RIGHTS



## END DISCRIMINATION IN ALASKA

THIS PUBLICATION WAS RELEASED BY THE OFFICE OF THE GOVERNOR, ALASKA STATE COMMISSION FOR HUMAN RIGHTS, AS REQUIRED BY AS 18.80.150.

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 LISTED.

