



ANNUAL REPORT

Fiscal Year 2019

December 31, 2019

HRC Commissioners and their Terms of Appointment

All appointments are for five-year staggered terms and expire on the last day of February.

Kevin “Coach” Christie, Chair	2018-2023
Nathan Besio	2007-2022
Donald Vickers	2008-2021
Dawn Ellis	2015-2020
Joan Nagy	2019-2024

HRC Staff

Name/Position	SOV Date of Hire
Bor Yang, Executive Director	11/30/2015, Appointed ED 11/13/2018
Nelson Campbell, Supervising Attorney	4/27/2010
Melissa Horwitz, Staff Attorney Investigator	10/22/2018
Cassandra Burdyshaw, Staff Attorney Investigator	11/26/2018
John McKelvie, Executive Staff Assistant	11/13/2018
Amanda Garcés, Director of Policy, Education and Outreach	12/2/2019

HRC Contact Information

Office hours:	7:45 a.m. - 4:30 p.m. Monday - Friday
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Fax number:	(802) 828-2481
Mailing address:	14-16 Baldwin Street, Montpelier, VT 05633-6301
E-mail address:	human.rights@vermont.gov
Website:	hrc.vermont.gov

Vermont Human Rights Commission

MISSION STATEMENT

The mission of the Vermont Human Rights Commission is to promote full civil and human rights in Vermont. The Commission protects people from unlawful discrimination in housing, state government employment and public accommodations.

STRATEGIES TO ACHIEVE THE MISSION AND VISION

The Commission pursues its mission by:

- Enforcing laws through investigations and litigation

Complaints alleging violations of anti-discrimination laws are investigated impartially and decided in a timely manner by the Human Rights Commission.

- Conciliating disputes pre and post investigative reports

Complainants and Respondents are offered timely and meaningful access to mediation services or informal means of conciliation that promote mutually satisfactory resolutions to their disputes.

- Educating the public and providing information and referrals

HRC staff offer information, referrals, educational programs and educational training to those who request these services. Additionally, HRC staff requests relief in the form of training in all post-investigative settlements and when appropriate, in pre-investigative settlements. HRC staff engage in coalition and community activities that address the needs of members of protected categories.

- Advancing effective public policies on human rights

The HRC provides leadership in public policy development with respect to civil and human rights issues in Vermont and presents testimony to the Legislature on such issues as well as advice to the executive and judicial branches upon request.

EXECUTIVE SUMMARY

It was a year of transition at the Human Rights Commission. The Commission was short one Staff Attorney Investigator for ten months, the former Executive Director retired, and the HRC hired three new staff members. The Human Rights Commission also welcomed new Commissioner Joan Nagy, appointed by Governor Phil Scott and approved by the Senate in 2019.

In light of these transitions, the Commission experienced many successful outcomes in Fiscal Year 2019 (FY19). The HRC completed the Department of Housing and Urban Development's (HUD) two-year assessment review and was re-certified as a grantee. In addition to receiving its annual federal grant, the HRC was awarded a \$25,000 partnership grant from HUD to engage in greater outreach with Vermont's immigrant communities.

The Governor supported the HRC with additional funding of \$50,000 annually, which allowed the HRC to move its existing staff attorneys to the State of Vermont's staff attorney pay plan. The Legislature supported the HRC with additional funding of \$85,000 annually, for a new position: Director of Policy, Education and Outreach.

The HRC celebrated its 30th Anniversary with the Governor, Lieutenant Governor, Legislators, state leaders, former and current HRC staff and commissioners, and many community members.

The HRC reached over a thousand Vermonters in trainings and outreach events. Equally important, it expanded its training programs to provide deeper learning and practical tools for Vermont agencies, businesses, practitioners, and service providers. Specifically, the HRC expanded its Fair Housing training to include more information on reasonable accommodations, service and assistance animals, and mental health in tenancy. Additionally, the HRC expanded its implicit bias training to provide entity-specific advice and practical tools for meaningful change. The HRC is also developing bystander intervention training and working to develop an annual civil rights conference.

As the Commission celebrates these successes, it has also been a time of reflection and strategic thinking, particularly in recognizing that we are far from realizing the intent and vision of the Legislators and community members who boldly created the Commission thirty-one years ago. They envisioned a Vermont that is knowledgeable about human and civil rights, whose citizens are empowered in the pursuit of equal access, and where dignity, respect, equality and fairness are afforded to all. It is with an unwavering commitment to this vision that the HRC pursues its statutory responsibilities and provides the following information, statistics and recommendations. May we continue this work in solidarity.

LIMITATIONS OF STATISTICS

For a number of reasons, the frequency, nature, and state of discrimination in Vermont is not reflected in the number of calls, complaints, investigations opened or closed at the Human Rights Commission or the number of cases that reach a reasonable grounds determination or litigation.

First, many people who have experienced discrimination never file complaints. In general, individuals fear that by coming forward they risk retaliation and potentially losing their housing, job, or future positive or neutral references. These circumstances are exacerbated in a small state like Vermont where economic and housing opportunities are scarce, and an individual's identity and reputation are more public.

Second, following through with a complaint and investigation requires an investment of time and resources that complainants who have experienced the trauma and stress of discrimination, homelessness, and/or unemployment, may lack. For example, an individual wrongfully denied housing due to a protected status is not likely to file a complaint for housing discrimination at the same time she is frantically seeking shelter for herself and her family.

Third, individuals who have experienced discrimination are disillusioned by a system that reliably fails to hold perpetrators accountable. Employers, landlords, and rental managers may have unclear or nonexistent policies and procedures for reporting concerns. Pursuing a claim may subject the complainant to scrutiny of their allegations and their character. Furthermore, court interpretation of federal and state laws has made it extremely difficult for a plaintiff to prevail in their discrimination lawsuit.

For the minority of individuals who have already lost their housing, their positions, their future employment references, or their economic opportunities, and/or are courageous enough to risk those losses and have the time and resources to pursue a claim, there may be several forums available to them outside the HRC. These include filing a complaint at the Office of Civil Rights or Agency of Education. Complainants may pursue a private cause of action through private attorneys or the American Civil Liberties Union or Vermont Legal Aid. Some complainants also grieve their discrimination claims before their employer, landlord, property managers, school boards, the Labor Relations Board, etc.

Other variables impacting HRC statistics include a lack of resources at the agency and the many transitions that occurred in FY19. Since its inception, the Commission has been understaffed and unable to commit significant resources to outreach and education. Many community members are unaware of the HRC and the benefits of pursuing a claim. In 2019, the Legislature supported a new position at the HRC that would focus on proactively addressing systemic discrimination. This support will allow the HRC to capture the awareness of parents, students and other community members that have traditionally been outside the HRC's reach.

RECOMMENDATIONS TO OUR COMMUNITY

When agencies, departments, boards, business owners, service and housing providers, supervisory unions, schools, teachers and parents proactively address discrimination, commit resources to training, regularly review policies and procedures, and let down their defenses, they affirmatively acknowledge the dignity of their customers, students, children, and neighbors. The Commission recommends that communities not wait until a complaint or grievance is filed before taking action.

To community members who have faced discrimination in housing, places of public accommodations and employment, the Commission encourages you to report it, because you have the right to exist in a discrimination-free environment. A complaint of discrimination at the HRC may benefit you in the following ways:

1. A complaint of discrimination immediately puts that school, store, employer, etc. on notice of a legal problem and the discrimination may immediately cease.
2. A complaint can stop discrimination from happening to others. The Respondent and his/her/their staff may receive training and may have to develop policies and procedures or make practical changes that will impact the culture and climate where you live, shop and work.
3. It can mean monetary compensation to you. It may result in a significant change in management. You may receive opportunities to transfer position, schools, etc.
4. Reporting discrimination informs our Governor, our Lawmakers and our community members that despite the progress we've made, discrimination is prevalent in Vermont and it requires attention and action.

RECOMMENDATIONS TO THE LEGISLATURE

The Commission is in a unique position to observe the barriers to fighting discrimination in this State. Respectfully, it submits the following recommendations to the Legislature:

1. An amendment to Act 127 is necessary to ensure full compliance and complete support for the LGBTQ plus community. The law should include a small fine for businesses and a small appropriation to the HRC to procure and/or produce a public advertisement campaign around the act.
2. The "severe or pervasive" standard of proof for harassment claims by plaintiffs who have legitimately been affected by harassing behavior has become a nearly insurmountable barrier to prevailing in a court of law. The State of Vermont should adopt a standard that is less than "severe or pervasive," that takes into consideration the impact of

discrimination on victims and does not punish the victim for failing to follow the protocols of the entity.

3. Sexual harassment is not unlawful unless it is “unwelcomed.” Victims of sexual harassment in employment, housing and places of public accommodations face a significant barrier in proving their claims if they “voluntarily” engaged in any sexual act or relationship. Our current sexual harassment laws do not reflect existing power dynamics between parties and the pressures upon a person whose housing, employment or benefits is conditioned on their decision to acquiesce to the advances of those in positions of power. The recently publicized stories of female prisoners at the Chittenden Regional Correctional Facility is a devastating reflection of this fact. The State of Vermont should consider an amendment to our existing sexual harassment laws that better defines “unwelcomed.”

4. The HRC has the statutory authority to open investigations in its own name without waiting on a complainant. However, it often lacks direct knowledge of facts that can support a complaint. The HRC enabling statute should be amended to authorize preliminary requests for information from an entity that it, in good faith, knows may have violated the anti-discrimination laws or policies of the State.

HRC JURISDICTION

By its enabling statute, the Human Rights Commission enforces state anti-discrimination/civil rights laws: the Vermont Fair Housing and Public Accommodations Act (VFHPA), 9 V.S.A. §4500 *et seq.*, and the Vermont Fair Employment Practices Act (FEPA) and Conditions for Employment under 21 V.S.A. §309 (flexible working arrangements) for State government employees only.¹ Places of public accommodations include hospitals, prisons, roads, schools, businesses, and any office or establishment that provides goods or services to the general public. These statutes prohibit individuals or entities from taking adverse action (discriminating) against individuals in protected categories based on their membership in one or more of the protected categories.²

Protected Category	Housing	Public Accommodations	State Government Employment
Race	X	X	X
Color	X	X	X
National Origin	X	X	X

¹ Individuals with discrimination complaints concerning private employment file their complaints with the Vermont Attorney General’s Office, Civil Rights Division.

² The Human Rights Commission enforces state anti-discrimination/civil rights laws; it does not enforce federal laws. Vermont law is broader than federal law in terms of the categories of people who are protected from discrimination.

Religion	X	X	X
Sex	X	X	X
Disability	X	X	X
Sexual Orientation	X	X	X
Gender Identity	X	X	X
Marital Status	X	X	
Age	X		X
Minor Children	X		
Public Assistance	X		
Breast Feeding		X	X
HIV blood test			X
Ancestry			X
Place of birth			X
Credit history			X
Pregnancy Accommodation			X
Crime Victim			X
Victim of Domestic and Sexual Violence	X		X
Family/Parental Leave Act Retaliation			X
Flexible Working Arrangements			X
Workers' Compensation			X

In 2018, the State of Vermont adopted the gender-neutral bathroom law for all single-stall restrooms in the state, 18 V.S.A. § 1792. The Legislature assigned responsibility for inspections of these facilities and related signage to the Department of Public Safety's Division of Fire Safety. However, gender identity is a protected class in accommodation law, so as a public accommodations issue the law falls under the enforcement authority of the Vermont Human Rights Commission.

HRC COMMISSIONERS AND STAFF

There are five Human Rights Commissioners appointed by the Governor, with the advice and consent of the Senate, for five-year terms. Commissioners may be re-appointed. The Commissioners are tasked with hiring, supervising, and directing the Executive Director and setting the overall policy of the organization. The Commissioners also meet regularly, usually monthly, to discuss and decide the merits of individual discrimination complaints.

The HRC also has a staff of six state employees. The Executive Director is responsible for the administration of the office, management, and supervision of staff. The Executive Director

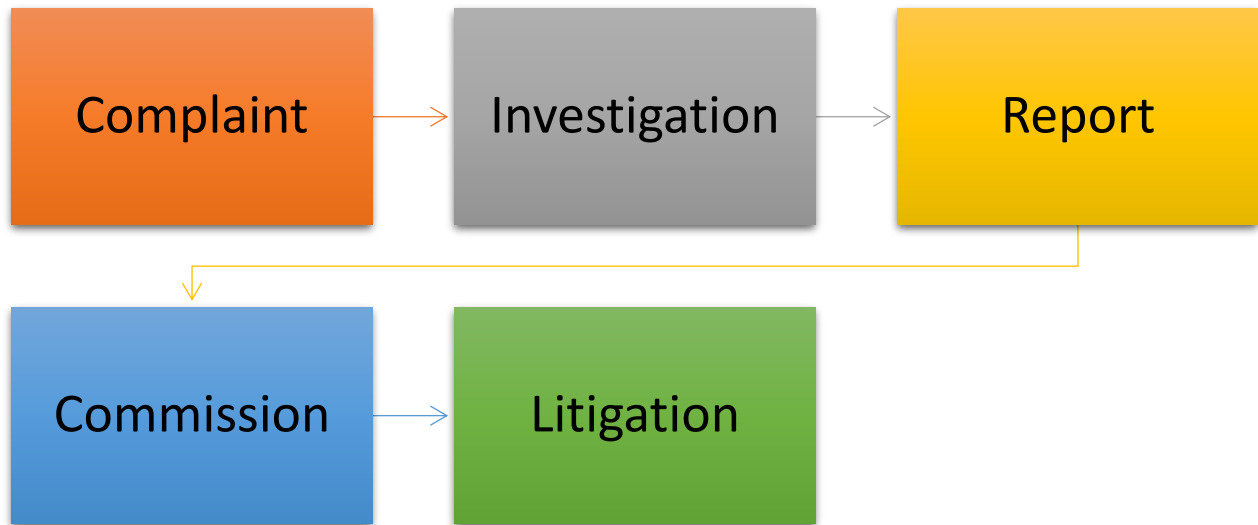
oversees the development of civil rights training, develops the policy and legislative agenda at the direction of the Commissioners, serves as the legislative liaison and testifies before the Legislature, in addition to serving on task forces and committees. Additionally, the Executive Director is the legal counsel and reviews all complaints, investigative reports, provides legal advice to the Commissioners, and serves as the senior attorney on all litigation arising out of investigations at the HRC that proceed to a formal recommendation and Commission vote of “reasonable grounds.”

In the 2019 legislative session, the Legislature supported a new position at the HRC: Director of Policy, Education and Outreach. This position serves as the other legislative liaison and testifies before the Legislature in addition to developing training, organizing community events and forums, and maintaining the agency’s website and social media platforms. The Director of Policy, Education and Outreach, the Executive Director, and the Commissioners are charged with developing and implementing a strategic outreach and education plan.

The Supervising Attorney is charged with performing the duties of the Executive Director in her absence, if disabled, or if a vacancy in the office occurs. The Supervising Attorney oversees and directs functions of the team of Staff Attorney Investigators and assists the Executive Director with assignment of investigations to staff. The Supervising Attorney also handles an equal share of investigations with the other two Staff Attorney Investigators. All Staff Attorney Investigators independently investigate complaints of discrimination under all statutes within the HRC’s jurisdiction, write investigative reports, and make recommendations. Their duties and responsibilities are discussed in greater detail below, under Investigations.

The primary responsibility of the Executive Staff Assistant (ESA) is to receive, analyze and respond to inquiries regarding potential complaints of discrimination, in addition to serving as the administrative assistant to Commissioners, Executive Director, and Staff Attorney Investigators. These duties include drafting complaints, resolving “informal” investigations, preparing and performing all administrative tasks associated with Commission Meetings, monitoring legislative bills, serving as vendor and records liaison, maintaining the case management system, performing data entry and analysis, and assisting with managing the federal grant to ensure compliance.

THE ENFORCEMENT PROCESS



Informal and Formal Complaints

The HRC receives inquiries regarding potential complaints of discrimination through phone calls, email correspondence, and walk-ins. Through consultation with the Executive Director, the ESA analyzes and responds to all inquiries. Where inquiries and complaints relate to laws not within the HRC’s jurisdiction, the ESA will refer the individual to the relevant agencies or organizations. Some inquiries are opened as an “informal” investigation because they raise narrow, limited, or new legal issues that do not merit a full investigation. Informals are opened by means of an agency letter sent to the Respondent, outlining the allegation that a violation of the State’s anti-discrimination laws has occurred. The Executive Director and/or ESA attempts to resolve these matters confidentially. Informals that do not resolve may be opened as a full investigation by means of a complaint. Types of complaints processed in an informal manner range from a business’s failure to adequately display accessible parking signage, to the failure of gas stations to post legally required accessible stickers on pumps, to violations of the state’s gender-neutral bathroom law.

Most inquiries to the HRC that fall within the HRC’s jurisdiction are opened as formal investigations and commence with a “complaint.” Typically, a complaint is made to the HRC from an individual or their representative. All complaints must be signed under oath. For an allegation of discrimination to become a formal investigation, a complainant must allege the

*prima facie*³ elements of a violation of Vermont’s discrimination laws in one of HRC’s areas of jurisdiction: housing, public accommodations or State government employment.

Statutorily, the HRC may bring a complaint and open an investigation without a complainant. However, this is rare. The HRC typically does not have sufficient information from anecdotal evidence or the media to support a complaint alleging a violation of any of the aforementioned anti-discrimination laws. In the past, the HRC has opened agency-initiated investigations only when the violation was clear. For example, when an identifiable respondent states in an advertisement that they are unwilling to accept Section 8 or minor children in a rental property.

Investigations, Conciliation & The Investigative Report

After a case is opened and assigned to one of the three Staff Attorney Investigators, they independently investigate formal complaints of discrimination by developing an investigation plan and examination strategy; interview witnesses; request and review voluminous records and other evidence; and research relevant state and federal statutes and case law on all issues.

Staff Attorney Investigators are statutorily responsible for making efforts to conciliate in all matters. While Staff Attorney Investigators are impartial and neutral investigators during the course of an investigation, they represent the HRC and the public interest at all stages of both the investigation and any subsequent litigation. Thus, Staff Attorney Investigators may provide input on the strengths and weaknesses of cases to assist the parties in settling.

When matters do not result in a settlement either through conciliatory efforts or mediation, Staff Attorney Investigators write Investigative Reports that are reviewed and approved by the Executive Director. Investigative Reports are lengthy, involving exhaustive factual findings and conclusions of law, and include a recommendation of “reasonable grounds” or “no reasonable grounds” to believe discrimination occurred. In many instances, a Staff Attorney Investigator may recommend a “split” finding – that there are reasonable grounds to believe discrimination occurred with respect to one protected category (or respondent or set of facts) but not another. For example, the Staff Attorney Investigator may recommend that the Commissioners find reasonable grounds to believe an employer discriminated against an employee on the basis of sex but not race. Also, the Staff Attorney Investigator may find that one department of the state government violated the public accommodations act but that the other named state department did not. Investigative Reports are distributed to the parties who then have an opportunity to provide a written response and appear before the Commissioners at the next scheduled Commission Meeting.

³ A *prima facie* case lists the facts that if proven to be true would be a violation of the specific law. (e.g., in a housing discrimination case the complainant must allege that she is a member of a protected class, that she experienced an adverse housing action and that the adverse action was due to her membership in the protected class.)

Commission Meetings

Commissioners review and consider the reports and responses prior to the Commission Meeting. The parties to the complaint and their representatives are invited to attend the meeting, present the reasons why they agree or disagree with the staff recommendation, and answer questions from the Commissioners about the circumstances surrounding the allegations. The hearings are non-evidentiary. The information considered is the evidence presented in the investigative report from the Staff Attorney Investigator. Commissioners discuss the individual cases and make a determination in executive session. Commissioners vote on the record.

If the Commissioners determine there are no reasonable grounds to believe that discrimination occurred, the case is closed and remains confidential. Additionally, the complaining party may decide to pursue legal or other administrative action, but the HRC is not a party to those actions. If the Commissioners determine that the evidence is sufficient (using a preponderance of the evidence standard) to show discrimination, they reach a finding of reasonable grounds. The Investigative Report becomes a public record only when there is a majority vote by the Commissioners of reasonable grounds. As stated earlier, an Investigative Report may contain several recommendations. If Commissioners vote reasonable grounds on some issues but not on others, the HRC redacts the report so that only the reasonable grounds case is available to the public.

Post-Investigation Settlement & Litigation

If the Commissioners issue a reasonable grounds finding, the Executive Director actively pursues settlement negotiations for a period of up to six months, either directly or through a professional mediator. Past settlements have included the adoption or modification of policies, protocols, and/or best practices, the modification of inaccessible premises, anti-discrimination education, letters of apology, compensation, attorneys' fees and modest civil penalties, or reimbursement of costs to the HRC.

The HRC has legal authority to bring an action in court for injunctive relief, declaratory judgment and damages. If illegal discrimination is proven to a judge or jury, the court may impose fines, monetary damages, costs, and attorneys' fees against the Respondent/Defendant as well as require other remedial measures to avoid further violations of law.

FY2019 HRC STATISTICS

Phone Contacts

In FY19 (July 1, 2018- June 30, 2019), the HRC received 807 calls for assistance from the general public, in comparison to FY18 when the agency logged 826 calls. The vast majority of these calls do not result in formal complaints. Many of the calls are individuals seeking assistance for issues beyond HRC's jurisdiction. Those are referred to other appropriate

organizations. Other calls require HRC staff to answer basic questions regarding Vermont’s various anti-discrimination laws. The HRC does not provide legal counsel or advice. Some of the calls result in informal cases and others in formal complaints.

July – Sept. 2017	195		July – Sept. 2018	183
Oct. – Dec. 2017	219		Oct. – Dec. 2018	178
Jan. – March 2018	261		Jan. – March 2019	228
Apr. – June 2018	151		Apr. – June 2019	218
FY18 Total	826		FY19 Total	807

Callers attempting to file private employment discrimination complaints are referred to the Civil Rights Unit in the Attorney General’s Office. Individuals with landlord/tenant concerns not related to fair housing are referred to Vermont Legal Aid and, if located in or near Chittenden County, the Vermont Tenants program at the Champlain Valley Office of Economic Opportunity. Those seeking general legal advice receive referrals to Vermont Legal Aid, the American Civil Liberties Union and/or the Vermont Bar Association’s Lawyer Referral Service.

Website Analytics

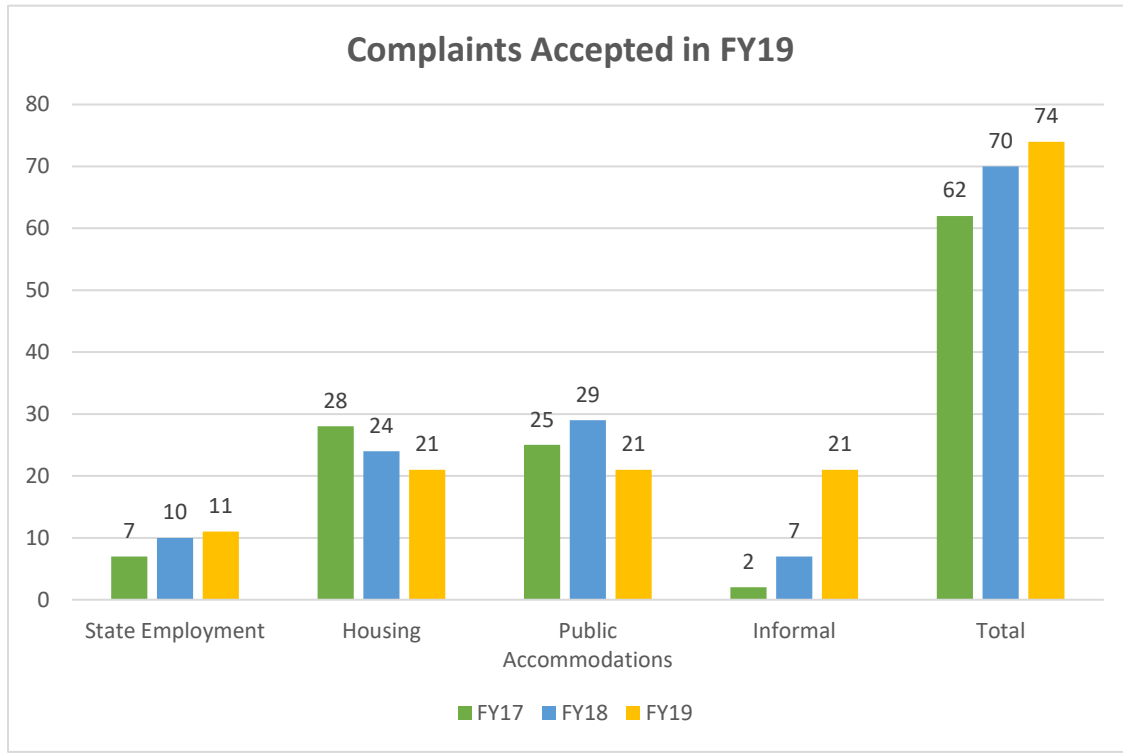
During the fiscal year there were a total of 11,014 sessions by 7,771 users, with 26,554 pageviews and an average of 2.41 pages viewed per session. Returning visitors to the HRC website amounted to 14.4% of overall traffic, while 85.6% were new visitors. 88.7% of total visitors were from within the United States, with the other 11.3% consisting mostly of visitors from France, India, Canada, and the U.K.

Complaints Accepted

In FY19, there were 21 informal cases and 53 formal complaints accepted for processing and investigation. A comparison between the 2018 and 2019 fiscal years indicates an overall increase of approximately 6% in the number of complaints. Formal cases experienced a drop of 16% from 63 to 53, but informal cases soared by 300% from 7 to 21.

The HRC saw a substantial uptick in the number of accepted informal cases which directly correlates to the passage of Act 127, an act relating to identification of gender-free restrooms in public buildings and places of public accommodation. When Act 127 passed, the HRC issued a press release and created a Frequently Asked Questions handout for Vermont businesses and establishments. Since then, the HRC has opened all related complaints as informal investigations. The HRC notifies establishments with a letter and the FAQ requesting prompt changes to bathroom signage within 30 days. Generally, this has been successful in ensuring compliance. However, many businesses continue to be in violation of the law. While some business owners lack knowledge about Act 127, others have knowingly and intentionally ignored the law. The Legislature assigned responsibility for inspections of these facilities and related

signage to the Department of Public Safety’s Division of Fire Safety per 18 V.S.A. § 1792. The HRC lacks the resources to conduct similar inspections.

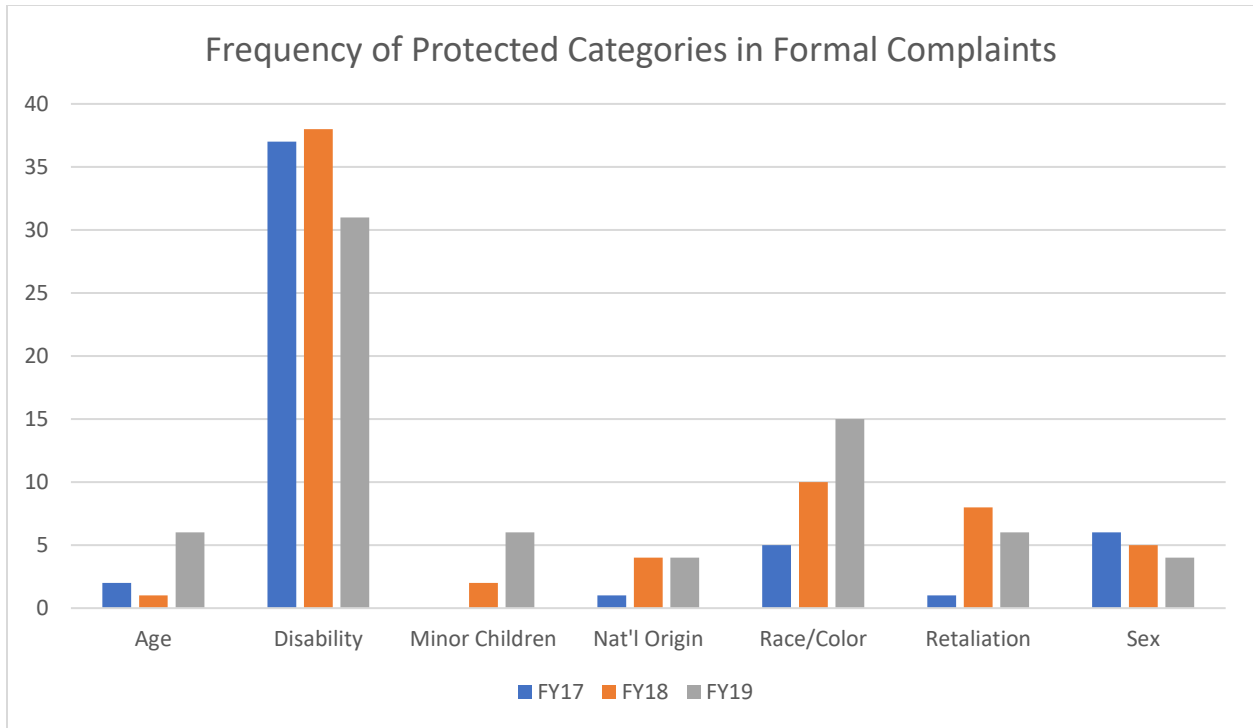


Protected Categories by Type of Case - FY19⁴

Protected Category	Housing	PA	Employment	Total ⁵
Age	0	n/a	6	6
Disability	16	10	5	31
National Origin	2	2	0	4
Race/Color	3	12	0	15
Retaliation	1	1	4	6
Religion	0	1	0	1
Sex	0	1	3	4
Minor Children	6	n/a	n/a	6
Public Assistance	1	n/a	n/a	1
Marital Status	1	0	n/a	1
Family/Parental Leave	n/a	n/a	1	1
Sexual Orientation	0	1	0	1

⁴ The chart does not include all protected categories as the HRC did not see complaints of discrimination in all areas, including pregnancy accommodations, breastfeeding, gender identity, crime victims, victims of domestic violence, pregnancy accommodation, credit history, place of birth, ancestry, workers’ compensation, etc.

⁵Totals will not equal the number of actual complaints because many cases allege discrimination based on more than one protected category.



The chart above depicts the frequency with which the seven most-commonly cited protected categories were alleged by complainants as the basis of discrimination. Since complainants may cite more than one protected category in their complaint of discrimination, these numbers do not equal the numbers represented in the chart: Complaints Accepted in FY19.

Formal complaints related to gender identity, sexual orientation, and religion remained low over the previous three years, with each category receiving fewer than two formal complaints on average per year.

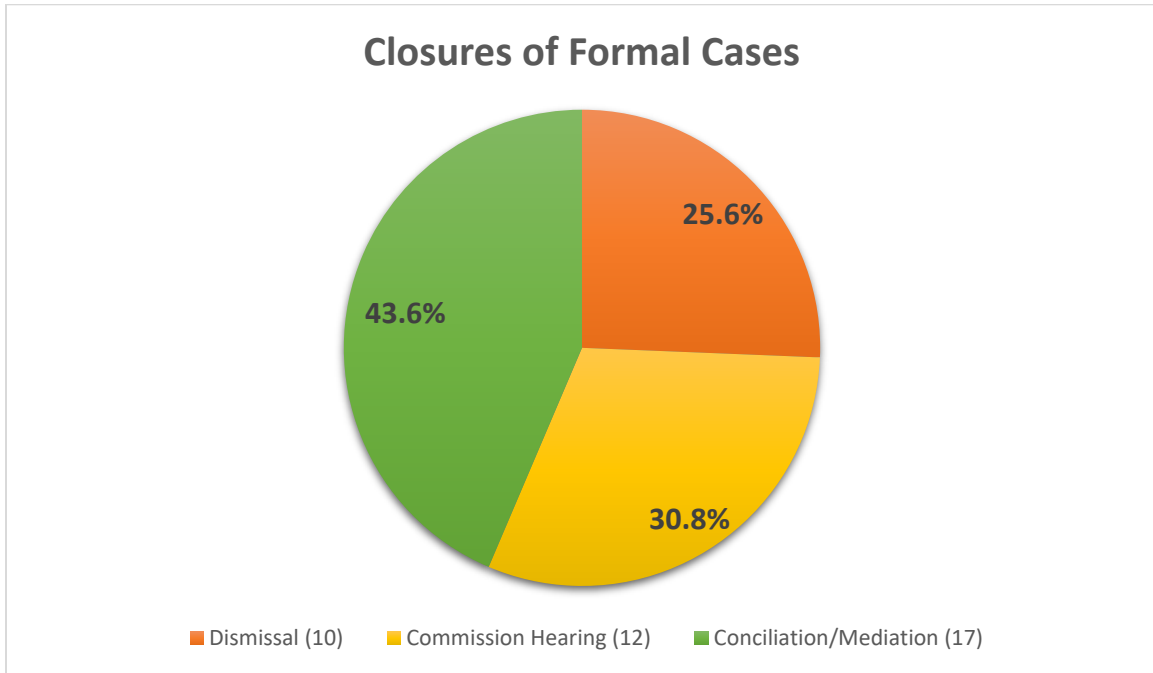
The number of disability-related complaints received by the HRC in FY19 dropped slightly compared to the previous two fiscal years but continues to be above 30 total complaints for the sixth year in a row. For the second year in a row, complaints related to race and skin color increased, from 5 to 10 between FY17 and FY18, and from 10 to 15 between FY18 and FY19.

Aside from the rise in race/skin color complaints, the two other categories in which complaints increased were age (rising from 1 to 6 complaints, and all within employment) and minor children (rising from 2 to 6 complaints, and all within housing).

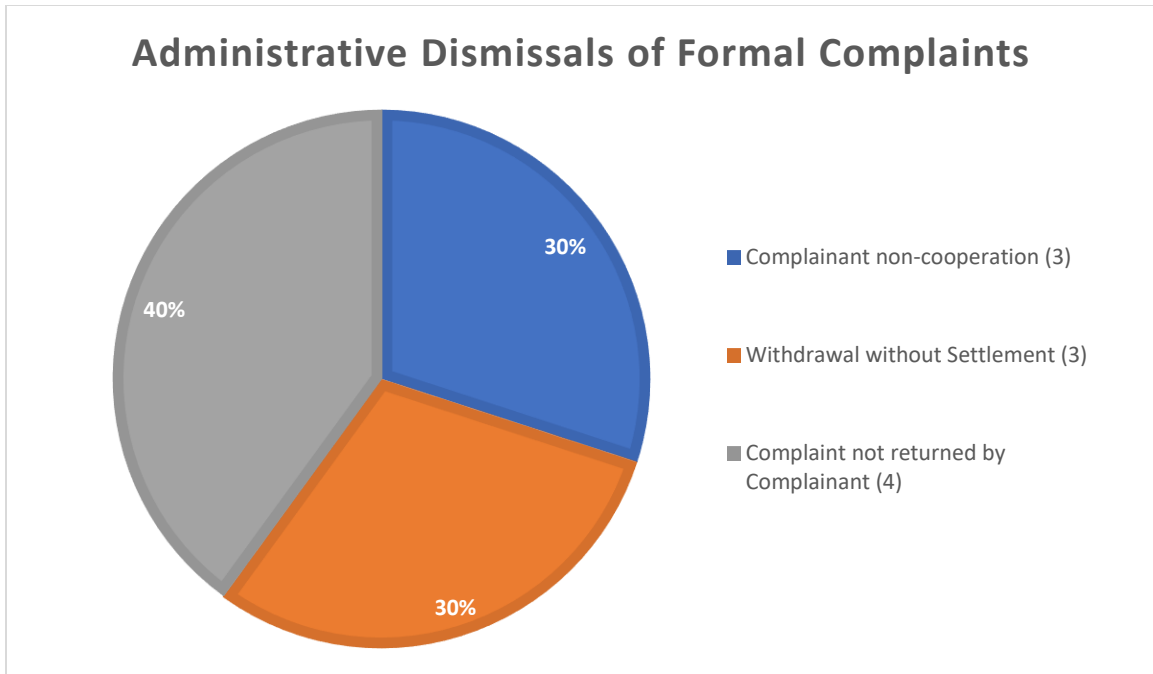
Disposition of Closed Cases

Cases are disposed of by hearing, conciliation/mediation, or administrative closure. Out of the 53 formal cases opened in FY19, 21 were resolved by the end of the fiscal year. A total of 39 formal cases were resolved in FY19, including 15 cases accepted in FY18 and 3 cases accepted in

FY17. The majority of cases closed in FY19, approximately 74.4%, were resolved either through Commission hearing (12) or were settled through conciliation/mediation (17).



Administrative Dismissals - An administrative closure or dismissal may occur for several reasons. Occasionally, after participating in the intake process and receiving an assigned case number, the complainant fails to return a signed and notarized complaint. Sometimes, the complainant fails to cooperate with the investigation (i.e. unwilling to be interviewed or to provide information). Other times, a respondent files a Motion to Dismiss and provides compelling facts or case law that merit a dismissal. An initial interview with witnesses may reveal facts not previously disclosed by the complainant that places the allegations outside the jurisdiction of the Commission. The complainant will sometimes request an administrative dismissal because they have settled the case through a different forum such as mediation or another administrative hearing. From time to time, complainants withdraw their complaints without settlement because they have moved out of state or filed an action in a different forum. Other times, parties enter into an informal agreement not requiring a formal memorialization (i.e. the parties agreed the tenant could remain in their home, or a change in office-space, etc.). Complainants may also withdraw their complaints because they are satisfied with their current circumstances (the complainant got a different and better job, different housing, etc.). In FY19, three (3) cases were dismissed for failure by the complaining party to cooperate with the investigation, three (3) cases were withdrawn without settlement, and four (4) cases did not see their initial complaints returned for processing.



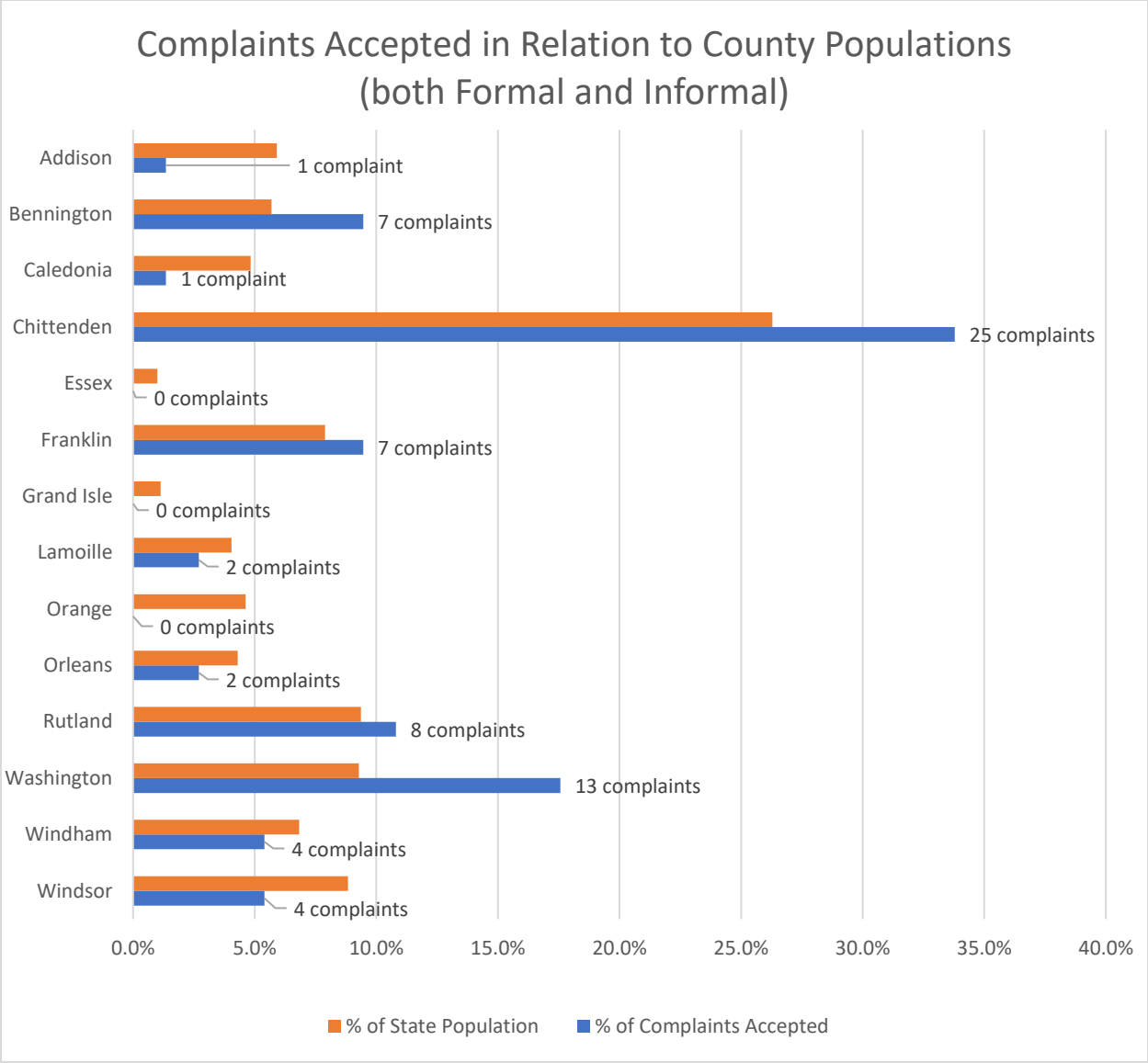
AREAS OF THE STATE SERVED

In FY19, the HRC accepted formal and informal complaints from 11 of Vermont’s 14 counties; the exceptions being Essex, Grand Isle, and Orange counties. Chittenden County, which makes up 25% of Vermont’s population, supplied nearly 34% of the accepted complaints. Washington County, making up less than 10% of the state population, constituted over 17% of the accepted complaints.⁶

The somewhat disproportionate figures from Washington County could be attributed, at least in part, to the location of the HRC office within Washington County providing more convenient geographic access to the office and broader local understanding or awareness of the HRC’s mission and services. The similarly disproportionate numbers from Chittenden County may stem from the steady stream of referrals provided by Burlington-area social service organizations with whom the HRC coordinates on a frequent basis, such as Vermont Legal Aid, the Champlain Valley Office of Economic Opportunity, and others.

The HRC hopes that with the hiring of a new Director of Policy, Education and Outreach that it can establish stronger relationships with community members and social service and community organizations around the state, raising awareness of the HRC’s mission and jurisdiction.

⁶ United States Census Bureau. Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2018. U.S. Census Bureau, Population Division. Web. May 2019. <http://www.census.gov/>.



COMPLAINTS BROUGHT BEFORE THE COMMISSION FOR HEARING

In FY19, the Commission heard 13 cases, in comparison to 17 cases in FY18 and 12 cases in FY17. While the Commission heard a fewer number of total cases, they had to render more decisions than in the previous year because some cases contained multiple parties and/or protected categories. Within the 13 cases heard, Commissioners made 21 separate findings. The Commission voted no reasonable grounds 13 times and found reasonable grounds 8 times. The breakdown by case type is as follows:

Outcome	Employment	Housing	Public Accommodations	Totals
Reasonable Grounds	1	4	3	8
No Reasonable Grounds	4	5	4	13

RELIEF OBTAINED IN CASES CLOSED IN FY19

Type of Case	\$ Relief for CP	Non-\$ for CP	Public Interest
Employment	\$81,000	<ul style="list-style-type: none"> - Rehired at same step level and in a similar position - Complainant offered re-employment rights for two years - 8 hours weekly unpaid educational leave 	<ul style="list-style-type: none"> - Retaliation training for managers
Housing	\$4,200	<ul style="list-style-type: none"> - Complainant certified for new lease (2) - Complainant placed on new apartment waitlist - Complainant allowed to keep assistance animal - Respondent agrees to use fragrance-free cleaning chemicals and post fragrance-sensitivity awareness posters - Complainant receives written apology from Respondent 	<ul style="list-style-type: none"> - Respondent undergoes Fair Housing training (6) - Respondent adopts/updates existing policies (4) - Respondent agrees to adopt and publicly post anti-harassment policy - Respondent agrees to ensure access to Reasonable Acc. Requests
Public Accommodation	\$66,500	<ul style="list-style-type: none"> - Adjustment to a student's permanent record - Home-schooled student to receive additional individualized special education, outside school setting 	<ul style="list-style-type: none"> - HRC reviews town's reasonable modification policies - Respondent agrees to implement specific early childhood programs
Total	\$151,700	n/a	n/a

Relief obtained refers specifically to cases closed in the fiscal year that resulted in monetary and/or non-monetary outcomes. Some cases reached a reasonable grounds determination in the fiscal year but did not settle until after July 1, 2019. These cases were not counted here.

OUTREACH AND TRAINING

During FY19, the HRC trained a total of 934 people in 26 separate events and participated in and/or conducted 14 outreach events that reached approximately 550 people.

Type	Number of events	Number trained
Fair Housing Laws	10	134
Federal and State Anti-Discrimination Statutes	2	102
Sexual Harassment in the Workplace.	3	63
Implicit Bias & Civil Rights.	11	635
Outreach Events	14	550
Total Training and Outreach Events	40	1484

The HRC endeavors to reach all Vermonters and therefore met with employees and managers of the State government, Legislators in both the House and Senate, law enforcement, community members, victims’ advocates, housing providers such as landlords and rental managers, tenants, tenant associations, private and non-profit attorneys and a variety of service providers.

SUMMARY OF REASONABLE GROUNDS CASES

Below is a summary of each case brought before the Commission in FY19 wherein the Commission found reasonable grounds to believe that discrimination occurred. The status of the case is as of the date of this report, not the status at the end of the fiscal year.

Employment

McGurl v. Agency of Transportation - E18-0003 – Complainant filed a complaint with the HRC alleging retaliation for using Parental and Family Leave. The Commissioners voted in favor of a reasonable grounds recommendation that the State retaliated against Complainant, in violation of the Vermont Fair Employment Practices Act, 21 V.S.A. §495(a)(8) and the Vermont Parental and Family Leave Act, 21 V.S.A. §473. The matter settled for \$25,000, and mandatory training for all State supervisors and managers that will: identify relevant statutes and case law on retaliation, identify prohibited actions that are or may be perceived to be retaliation, and review examples of retaliation in the workplace. Furthermore, it included a scheduled meeting between the Commissioner of the Department of Human Resources or designee, and the Executive Director of the HRC to discuss a Memorandum of Understanding on best practices and the collection and sharing of data pertaining to complaints of discrimination and retaliation brought by State of Vermont employees.

Housing

Dersch v. Porrier - HV18-0016 – Complainants filed a complaint of housing discrimination against their landlord when he attempted to interfere with their right to foster children and attempted to charge them a higher rent for having foster children. Additionally, Complainants alleged retaliation when their landlord threatened eviction, when he threatened to sell the house, and when he denied access to the Department for Children and Family Services for inspection in the hope that it would prevent the Complainants from becoming licensed. The Commissioners found reasonable grounds to believe that the Respondent had discriminated against Complainants on the basis of familial status and that the Respondent had retaliated against them, in violation of 9 V.S.A. §4503(a)(1) and 9 V.S.A. §4506 (e).

Tummings v. Stevens - HV19-0002 – Complainants were seeking housing for themselves and their minor children. They filed a complaint of housing discrimination when their attempt to rent a unit was unlawfully denied because they had minor children. Respondent made several discriminatory statements against families with children. The Commissioners found reasonable grounds to believe that the Respondent had discriminated against the complainants by unlawfully denying them housing and by making discriminatory statements against them on the basis of their intention to occupy the rental unit with minor children, in violation of 9 V.S.A. §4503(a)(1) and (a)(3).

Public Accommodations

“Oak” v. Village of Waterbury - PA18-0005 – Mr. Oak filed a claim at the HRC on behalf of his ten-year-old son after attempts to explain his son’s disabilities and need for modifications went unheeded. Commissioners found the Respondent violated the public accommodations act, 9 V.S.A. §4502(c)(5) by failing to provide reasonable modifications, evidenced by Respondent’s unwillingness to engage in an interactive process altogether.

Congress v. Department of Corrections & Centurion - PA18-0011 – Complainant was an inmate at the Chittenden Regional Correctional Facility when she was diagnosed with sensorineural hearing loss and was prescribed two hearing aids. Complainant alleged that Respondent denied her the benefits and services of the correctional facility and compromised her safety when it failed to provide her two hearing aids for approximately two years. Commissioners found a violation of the public accommodations act, 9 V.S.A. §4502(c)(6), when Respondent unlawfully denied to Complainant the benefit of having two hearing aids for at least an 18-month period and evidence showed that Complainant’s hearing deteriorated.

LITIGATION

The HRC filed three lawsuits in FY2019 as follows:

Alexander v. Churchill Realty - HV18-0003 – Complainant, an individual with a disability alleged that his landlord discriminated against him based on his disability by refusing to renew his lease. This case reached a reasonable grounds determination in FY18 but was filed in superior court in FY19 and subsequently settled. The HRC and Respondent reached a settlement agreement by which Respondent and her employees attended a Fair Housing training conducted by the HRC at the cost of \$500, placed federal Fair Housing posters at all property locations, offices and all places in view of tenants and staff, and developed, reviewed and updated their policies and procedures pertaining to disability accommodations to ensure they were consistent with the Department of Housing and Urban Development and the Department of Justice. The HRC was able to review and provide written feedback on the policies to ensure satisfaction.

“Oak” v. Village of Waterbury - PA18-0005 – The facts of the case are summarized above. When settlement discussions failed, the HRC filed a lawsuit in superior court alleging a violation of the public accommodations act and requested monetary damages, declaratory relief and civil penalties. The matter was dismissed without settlement.

Tummings v. Stevens - HV19-0002 – The HRC filed a lawsuit in superior court requesting monetary damages, injunctive and declaratory relief. The matter settled after FY19 for \$26,000 to the complainants and fair housing training for the respondent.