



**VERMONT**

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**HUMAN RIGHTS COMMISSION**

**Annual Report**  
January 2024

FY23

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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 places of public accommodation.

**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 during and after investigations**

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 settlements. HRC staff engage with coalitions and in community activities that address the needs of members of underrepresented and historically marginalized groups.

**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.

# MESSAGE FROM HRC'S NEW EXECUTIVE DIRECTOR

HRC operationalizes our mission through our staff's commitment to caring personal attention, comprehensive complaint investigations, proactive community outreach, and robust enforcement of Vermont's anti-discrimination laws.

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Having become Executive Director in July of 2023, I humbly submit this annual report, which covers a period when I served as a Staff Attorney Investigator at the HRC. The past year has brought many shifts and changes for our team. Thankfully, our office on Baldwin Street in Montpelier was spared in the disastrous flooding of our beloved capitol city. Similar to years past, we have navigated additional staff turnover and faced increased demands on our office. We have resiliently increased our reach and provided a high level of service to Vermonters who believe they are facing discrimination. We celebrated the expansion of Vermont's protections in harassment and equal pay laws through legislative initiatives last session, and the creation of a new litigator position within our office. Nonetheless, our staff of seven still struggles to meet the needs of all people who come to our agency seeking legal information, a fair complaint process, and the pursuit of justice.



We have resiliently increased our reach and provided a high level of service to Vermonters who believe they are facing discrimination.

# OUR AGENCY

The Vermont Human Rights Commission is composed of seven full-time staff members, who are exempt State employees. The Commission's five Commissioners are appointed by the Governor for staggered five-year terms.

## Staff

### **Executive Director & General Counsel**

Big Hartman, Esq., hired 09/13/21, appointed to current position 7/19/23

### **Senior Counsel** (position created FY24)

Mitchell Rotbert, Esq., hired 10/23/23

### **Director of Policy, Education, & Outreach**

Amanda Garcés, hired 12/2/19

### **Staff Attorney Investigators**

Cassandra Burdyshaw, hired 11/26/18

Daniel Flynnjac, hired 6/27/22

Kelly Poupore, hired 9/11/23

### **Executive Staff Assistant**

Maia Hanron, hired 1/8/23

## Commissioners

**Chair Kevin Coach Christie** appointed 2018

**Nathan Besio** appointed 2007

**Dawn Ellis** appointed 2015

**Joan Nagy** appointed 2019

**Bruce Wilson** appointed 2022

### **HRC offices are located at:**

**12 Baldwin Street, Montpelier Vermont 05633-6301**

Phone: (802) 828 - 2480

[Website: hrc.vermont.gov](http://hrc.vermont.gov)

# HRC JURISDICTION

The HRC primarily enforces Vermont's anti-discrimination statutes. This includes:

- protections against **unfair housing practices** (9 V.S.A § 4503)
- protections against discrimination in **places of public accommodations** (9 V.S.A. § 4502)
- **employment discrimination** protections for State of Vermont employees (21 V.S.A. subchapters 4A and 6)

## What are unfair housing practices?

Unfair housing practices occur when someone is treated differently or unfairly because of their membership in a legally protected category, including

- refusing to rent, sell or negotiate for housing
- imposing different terms or conditions of housing
- making discriminatory statements
- falsely representing availability or steering
- redlining, denial of lending, or unfavorable lending terms
- harassment or other discrimination
- refusal to make reasonable accommodations or allow reasonable modifications for individuals with disabilities
- retaliation against someone exercising their rights under fair housing laws

## Legally protected categories in housing

- Race & Color
- National Origin
- Religion
- Disability
- Sexual Orientation
- Gender Identity
- Sex
- Marital Status
- Age
- Minor Children
- Receipt of Public Assistance
- Victims of Domestic and Sexual Abuse

# HRC JURISDICTION (Continued)

## Public Accommodations Discrimination

**People are protected from discrimination in places of public accommodations.** It is illegal for someone to be treated differently because of their membership in a legally protected category. This includes:

- refusing or withholding services or benefits
- offering less favorable services or benefits
- denying access to someone with a service animal
- refusing to make reasonable accommodations and modifications to individuals with disabilities
- failing to take practicable steps to ensure that people with disabilities have access to the services or benefits of the place of public accommodation
- engaging in harassment, or failing to take reasonable measures to prevent harassment

## Legally protected categories in places of public accommodation

- Race & Color
- National Origin
- Religion
- Disability
- Sexual Orientation
- Gender Identity
- Sex
- Breastfeeding

## What is a place of public accommodation?

- Any place that offers products or services to the general public, such as a hotel, restaurant, or store
- Any type of school, including public or private primary schools, child care facilities, and colleges or universities
- Any government agency, state department or arm of municipal government, including police departments, and correctional facilities

# HRC JURISDICTION (Continued)

## State Employment Discrimination

The HRC is responsible for enforcing Vermont's Fair Employment Practices Act as it applies to state employees. The Attorney General's Office Civil Rights Unit addresses FEPA complaints involving private employers.

Employment discrimination claims in Vermont can include:

- different treatment in hiring or terms and conditions of employment
- discriminatory discipline or termination
- harassment based on legally protected categories
- unequal pay
- refusing to make reasonable accommodations for individuals with disabilities
- retaliation against someone for making a complaint of discrimination

## Legally protected categories in employment

- Race & Color
- National Origin
- Ancestry & Place of Birth
- Religion
- Disability
- Age
- Family/Parental Leave
- Retaliation
- Flexible Work Arrangements
- Sexual Orientation
- Gender Identity
- Sex
- Pregnancy Accommodation
- Credit History
- Crime Victim
- Victim of Domestic or Sexual Abuse
- Worker's Compensation

# HRC PROCESS

HRC Complaints begin with an intake process. If accepted, a complaint is thoroughly investigated by an attorney. The Commission may make a “reasonable grounds” determination, and the HRC may enforce legal violations in civil court.

## 01 Intake Processing

HRC’s Executive Staff Assistant responds to daily inquiries via phone, email, and online questionnaires, from Vermonters who feel they have faced discrimination. The ESA takes time to discuss with individuals what they have experienced, which is often traumatic and upsetting for them. If the complaint is not in our jurisdiction, the ESA provides referrals to other agencies or organizations who may be able to help. The ESA consults with the Executive Director to draft and analyze complaints. Because of the time involved to understand the claims and work with a complaint, it can take several weeks for an inquiry to go through the intake process to become a complaint.

## 02 Complaint Investigation

HRC’s Staff Attorney Investigators conduct thorough neutral investigations of complaints. They request and review all relevant documents, interview any identified witnesses, and conduct extensive legal research. They often do site visits, and request information from third parties. Once the investigative process is complete, the Staff Attorney Investigator writes a comprehensive report outlining all of the facts and analyzing the legal claims. Because investigators carry a high caseload, complex investigations can take two years or more to complete. Throughout the process, investigators are tasked with making every reasonable effort to assist the parties with conciliation. The complaint and investigative file are confidential by law, except to the parties.

# HRC PROCESS (Continued)

## 03

### Commission Meetings

The five appointed Commissioners of the HRC hold regular meetings once per month. In executive session, they hear from parties to a complaint and conduct deliberations. In the public meeting, they make a determination as to whether or not there are reasonable grounds to believe that discrimination occurred. If they determine that there are reasonable grounds, then the case and their determination is a matter of public record. If Commissioners find that there are not reasonable grounds, then the matter is closed and remains confidential. The Commissioner's determinations do not impact an individual's ability to file a lawsuit alleging discrimination under Vermont law.

## 04

### Post-Investigation Settlement and Litigation

After a reasonable grounds determination, the HRC statute contemplates a six-month time period, during which the Executive Director and/or Senior Counsel actively engage the parties in settlement discussions. Settlements often result during this time, and can include monetary payment, an apology, a promise not to sue, a change in policy or practices, a commitment to attend discrimination prevention training, and other public interest relief. The HRC has authority to monitor and enforce those agreements. If the parties are not able to settle, the HRC may decide to litigate the case on its own behalf. The HRC does not represent the complainant. The HRC may request that a Superior Court grant injunctive relief, declaratory judgment, and damages to the complainant, and the court can impose fines, civil penalties and attorneys' fees and costs against defendants in HRC lawsuits.

# FY23 HRC DATA • Complaints

Overall, FY23's complaint activities trend with the average of recent years. There is a growing concern from all involved about the length of time that investigations are taking. Significantly, as in recent years, the HRC has accepted more cases than it has been able to close, resulting in a continual back log of cases. We are troubled that we may not be able to meet the demands placed upon us without additional resources.

Standard	FY23 Data	Additional Info
<b>New Formal Complaints Opened</b>	<b>41 Total Cases</b> (35 Total Cases FY 22)	<ul style="list-style-type: none"> <li>• 17 Housing</li> <li>• 19 Public Accommodations</li> <li>• 5 Employment</li> </ul>
<b>Complaints Resolved through Conciliation</b>	<b>14 Complaints Settled</b>	<ul style="list-style-type: none"> <li>• 1 case initiated in FY19</li> <li>• 6 cases initiated in FY21</li> <li>• 3 cases initiated in FY22</li> <li>• 4cases initiated in FY23</li> </ul>
<b>Determinations by the Commission</b>	<b>19 Determinations</b>	<ul style="list-style-type: none"> <li>• 11 cases remained open with reasonable grounds determinations</li> <li>• 8 cases closed with no reasonable grounds determinations</li> </ul>
<b>Total Complaint Closures</b>	<b>33 Complaint Closures</b>	<ul style="list-style-type: none"> <li>• 19 Cases heard by Commission</li> <li>• 6 cases resolved pre-determination</li> <li>• 4 cases resolved post determination</li> <li>• 4 cases dismissed or withdrawn</li> </ul>

# FY23 HRC DATA • Intake & Inquiries

The HRC’s Executive Staff Assistant (“ESA”) is the primary point of contact for anyone seeking information from the HRC, or wanting to file complaint of discrimination. Individuals and representatives contact the ESA by phone, email, and through the HRC’s online questionnaire. The ESA typically maintains a log of all phone calls received.

In November of 2022, the ESA position became vacant for a period of approximately two months. During this time, the agency’s ability to respond to inquiries was severely hampered. We were not able to track all of the phone calls and other inquiries in the face of this vacancy. No new complaints were filed at HRC while the ESA position was vacant. When HRC’s new ESA, Maia Hanron, started in the position in January of 2023, HRC could once again consistently log all of our phone inquiries and begin to catch up on intakes.

From January through June of 2023, **HRC responded to an average of 55 phone inquiries per month. The total was 319 calls in a six-month time period.** Many of these inquiries resulted in email exchanges and/or intake meetings, where the ESA gathered more information about a complaint.

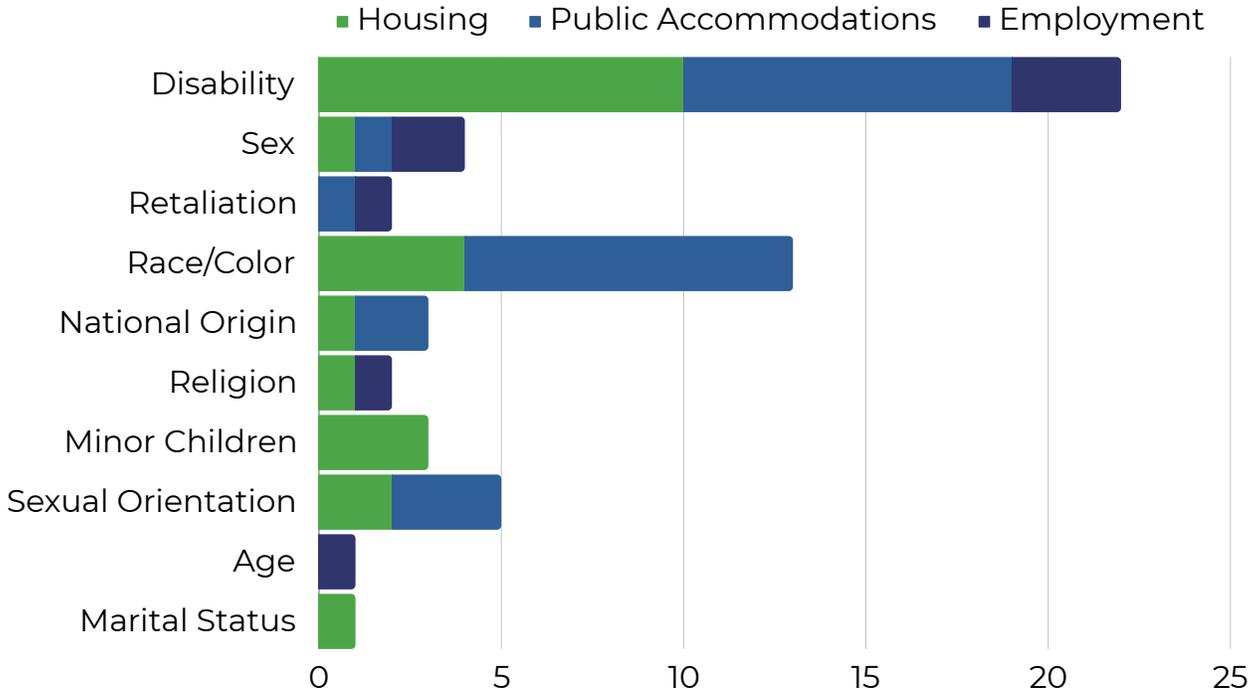
Based on the average number of phone calls logged in the second half of the fiscal year, a trend of increased calls to the HRC can be observed. In FY21, we logged a total of 514 phone calls, and in FY22, it was a total of 579. In just half of FY22, we received a total of 319 calls. We believe that, as our outreach activities increase, we will continue to face an increase in the number of individuals contacting our office for complaints and general information about human rights.

Website analytics were generally on par with recent years, as follows:

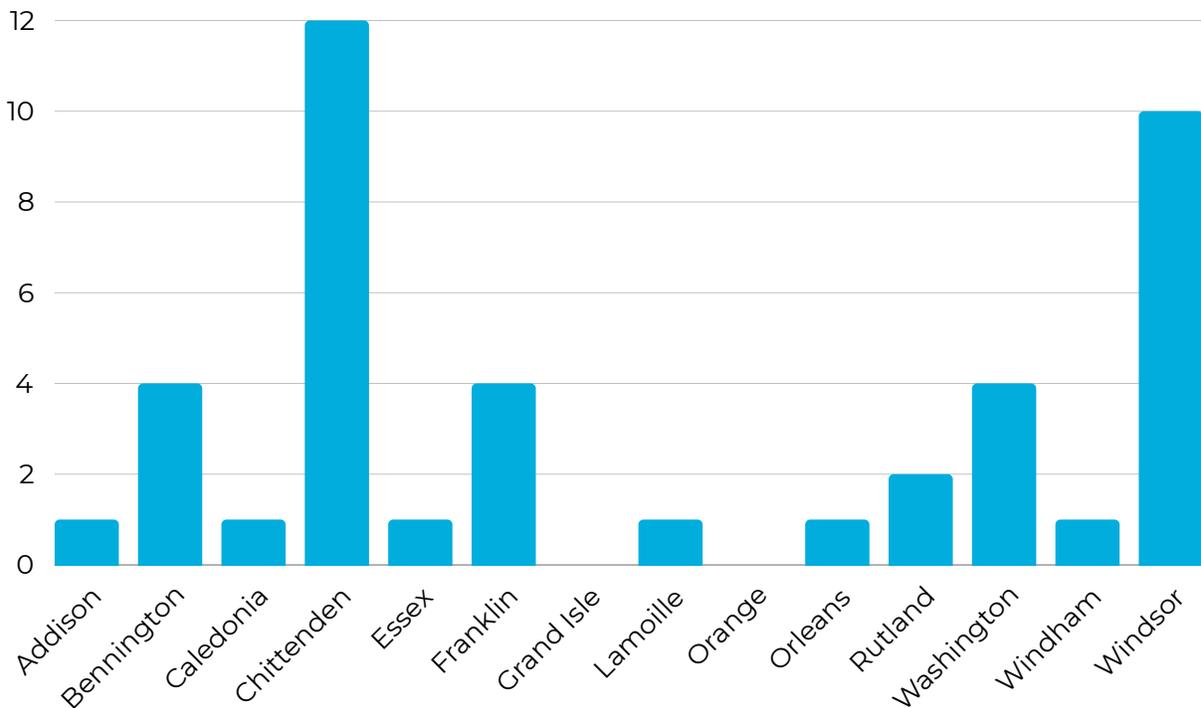
	FY20	FY21	FY22	FY23
Pageviews	25,870	28,602	26,800	24,108
Total Users	7,903	9,844	10,727	10,283
Total Sessions	11,094	13,754	14,888	14,106
New Visitors	86.7%	86.5%	87.7%	86.9%

# FY23 HRC DATA • Case Demographics

## FY23 New Cases by Type



## FY23 New Cases by County



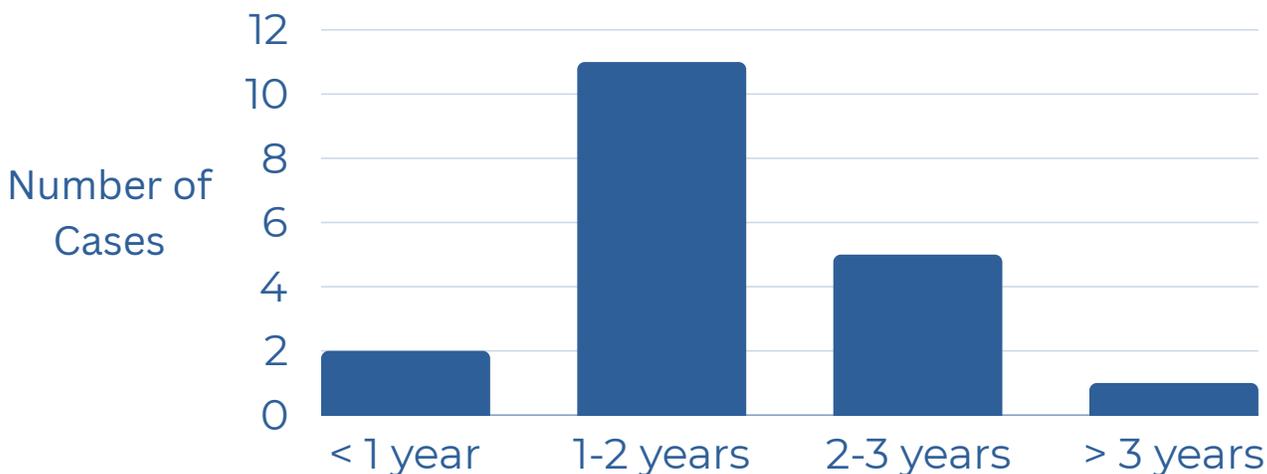
# FY23 HRC DATA • Investigations

Thorough discrimination complaint investigations require a significant commitment of time. HRC Staff Attorney Investigators review documents and correspondence, schedule and conduct witness interviews, research legal questions, and draft comprehensive reports.

With only three investigators conducting this work statewide, and a backlog of cases accumulating, the process often takes years. HRC’s rules state that we will endeavor to complete all investigations within six months. HUD asks that our housing investigations be completed in 100 days. Unfortunately, due to a variety of factors, in the vast majority of cases, these goals are unattainable.

In FY23, HRC’s three investigators were able to complete a total of 19 investigative reports. **The average length of time it took to complete an investigation in FY23 was 649 days from the date of filing to the date of the Commission determination.** We were able to meet our six-month goal in only one case. While parties greatly appreciate the comprehensiveness of our investigations and the high quality of our reports, the length of time it takes to produce them is a source of consternation for all. The chart below breaks down the age of our investigations.

## FY23 Length of Investigations



*To meet the needs of all parties, the HRC must find a way to complete investigations more quickly - without sacrificing the quality of those investigations. We believe more investigative staff is essential to accomplishing this goal.*

# FY23 HRC DATA • Settlements

This year, the HRC was involved in settlement or conciliation of 16 total cases.

- 4 settlements occurred after the Commission determined that there were reasonable grounds to believe that discrimination occurred.
- 10 Pre-Determination Conciliation Agreements were reached, in which an investigation was not completed. Staff Attorney Investigators were instrumental in facilitating these settlements.
- 2 settlements occurred after litigation was filed.



100% of PDCA's required that Respondents attend training

Housing Complainants received a total of \$37,500 in monetary relief

Litigation resulted in settlement amounts totaling over \$40,000

Employment case settlements resulted in over \$18,000 in monetary relief, trainings, and changes to policy

Public Accommodations cases resulted in monetary relief of over \$30,000, as well as training and an apology

*The HRC is confident that with the new litigation position, we will see an increase in settlements in FY23.*

# FY23 HRC DATA • Litigation

Historically, HRC's ability to enforce anti-discrimination laws through litigation has been very limited due to the fact that the Executive Director served as lead counsel.

In 2021, the legislature approved a special fund for contract counsel, which enabled our office to pursue several enforcement actions at once. Since that time, the HRC has been able to file a total of 8 cases in Superior Court, listed below:

- **HRC & Latonia Congress v Centurion LLC & Department of Corrections:** This case involved disability discrimination in a place of public accommodations. This case is now closed following a partial dismissal and a partial settlement.
- **HRC v Marijo's Properties, et al.:** This case involved sexual harassment in housing. Settlement of this litigation occurred in December of 2022.
- **HRC v State of Vermont** (Vermont State Police & Department of Public Safety): This case involved race, color, and sex discrimination in a place of public accommodations. This case settled in May of 2023.
- **HRC v Cedar Ridge, LLC:** This case involved disability discrimination in housing. It settled in FY22.
- **HRC v Polak & Polak:** This case involves national origin discrimination in housing. It is still pending in Superior Court.
- **HRC v Orchard School & South Burlington School District:** This case involves race and color discrimination in a place of public accommodations. It is pending in Superior Court.
- **HRC v Town of St. Johnsbury:** This case involves disability discrimination in housing. It is currently on appeal before the Vermont Supreme Court.
- **HRC v Durkee:** This case involves housing discrimination based on sex, disability, and receipt of public assistance. It is currently pending in Superior Court.
- **HRC v State of Vermont Agency of Education:** This case involves race and color discrimination in a place of public accommodations. It is pending in Superior Court.

At the end of FY22, the Legislature wisely created a new position at the HRC to handle litigation internally. We plan to more vigorously pursue our mission of promoting full civil and human rights in Vermont with this important position.

# FY 23 STATISTICS • Outreach

HRC continues to grow our reach by engaging with stakeholders such as State government managers and employees, legislators, community groups, victims' advocates, housing providers, attorneys, service providers, and families.

We are involved with cultural events, workshops, trainings, and community events throughout the year. In FY23, HRC staff offered trainings and presentations related to public accommodations, the Act 1 Education Quality Standards, the Fair Housing Act, the Americans with Disabilities Act, implicit bias, and other topics. In partnership with the Office of Racial Equity, we organized a Hispanic and Latino Heritage event on the Statehouse Lawn in October, and produced a video series for Asian American and Pacific Islanders' Month, along with an AAPI heritage event in May. We also held a "Train the Trainer" event as part of a long-term collaborative project using the new Let's Talk Race Card deck.

In FY23, HRC received a \$20,000 grant from HUD to engage in community outreach regarding fair housing. We developed new web content to educate housing providers and tenants about common fair housing issues. We created and printed a new Know Your Fair Housing Rights booklet, which is available in 14 languages. We also engaged community members in regional meetings throughout the state to discuss fair housing rights. As we continue to engage with Vermonters about these important matters, we expect to continue to see an increase in inquiries to our office and new complaints filed.



# RECOMMENDATIONS

The Commission's greatest tool for meeting its mission is enforcement of the anti-discrimination laws that fall under its jurisdiction. We offer these recommendations for future action by Vermont's Legislators:

01

## Increase Resources to the HRC

The Legislature has taken significant measures to expand our office's capacity in recent years. Unfortunately, the resources allocated do not allow us to meet the demands of Vermonters who seek timely information, complaint investigation, resolutions, and justice. With more staffing, we will be able to receive and process more complaints efficiently, in service of all Vermonters.

02

## Protect Students from Harassment in Schools

The "severe or pervasive" legal standard for harassment in schools is confusing, restrictive, and not reflective of current societal values. Recently, the legislature clarified and improved the legal standard for harassment in housing, workplaces, and other places of public accommodations. Students facing harassment in schools need the same legal standard.

03

## Prohibit Discrimination based on Immigration Status

Anti-discrimination protections need to continue to evolve to reflect shifting demographics and address nuanced prejudice. HRC strongly supports the addition of "actual or perceived immigration status" as a legally protected category.