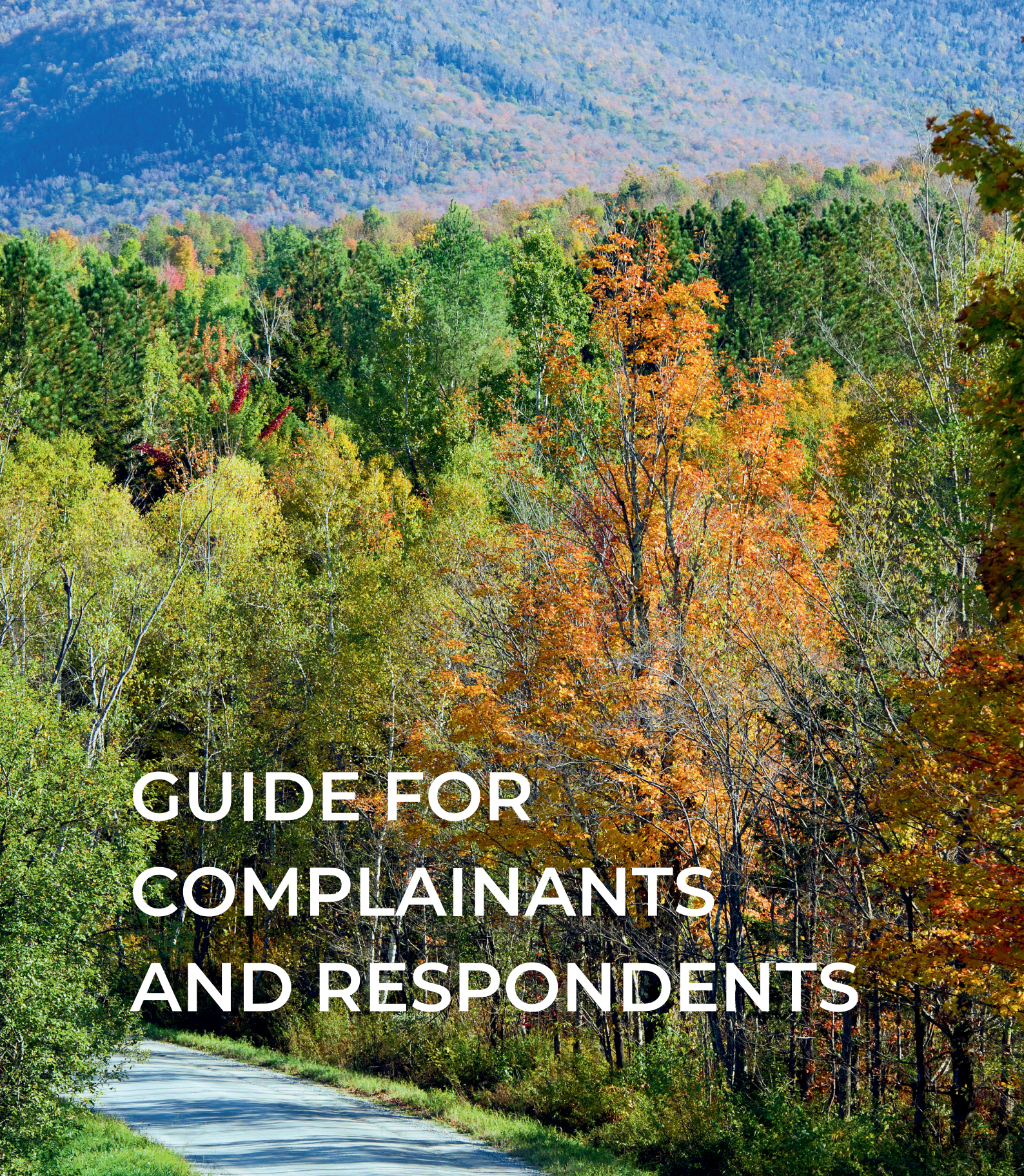




# VERMONT

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## HUMAN RIGHTS COMMISSION



# GUIDE FOR COMPLAINANTS AND RESPONDENTS



# HUD language needed here

**Disclaimer: this booklet is meant to provide information and is not intended to constitute legal advice. HRC staff are not permitted to provide legal advice to members of the public.**

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# HRC OVERVIEW

## Who are we?



- The **Vermont Human Rights Commission** is an independent agency of State government, staffed by 7 state employees.
- Our office is located at 12 Baldwin Street, in Montpelier.
- 5 HRC Commissioners attend meetings and vote on cases about 10-12 times per year. Commissioners are appointed by the Governor. They serve 5-year terms.

## Our Mission

- The mission of the Human Rights Commission is to promote full civil and human rights in Vermont.
- The Commission seeks to protect people from unlawful discrimination by investigating complaints, helping to resolve disputes, filing lawsuits, and educating the public.

## Jurisdiction

The HRC handles discrimination in three areas of law:

- **Fair Housing** (rentals, homes, condos, trailers, other dwellings, and mortgages)
- **Public Places** (schools, businesses, government)
- **State Employment** (not private or municipal employers)

## Contact Us

- If you would like to file a complaint, email us at [human.rights@vermont.gov](mailto:human.rights@vermont.gov) or call us at 802-828-2480
- If you are involved in a complaint, please contact the Staff Attorney Investigator assigned to your case.



# OUR STAFF



**HRC's Executive Staff Assistant** responds to calls and emails from people who want to file a complaint or who have questions about the HRC. The Executive Staff Assistant can help people draft complaints and provide referrals if needed.



**HRC's Staff Attorney Investigators** conduct neutral investigations of complaints. They request and review documents, interview witnesses, and may do site visits. Staff Attorney Investigators do NOT represent any party in a investigation. They will try to assist the parties in resolving the complaint, if possible.

**HRC's Senior Counsel** handles lawsuits that the HRC files in court to enforce Vermont's anti-discrimination laws. The Senior Counsel does not represent individuals, but advocates for the public interest on behalf of the HRC.



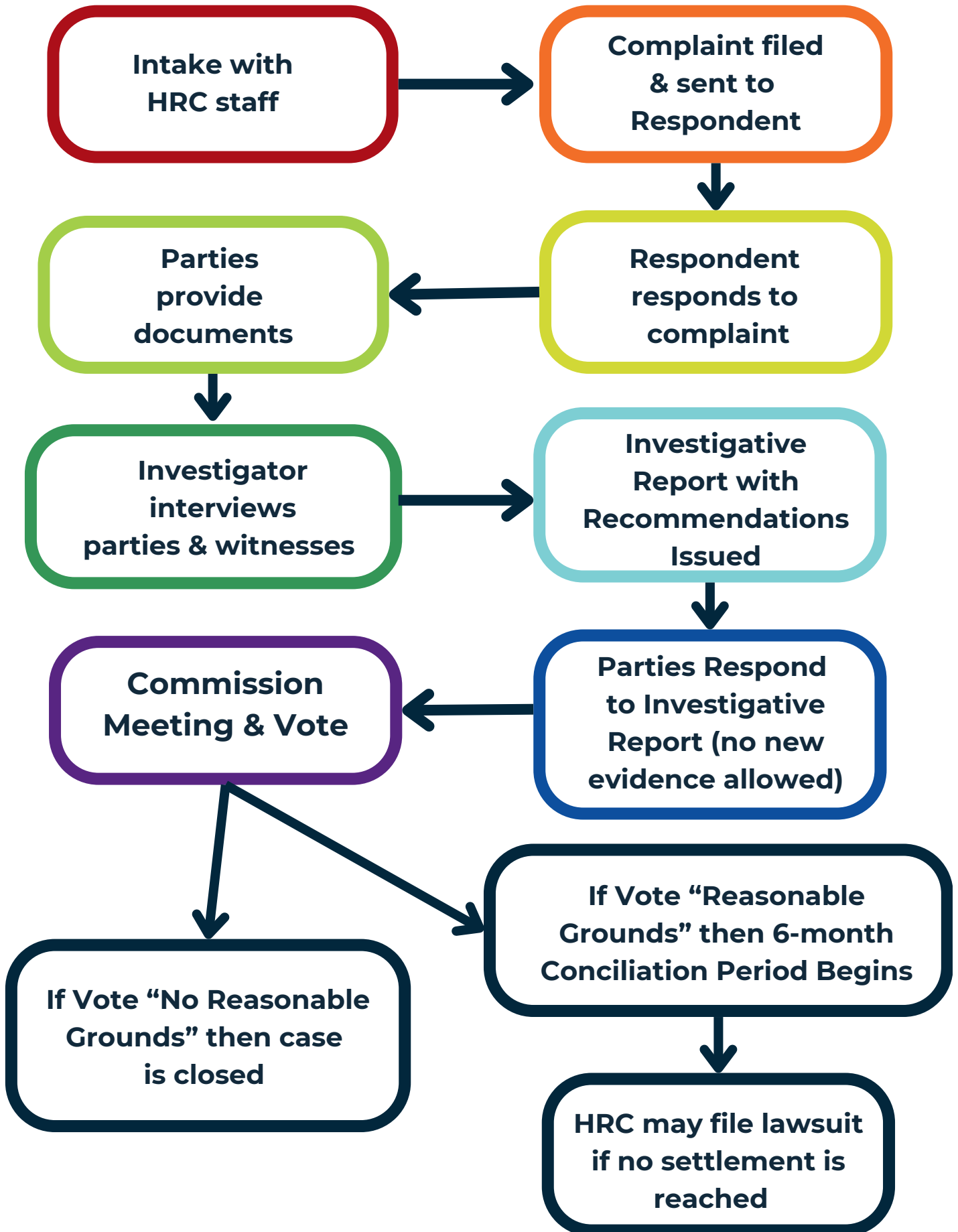
**HRC's Director of Education, Policy, and Outreach** serves the public by engaging with communities and stakeholders about civil and human rights issues. This staff members provides crucial policy input to legislators and administrators, and organizes trainings and other community events.



**HRC's Executive Director** also serves as General Counsel for the HRC. The Executive Director accepts complaints for investigation and makes decisions on motions to dismiss complaints. The Executive Director is the agency head, supervises staff, and oversees all HRC operations.

# COMPLAINT PROCESS

*Note: parties can resolve the complaint anytime*





# DEFINITIONS

A **Complainant** is a person who has filed a complaint at the HRC. A **Respondent** is a person, company, or organization accused of violating Vermont's anti-discrimination laws in an HRC Complaint. Complainants and Respondents are the only **parties** to a complaint. Witnesses are not parties.

**Discrimination** is a general term that describes different or unequal treatment. It can be purposeful or not. Discrimination is only unlawful if it is based on a legally protected category.

**Legally protected categories** are any personal characteristic that is protected by law. Legally protected categories in housing are:

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

**“Places of Public Accommodation”** means any place that serves or is open to the public. It includes schools, any aspect of government, and businesses. Legally protected categories in places of public accommodation are:

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

**Harassment** is a form of unlawful discrimination. Harassment means unwelcome conduct that is based on a person's protected categories. Under Vermont law, harassment in most situations does not need to be severe or pervasive to violate the law.

**Retaliation** describes an adverse action, coercion, threat, or other negative treatment based on someone exercising their legal rights to be free of discrimination. Retaliation against a Complainant or witness is a form of unlawful discrimination.

**Disability Discrimination** includes all of the above concepts, and can also include a refusal to make a disability-related reasonable accommodation, denial of a service animal, and the existence of unlawful barriers to access.

# CONFIDENTIALITY

## Intake Files

All information shared with HRC staff during the intake process is confidential. If a complaint is accepted for investigation, intake staff will share any documents you have already provided with the investigator.

## Complaints

The fact that a complaint has been filed is also confidential. While the parties are free to talk with whoever they want about a complaint, the HRC will not disclose the existence of a complaint or any details about a complaint with any outside person.

## Investigative Files

The investigative file contains all of the documents and recordings collected by the Staff Attorney Investigator. The file is confidential by law. However, a Complainant or a Respondent, or their attorneys, may request a copy of the investigative file at any time.

## Commission Decisions

The Commission will hear your case at a public meeting in executive session, with only parties to the case present. Votes are made in the public, however, if the Commission votes “no reasonable grounds” then the names of the parties remain confidential. If the Commission finds “reasonable grounds” then the party names (other than minor children) will be a matter of public record, and subject to a public records request.

## Settlement Agreements

The HRC law states that settlement agreements concerning HRC complaints are to be public records. In some cases, parties resolve their cases privately and agree to a confidential settlement that does not become a matter of public record.



# CONCILIATION

Conciliation is the process of resolving a complaint of discrimination. Many HRC complaints end with a written conciliation agreement signed by the parties. HRC staff can assist the parties by relaying proposals for conciliation, or the parties can agree to use a professional mediator.

## **Conciliation agreements usually address:**

- the basis of the complaint
- whether the HRC investigation has been complete and/or whether the Commission made a determination of “reasonable grounds”
- individual relief for the Complainant, such as an apology, action by the Respondent, or financial payment
- whether the Respondent admits to any wrongdoing, or not
- public interest relief

**“Public interest relief” is action that a Respondent promises to take, that might reduce the impact of the discrimination or prevent it from recurring**

Public interest relief can include:

- training about discrimination prevent and legal rights and responsibilities for employees, owners, and agents of the Respondent
- creation or updating of a relevant policy or procedure
- reporting to and monitoring by the HRC in the future
- charitable donation to a related non-profit organization

**Conciliation Agreements are approved by the HRC. The HRC can take enforcement action in court if a Respondent violates a conciliation agreement.**

# INVESTIGATION PROCESS

## Giving Information to the HRC

- Once a Staff Attorney Investigator is assigned to a complaint, both parties should tell the investigator names and contact information for all relevant witnesses.
- Parties should share documents either electronically or in hard copy format, and should never destroy documents that could be used in the investigation.
- A Complainant who does not respond to requests from the investigator could have their complaint dismissed.
- If a Respondent does not respond to requests from the investigator, one of two things may happen: (1) an investigative report may be issued without the Respondent's information, documents or testimony, or (2) the Commission may issue a subpoena. Subpoenas may be appealed to the Commissioners or in court.

## Investigative Interviews

- The Staff Attorney Investigator will interview the parties and any witnesses that are not repetitive. Interviews are recorded using an audio recorder. People will be asked to tell the truth.
- Interviews may take place in person, by phone, or virtually, at the preference of the Staff Attorney Investigator.
- Third party witness' names may not be revealed if the Commission finds there is good cause to keep it confidential.
- It is most helpful to the investigation if people being interviewed are honest, open, and forthcoming.
- Interview records go into the investigative file, which is available to any party upon request.



# INVESTIGATIVE REPORTS

- Once all documentation has been reviewed and interviews are completed, the investigator will begin to draft an investigative report.
- Investigative reports are a concise summary of the legal claims and relevant issues in dispute. Investigative reports do not attempt to restate all the facts revealed in the course of the investigation.
- Investigative reports outline the elements of each claim and analyze what facts the investigator relied on to make their conclusion. They are approved by the Executive Director.
- The investigative report makes a recommendation to the HRC Commissioners about whether there are “reasonable grounds” to believe that discrimination occurred.
- “Reasonable grounds” is not defined by law. Plainly, it means that there is reasonable basis, in fact and law, to believe that discrimination occurred.

## Responding to Investigative Reports

- The HRC sends out investigative reports to the parties about three weeks before a scheduled Commission meeting.
- Parties may submit written responses to the investigative report within two weeks. These should address why the parties agree or disagree with the recommendations, and should not include any new evidence not presented to the investigator. Parties are not required to respond to the investigative report.
- The Commissioners will review the investigative report and any timely responses before the Commission meeting.

# COMMISSION MEETINGS



The Commissioners of the HRC meet every month, except for November. Each month, they review investigative reports, conduct informal confidential hearings, and vote on complaints.

Parties are invited to attend a **confidential hearing** about their case. They are not required to attend. Hearings usually take between 30 and 45 minutes. A party may have an attorney represent them at the hearing. A party may attend a Commission meeting virtually, by phone, or in person. Anyone who needs a reasonable accommodation at the meeting may request one in advance.

## At the Hearing

- **No new evidence** that wasn't given to the investigator can be presented to the Commissioners
- At the start, each party will have 5 minutes to state why they agree or disagree with the report. A staff member will keep time.
- Commissioners will ask clarifying questions, if they have any
- At the end, each party will have a few additional minutes to make a closing statement.
- No minutes or recording of the hearing are permitted, because it is a confidential process.



**After the hearing, Commissioners will deliberate in executive session without the parties present. Later, they will vote in the public session.**

# COMMISSION VOTE

The Commission vote is called a “determination.”

Commissioners vote on whether or not there are reasonable grounds to believe that discrimination occurred

- If they vote “reasonable grounds,” then the name of the parties and the vote become a matter of public record. Identities of minor children stay confidential.
- If Commissioners vote “no reasonable grounds,” then the case is closed and the party names remain confidential by law.
- If there is a tie vote, Commissioners may reconsider the case at another time.
- HRC staff will tell the parties by the end of the meeting what the Commission voted in their case.

## After the Vote

A “reasonable grounds” vote will start a 6-month period in which the HRC works with the parties to see if conciliation is possible. Sometimes the parties agree to try mediation with a professional mediator. If the parties do not resolve the case, then the HRC may file a law suit against the Respondent in Superior Court.

**A Complainant has the right to bring their own law suit in State court regardless of whether or not the HRC sues the Respondent.**





# DISMISSAL & WITHDRAWAL

- In some cases, a complaint may not be fully investigated because it is either dismissed by the Executive Director, or withdrawn by the Complainant.

## Dismissal by the HRC

- HRC's Rules allow the Executive Director to dismiss a complaint for Parties for "good cause" including:
  - the complaint is outside of the HRC's jurisdiction
  - the complaint does not assert the required elements for a complaint
  - the Complainant fails to keep the HRC up to date with mailing address and other contact information
  - the Complainant fails to cooperate with the investigation
  - the Complainant starts legal action in another forum about the same set of facts
- A Respondent may ask the Executive Director to dismiss a complaint for any of these reasons. If that happens, then the Complainant will have a chance to respond to the request before the Executive Director makes a final decision.

## Withdrawal

- A Complainant may voluntarily withdraw their complaint at any time. There is a form to sign, which gets approved by the Executive Director. That will close the complaint, but it does not prevent HRC staff from investigating the same allegation.
- A Complainant who is feeling pressured into withdrawing their complaint by a Respondent or other person should notify the Staff Attorney Investigator.

# FREQUENTLY ASKED QUESTIONS

## *How long does the HRC process take?*



There is no set amount of time that a complaint investigation may take. Staff work to complete cases in a timely fashion. They will keep you updated on the status of a case. Depending on how complex a case is, it may take 6 months, up to a year, or longer.

## *Can the HRC represent me?*

No. HRC Staff Attorney Investigators must treat all parties fairly and objectively. They do not represent either party. Even HRC's Senior Counsel only represents the HRC and the public interest in court actions, and not individual complainants, HRC staff can provide information about the law but cannot give anyone specific legal advice.



## *How much money is my case going to get?*

Complainants often ask HRC staff to give them advice about how much money their complaint might settle for. Unfortunately, the HRC cannot advise on this or predict an outcome. We may be able to share with you what other similar claims have settled for in the past. But, every case is different and there are many reasons for variations in settlement amount. Sometimes, cases settle without any payment at all.



# RESOURCES FOR MORE INFORMATION



For more details about the HRC process and legal requirements, read the HRC's Administrative Rules.

Find them at this QR code or at:

<https://hrc.vermont.gov/sites/hrc/files/laws/VHRC-Rules.pdf>



Read the text of the Vermont Fair Housing & Public Accommodations Act (9 V.S.A. sec 4500 et seq.) at:

<https://legislature.vermont.gov/statutes/fullchapter/09/139>



Read the text of the Vermont Human Rights Commission Act (9 V.S.A. sec 4551 et seq.) at:

<https://legislature.vermont.gov/statutes/fullchapter/09/141>



The Federal Department of Housing & Urban Development has helpful guidance for tenants and housing providers. HRC

Staff commonly refer to these documents. Go to:

<https://www.hud.gov/fairhousing>

