

ANCHORAGE EQUAL RIGHTS COMMISSION

AERC

Anchorage Equal Rights Commission
Ensuring Equality



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2016 ANNUAL REPORT



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2016 COMMISSION MEMBERS

Edith Bailey, Chair
Wanda Greene, Vice Chair
Marie Husa, Secretary
Cassie Atwell, Member
Darrel Hess, Member
Lucy Hansen, Member
Robert Churchill, Member
Diane Heaney-Mead, Member
Kimberly Pace, Member

2016 STAFF MEMBERS

Pamela T. Basler, Executive Director
Belinda A. Davis, Senior Investigator
Andrew B. Sundboom, Senior Investigator
Stephanie M. Horvat, Investigator
Donte J. Powell, Intake & Outreach Coordinator
Natalie K. Day, Senior Office Associate

CONTACT INFORMATION

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Office: (907) 343-4342

Fax: (907) 249-7328

Email: AERC@muni.org

Deaf and Hard of Hearing Persons:

Dial 711 for Alaska Relay Services

Website: www.muni.org/aerc

Facebook: www.facebook.com/AnchorageEqualRightsCommission

Twitter: www.twitter.com/AnchorageERC

MEETING DATES AND LOCATIONS

The AERC Commission regularly meets at 6:00 p.m. on the third Thursday of odd months in the Mayor's Conference Room, Suite 830 in City Hall. The meetings are listed on the MOA website under Public Notices and on the Mayor's Page at www.muni.org/Departments/Mayor/Boards/events.



II. A MESSAGE FROM THE CHAIR AND EXECUTIVE DIRECTOR

To the Honorable Mayor Ethan Berkowitz, the Anchorage Assembly and the Community of Anchorage,

On behalf of the Anchorage Equal Rights Commission (AERC), we are pleased to present AERC's 2016 Annual Report. The report reflects many of the actions taken and the activities participated in to further the mission of AERC to eliminate discrimination within the Municipality by enforcing the laws that prohibit discrimination under Title 5 of the Anchorage Municipal Code, as well as federal laws such as the Americans with Disabilities Act (ADA), as amended, and Title VII of the Civil Rights Act of 1964.

2016 was a busy year for our Commissioners and staff. They spent numerous hours attending various community outreach events, such as:

- The Disability and Aging Summit
- The Alaska Women's Summit 2016
- Anchorage Walk Together
- The DOJ Hate Crimes Conference
- Stand Against Racism Day Event
- Anchorage Cultural Summit
- PrideFest
- Bridge Builders Meet the World in Anchorage
- The Anchorage Welcoming Week Community Celebration
- The AERC/EEOC Equality and Change in Anchorage Forum
- Black History Month Forum: How Does Diversity Affect Race Relations in Anchorage?

Our staff continued using social media, including Facebook and Twitter, to reach as many members of our community as possible.

In addition to attending outreach events, AERC staff processed 442 inquiries from citizens of Anchorage and the surrounding areas who contacted our office during 2016. Of those inquiries, 111 new complaints were filed and 107 cases were closed by settlement, investigation or conciliation.

The Commission and AERC staff look forward to continuing their work to eliminate and prevent discrimination in our community through public education and enforcement of the discrimination laws.

Sincerely,

Edith Bailey

Edith Bailey, Chair

Pamela T. Basler

Pamela T. Basler, Executive Director



What is the Anchorage Equal Rights Commission?

The Anchorage Equal Rights Commission (AERC) was established in the Anchorage Charter in 1975 and is the municipal civil enforcement agency charged with preventing and eliminating unlawful discrimination under Title 5 of the Anchorage Municipal Code. The AERC also enforces the Americans with Disabilities Act of 1990 and Title VII of the Civil Rights Act of 1964 through a work-share agreement with the federal Equal Employment Opportunity Commission.

How does the AERC enforce the law?

The AERC and its staff enforce the law by impartially investigating complaints alleging illegal discrimination or harassment based on:

- Race
- Religion
- National origin
- Color
- Sex
- Gender Identity
- Sexual Orientation
- Pregnancy
- Parenthood
- Physical disability
- Mental disability
- Marital status
- Age
- Retaliation

It is unlawful to discriminate in:

- Employment
- Housing
- Public accommodations
- Educational institutions
- Financial institutions
- Practices of the Municipality of Anchorage

What constitutes discrimination?

Discrimination means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal or denial or any other act or practice of differentiation or preference in the treatment of a person because of race, color, religion, national origin, age, sex, gender identity, sexual orientation, marital status or physical or mental disability, or the aiding, abetting, inciting, coercing, or compelling thereof.

AMC 5.20.010

What is the AERC complaint process?

If you feel that you are being treated differently, call our office and a staff member will listen to your concerns. If the AERC determines that it has jurisdiction over your complaint, an Intake Interview will be scheduled. Please see the complaint process flow chart for more information on the complaint process.

If the AERC does not have jurisdiction over your complaint, a staff member will refer you to the appropriate agency.

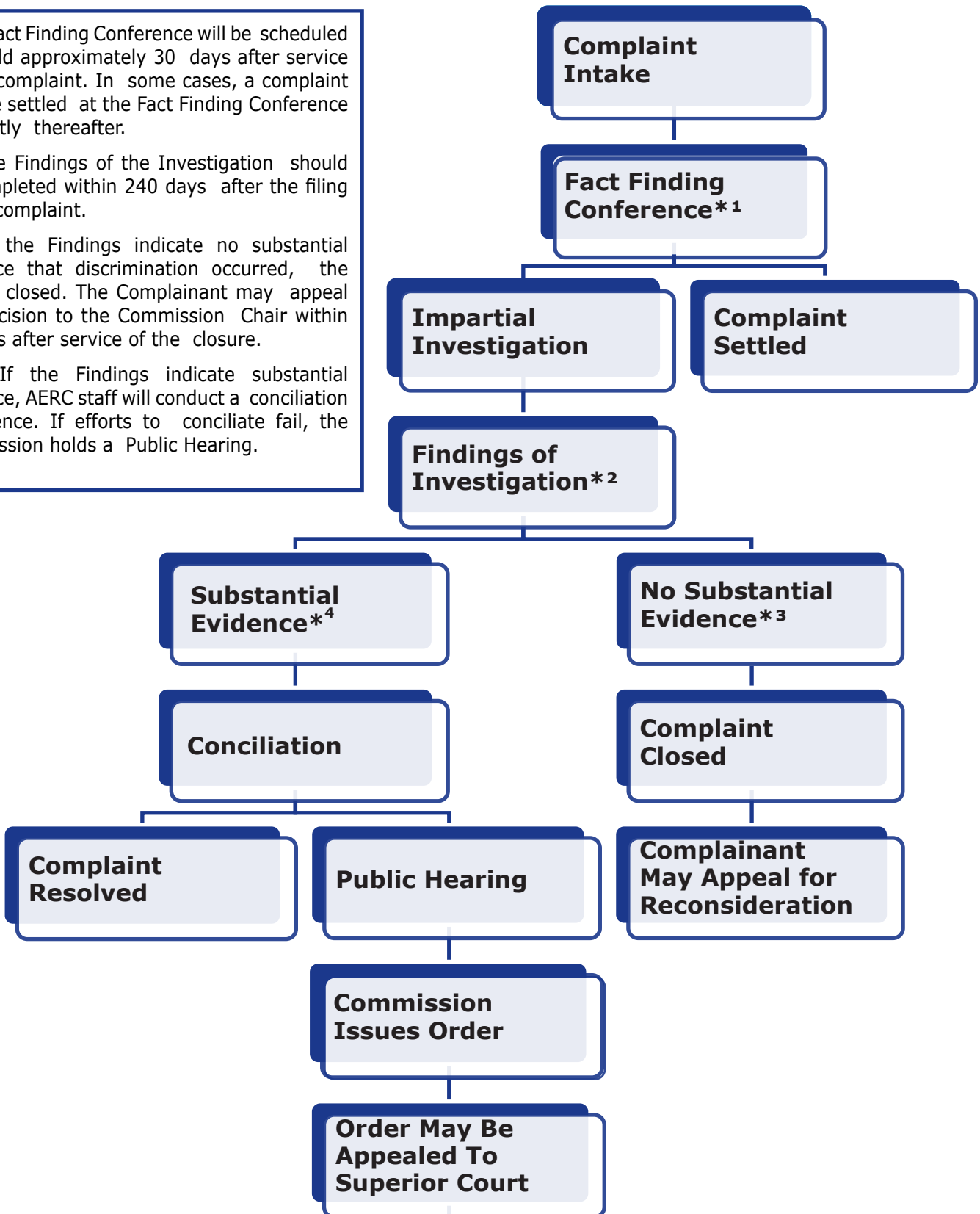
AERC COMPLAINT PROCESS FLOWCHART

1.* A Fact Finding Conference will be scheduled and held approximately 30 days after service of the complaint. In some cases, a complaint may be settled at the Fact Finding Conference or shortly thereafter.

2.* The Findings of the Investigation should be completed within 240 days after the filing of the complaint.

3.* If the Findings indicate no substantial evidence that discrimination occurred, the case is closed. The Complainant may appeal this decision to the Commission Chair within 15 days after service of the closure.

4.* If the Findings indicate substantial evidence, AERC staff will conduct a conciliation conference. If efforts to conciliate fail, the Commission holds a Public Hearing.





ANCHORAGE EQUAL RIGHTS COMMISSION STRATEGIC PLAN

Five-Year Plan for 2014-2019

Document Control

Prepared by

Commission Members

Robert Churchill, Commission Chair 2014

Wanda Laws, Vice-Chair 2014

Darrel Hess, Secretary 2014

Cassie Atwell, Member

Eddie Bailey, Member

Herbert J. Turner, Member

Shirley Tuzroyluke, Member

Wa Kou Yang, Member

Staff

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Belinda A. Davis, Investigator

Eric M. McGhee, Investigator

Andrew B. Sundboom, Investigator

Stephanie M. Horvat, Intake and Outreach Coordinator

Dawnyale L. Bolds, Docket Clerk

Distribution control

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Document location

Anchorage Equal Rights Commission

632 W. Sixth Avenue, City Hall, Suite 110 - Anchorage, Alaska 99501

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Plan 2014-2019\Strategic Plan 20140317.doc



IV. STRATEGIC PLAN (CONTINUED)

Mission The Anchorage Equal Rights Commission enforces municipal and other anti-discrimination laws on behalf of all citizens and visitors to Anchorage. The Commission also educates the public about anti-discrimination laws and seeks to increase voluntary compliance with such laws and to uphold the vision of equal opportunity for all.

Vision To support and maintain a community in which each person values the rights of others to live, work and play in peace and dignity, and all persons have equal opportunity to realize their full potential both as individuals and as members of society.

Commission Goals

Goal One

Continue to develop our outreach and marketing plan to improve ways to inform the community about the Commission's services via technology.

Goal Two

Review Title 5 annually and make revisions if necessary to ensure code is accurate, facilitates staff work, and is responsive to the community.

Goal Three

Develop and maintain Commission Development Committee to ensure qualified Commission members are timely appointed.

Staff Goals

Goal One

Respond to inquiries in a timely manner.

Goal Two

Respond to complaints and timely investigate allegations of discrimination.

Goal Three

Eliminate discriminatory practices by providing outreach and education in our community.

Goal Four

Advance staff professionalism by creating and implementing individualized professional development plans.

The Principles & Values that Guide Our Work

Honesty and Integrity

Respect for Everyone

Commitment to Excellence

Teamwork is How We Do Business

Community Outreach

In 2016, AERC staff and commissioners continued their outreach and education efforts by attending, tabling, or sponsoring events and outreach campaigns, and by presenting information on AERC's services and its complaint process to community organizations.

The AERC also focused on the two new protected classes added to Title 5 by creating an informational video and hosting educational forums. Additionally, the AERC focused on youth outreach by attending youth related outreach events.

AT-A-GLANCE

266	Number of events attended by AERC staff or commissioners
4	Number of events the AERC tabled
8	Number of events where AERC staff presented information on AERC jurisdiction and case processing procedures
9	Number of events sponsored or co-sponsored by the AERC

- **AERC created short videos on various topics.** To engage the public, the AERC created two short videos. The videos gave the AERC an opportunity to work with community members and organizations on informative media that can be shared throughout the Anchorage community. The first video highlighted the immense diversity in Anchorage and gathered the community's thoughts on the inclusivity of the Anchorage community. The second video provided information regarding the protected classes of Gender Identity and Sexual Orientation, which were added to Title 5 in 2015. Both videos can be found online at www.muni.org/aerc.
- **The AERC partnered with local and federal agencies and organizations.** To educate the public and develop its network, the AERC collaborated and organized events with other local and federal agencies. The topics of the events included police and community relations, celebration and inclusion of immigrants, knowledge of equal rights, and LGBTQ equal rights just to name a few. The collaborative events provided educational opportunities for the public as well as developed ties between the AERC and other local and federal agencies with similar focus areas.
- **The AERC staff and commissioners continued to be active online and in social media.** In addition to distributing AERC informational materials and educating the public at various events, the AERC participated in social media campaigns, and published its videos online to actively get people involved with the AERC Facebook page and website.



The Anchorage Community Police Relations Task Force (ACPRTF), formerly known as the Minority Community Police Relations Task Force, was established in 1981 after lengthy community discussions took place following a police use of deadly force incident involving Cassel Williams, a young African American male. Today the Task Force serves as a liaison between the Anchorage community and local law enforcement agencies. Since its formation, the AERC has served as an advisory member and provided administrative support to the Task Force.

The Task Force meets on the second Friday of each month at 12:00 p.m. at the Fairview Recreation Center and provides a forum for input and constructive dialogue between Anchorage community members and the Anchorage Police Department (APD). The ACPRTF also investigates complaints lodged by citizens regarding their contacts with the APD. Complaint forms are available at the AERC office located in City Hall or online at www.muni.org/aerc.

Significant accomplishments by the Task Force during 2016 include:

Community Forum: Police-Community Trust Building: The ACPRTF co-sponsored a forum on Police-Community Trust Building on July 14, 2016. Knight Sor from the U.S. Department of Justice, Community Relations Service was the keynote speaker. The presentation complemented current community policing efforts to promote mutual respect and understanding between citizens and law enforcement. The purpose of the presentation was to decrease the likelihood of excessive force, reduce the potential for violence to officers and/or community members, and to promote communication and information sharing between the two groups. Following the presentation, the audience was given an opportunity to ask questions of Mr. Sor and APD.

Community Focus: In August 2016, the Mayor's Office requested the ACPRTF participate in an upcoming meeting with members of the South Sudanese Community in an ongoing effort to address concerns from the community. The meeting was held during the Task Force's Regular Meeting in August and provided basic information to the group about the American and Alaskan legal system. Following this meeting, the Task Force committed to assisting members of the South Sudanese Community with various issues, including concerns with the Anchorage Police Department as well as other basic information on community services in Anchorage. The ACPRTF held a number of meetings with this community throughout 2016. Individual ACPRTF members also provided additional assistance to South Sudanese citizens through the various organizations that they represent.

The Task Force also met with state government officials in April and May of 2016 regarding in-custody deaths at the Department of Corrections. While the Task Force does not have jurisdiction over state agencies, it can act as a referral source to individuals who bring non-jurisdictional complaints to the ACPRTF.

Incident Reports: The ACPRTF addressed one incident report made by a citizen regarding their contact with local law enforcement.



DISABLED DRIVER DISPLAYS DANGEROUS DRIVING

A disabled motorist filed a complaint against a law enforcement officer alleging that the officer discriminated against him on the basis of his disability when the officer prevented the disabled driver from operating his motor vehicle after a traffic stop and required him to call a friend to get a ride home. The officer believed the driver's driving method prevented him from safely operating his motor vehicle. After criminal charges against the driver were dismissed, Commission staff investigated the matter by reviewing the department's normal police procedure during traffic stops, interviewing the officer involved in the stop, interviewing command level staff from the department, and reviewing state law that sets out procedures for licensing disabled motorists and determining what, if any, special requirements a disabled driver must follow to remain licensed after a disabling event.

Investigation showed that the officer operated within his discretionary authority in preventing the disabled driver from driving away after the traffic stop based on the driving behavior he observed and the questionable methods used by the driver to operate his motor vehicle without hand controls. The officer later notified the Division of Motor Vehicles (DMV) of the questions he had about the disabled driver's methods for operating his motor vehicle using the DMV's approved "Recommendation for Re-Examination" form.

After the DMV receives a "Recommendation for Re-Examination" form it will review the report to determine if the driver needs to be re-examined. If the driver is re-examined, the DMV will evaluate the results of the driver's re-examination to determine (1) if the driver's license should be revoked, (2) if it should be reissued with additional restrictions, or (3) whether the driver is capable of continuing to safely operate a motor vehicle under the current license. Staff issued a no substantial evidence determination and closure in the case which was sustained by an AERC three-commissioner reconsideration panel.

A NIGHT ON THE TOWN

A female janitor working at a bar establishment complained that a male supervisor subjected her to verbal conduct of a sexual nature when he repeatedly asked the janitor out to have "some fun" after she declined his initial request. Evidence showed that the supervisor subsequently terminated the janitor for alleged poor performance. The employer stated that it was not aware of the alleged harassment until it received the complaint of discrimination that the female janitor filed with the Anchorage Equal Rights Commission (AERC). Evidence showed that after receiving the complaint of discrimination, the employer conducted its own investigation but was not able to substantiate the janitor's allegation. However, evidence showed that the employer terminated the supervisor.

Prior to an impartial investigation being conducted by staff, the employer entered into a Pre-Determination Settlement Agreement which included: (1) paying the janitor back wages, (2) re-distributing a copy of its Non-Harassment policy to its current employees, and (3) posting an AERC informational poster in the workplace. Staff then closed the settled complaint.

CLEAN MY ROOM, PLEASE!

A hotel housekeeper filed a complaint alleging that she was subjected to a hostile work environment because of her race and age. The employer denied the housekeeper's allegation of a hostile work environment, but evidence showed that she was terminated after guests complained that their rooms had not been cleaned even though the housekeeper's records showed that she had cleaned the hotel rooms. Evidence showed that on previous occasions, the housekeeper had failed to perform her job duties in a satisfactory matter. However, the employer entered into a Pre-Determination Settlement Agreement prior to an impartial investigation being conducted by AERC staff. The terms of the Agreement included: (1) payment of back wages, (2) a neutral reference, and (3) the housekeeper's termination being changed to a resignation. Additionally, the employer agreed to post an AERC informational poster in the workplace and to re-distribute a copy of its Discrimination and Harassment Policy to the current employees. No further action was taken by staff and the case was dismissed as settled.

HOLD THAT EVIDENCE!

In February 2015, a disabled resident filed a complaint with the AERC alleging that a local transportation provider denied her services based on her disability and race. Per Title 5 of the Anchorage Municipal Code, the AERC served a copy of the complaint and additional documentation on the parties within ten days after the filing of the complaint. Included in the documents package was a Request for Essential Information (REI) for the Respondent. The REI specifically requested that the Respondent provide any audio and/or video of the alleged incident and cited the day, time and location where the incident occurred.

While the complaint initially proceeded into settlement discussions between the parties, the case did not settle and the AERC then continued with its Fact Finding Conference and impartial investigation. During this time, it was discovered that the Respondent failed to put a litigation hold on the time-sensitive video evidence that was requested in the REI, and as a result, the evidence was destroyed. The investigator in the case interviewed both the Complainant's witness as well as the transportation provider. However, the transportation provider no longer recalled the alleged discriminatory incident because of the time lag involved in Respondent notifying the provider of the complaint and the lack of a video tape to refresh his recollection.

The staff determined that, with the available evidence, there was not substantial evidence supporting the allegations of discrimination against the Complainant. However, staff then determined that Respondent failed to timely furnish information requested or failed to provide responses to a request for essential information, and imposed a sanction available under Title 5. A Determination and Notice of Conciliation Conference were issued in December 2015 and a Conciliation Conference was held in January 2016. The Respondent was unwilling to conciliate the matter and a notice of conciliation failure was issued. Thereafter, a Hearing Panel was appointed by the AERC Chair in November 2016. However, the parties successfully mediated the matter in front of an Administrative Law Judge mediator in February 2017, prior to a Public Hearing. The parties agreed to a procedural change regarding putting litigation holds on time-sensitive audio and video evidence and the Respondent voluntarily conducted training on persons with disabilities and the ADA for its staff. The AERC's Settlement Agreement with the Respondent helps to preserve crucial time-sensitive evidence in future cases and resolved the remaining public interest aspects of this case.

REVEALED INFORMATION

A teacher complained that after she filed an internal complaint alleging that a worker had made sexually derogatory comments towards her, the office that investigated her allegation released confidential information about her sexuality. According to the teacher, this release of information resulted in co-workers having discussions about her internal complaint at an official meeting and in other forums. Staff gathered additional facts surrounding the teacher's allegation before it began an impartial investigation and discovered that the teacher had indeed filed an internal complaint against a worker and that the worker was interviewed and advised that the matter was confidential and not to discuss it with anyone. Additional facts indicated that the worker failed to comply with the confidentiality provision and instead discussed the matter with other individuals without the knowledge of the internal investigator. Evidence indicated that prior to the internal investigator being able to take corrective action against the worker, the worker voluntarily resigned her position. Additional information gathered by AERC staff indicated that the teacher had not revealed her sexual orientation to anyone and that it was only after she filed her internal complaint that she revealed her sexual orientation to the internal investigator. There was no evidence that the investigator released this information to anyone.

Prior to the beginning of an impartial investigation, the teacher and the office entered into a voluntary Pre-Determination Settlement Agreement which resulted in sexual harassment training for school staff and administration. No further action was taken by AERC staff and the case was dismissed as settled.

TRAVEL SIZES

A cashier employed for over 10 years filed a complaint alleging that her employer terminated her because of her national origin and age. Evidence showed that the employer's corporate office used computer algorithms to track a number of its store operations such as sales, inventory, and the usage of manufacturer and store coupons. Evidence indicated that an employee working in the corporate headquarters ran an algorithm that "kicked out" anomalies regarding the usage of coupons. Evidence showed that one of the anomalies was at a store located in Anchorage, Alaska. Thus, the corporate office requested that the store's Asset Protection Manager investigate the matter. Evidence showed that the request to investigate did not specify an employee's name, race/national origin, or age but simply identified the individual by their employee discount number. Evidence showed that the employee discount number belonged to the cashier. Evidence showed that the Asset Protection Manager investigated the anomalies and compared the coupons used by the cashier and the coupon values with the amount that the cashier should have paid for each item less her employee discount. Evidence showed that the employer had a Coupon Usage Policy for its cashiers to follow. The cashier stated that while she never read or received a copy of the coupon policy, she acknowledged that the employer explained the policy, in general, to all cashiers, specifically that the coupon presented by a customer must have a valid date and be for

the identical size and quantity of the product that is being purchased. Evidence showed that after the cashier was presented with the results of the investigation showing that she should have paid \$576.00 more for the items that she purchased, she admitted to using the coupons to purchase the wrong items and offered to repay the employer. The cashier's explanation for purchasing travel/trial sized items even though it was prohibited by the manufacturer was that she was told by a previous assistant manager that if a cashier scanned a coupon and it was accepted, the employer would get reimbursed by the manufacturer. Evidence showed that the cashier used the self-checkout for the majority of her transactions. In addition, the cashier alleged that other cashiers had and were violating the Coupon Policy but she declined to identify the other cashiers to her employer. Based on the impartial investigation, staff found no substantial evidence to support the cashier's allegation of discrimination and dismissed the case.

TACOS, WINGS AND THINGS

A food service worker complained that she was terminated because of her race, sex, and parenthood. Evidence showed that at the time of the worker's hire that she was pregnant and was allowed to take time off from work even though she was not eligible for Family Medical Leave. Evidence showed that the worker was allowed to return to her previous position. Evidence showed that the food service worker was late for work or called out at least nine times during a three month period after her return to work. Evidence showed that the food service worker called in every time that she was going to be late and that she only called out when her infant was sick or if her other children had doctors' appointments. The employer acknowledged that the food service worker complied with its attendance/punctuality policy in regards to notifying her supervisor and that, at the request of the worker, her shift was changed but she continued to have attendance issues.

During the impartial investigation, it was discovered that the employer was in the midst of conducting an investigation regarding allegations that the food service worker had committed theft. Evidence showed that prior to the completion of the investigation, the employer's former retail operations manager terminated the food service worker without the approval of the Human Resources Director. Upon notification from the food service worker that she had been terminated, the employer's Human Resources Director "paused" the worker's termination and placed her on paid administrative leave until it completed the investigation. The investigation showed that the food service worker (1) failed to pay for meals, (2) did not consume her meals during her lunch break and instead took food home from the facility which is a violation of the employer's Meal Policy and health regulations, and (3) consumed certain meals that were not in the "free meal" category under the Meal Policy. The food service worker denied the allegations.

Evidence showed that the employer later terminated the food service worker for misconduct regarding its Meal policy. Staff found that the food service worker's claim of discrimination was not substantiated and issued a Determination of No Substantial Evidence.

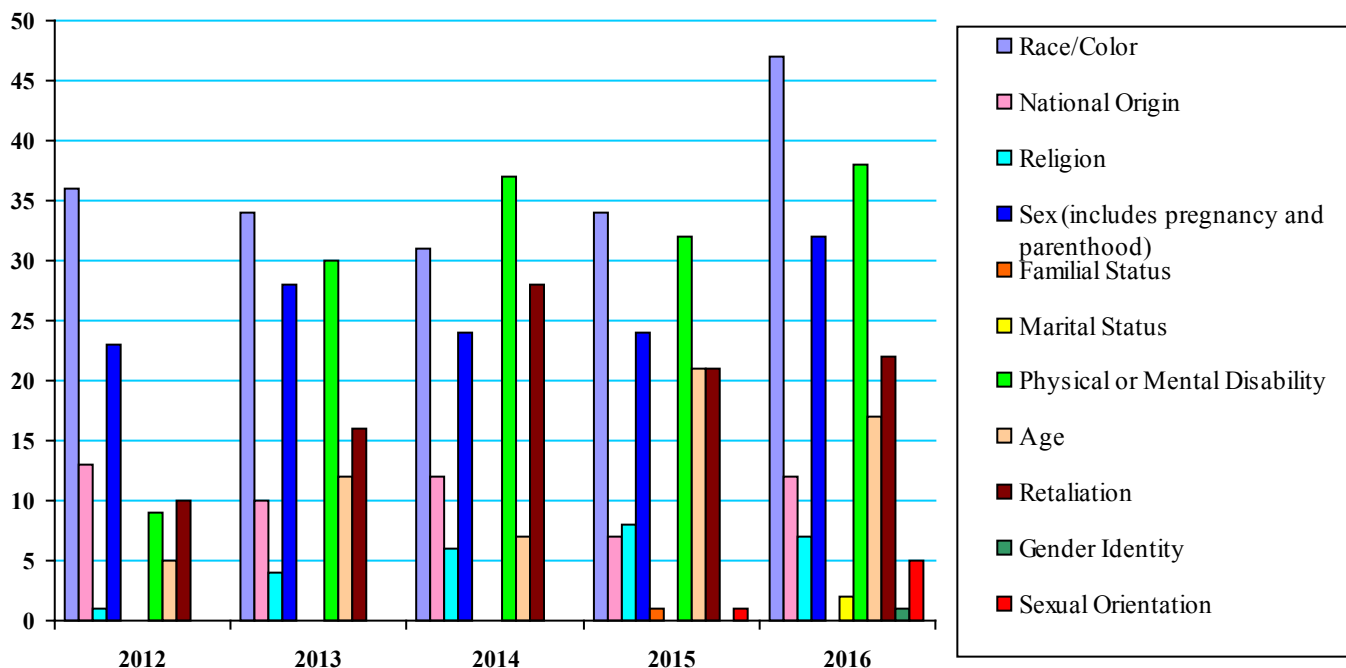
Inquiries and New Complaints

	2012	2013	2014	2015	2016
Inquiries	499	441	406	431	442
New Complaints	76	96	107	99	111
% of Perfected Complaints and Inquiries	15.2%	21.5%	26.4%	23.0%	25.1%

Complaint Filings By Area Of Discrimination

	2012	2013	2014	2015	2016
Employment	65	81	98	88	100
Housing	5	4	4	3	4
Public Accommodations	6	7	4	6	6
Financing	0	1	0	0	0
Educational Institutions	0	3	0	2	0
Practices of the MOA	0	0	1	0	1
TOTALS	76	96	107	99	111

Complaint Filings by Basis *



* Many complaints were filed on more than one basis

Case Age

		Current			Over 240			Total Cases	Total % over 240
		80 or less	81-190	191-240	241-320	321-400	400 or more		
2012	# of Cases	15	13	5	10	8	9	60	27
	% of Cases	25%	21.6%	8.3%	16.6%	13.3%	15%	100%	45%
2013	# of Cases	20	19	7	12	5	1	64	18
	% of Cases	31.7%	30.1%	11%	19%	8%	1%	100%	28.5%
2014	# of Cases	17	17	6	13	7	7	67	27
	% of Cases	25.4%	25.4%	9%	19.4%	10.4%	10.4%	100%	40.3%
2015	# of Cases	13	31	6	10	7	2	69	19
	% of Cases	18.8%	44.9%	8.7%	14.5%	10.2%	2.9%	100%	27.5%
2016	# of Cases	25	25	12	3	1	4	70	8
	% of Cases	35.71%	35.71%	17.15%	4.30%	1.43%	5.71%	100%	11.43%

Resolutions Providing For Elimination of Discriminatory Practices

	2012	2013	2014	2015	2016
Total Predetermination Settlements, Conciliations or Settlements that include remedial measures provided by Title 5	32/32	38/38	53/53	33/33	34/34
Total Dollars in Settlements	\$246,606	\$262,983	\$975,722	\$339,701	\$105,263

2016 POST-DETERMINATION CASES AS OF 12/31/2016

NUMBER OF CASES IN CONCILIATION STATUS: 2 NUMBER OF CASES IN PUBLIC HEARING STATUS: 1

Determinations and Case Closures

	2012	2013	2014	2015	2016
Total Determinations and Case Closures	84	92	105	97	107

services
Discrimination training referral
prohibiting complaints Enforce
laws investigating
Educate information
business discrimination
Enforcement community Anchorage
entities regarding law providing
Eliminate Education
public
Provide



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