

ANCHORAGE EQUAL RIGHTS COMMISSION

AERC

Anchorage Equal Rights Commission
Ensuring Equality

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Ensuring Equality

2017 ANNUAL REPORT





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2017 COMMISSION MEMBERS

Wanda Greene, Chair
Marie Husa, Vice-Chair
Kimberly Pace, Secretary
Darrel Hess, Member
Robert Churchill, Member
Diane Heaney-Mead, Member
Albert Berke, Member
Lea McDermid, Member
Joshua Vo, Member

2017 STAFF MEMBERS

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

CONTACT INFORMATION

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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 2017 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.

During 2017, with the assistance of the Anchorage Youth Advisory Commission and the Anchorage Police Department, AERC created two public service videos: "You Have the Right to Report Hate Crimes" and "You Have the Right to Report - Youth at Work". The videos are posted both on the AERC Municipal web page as well as on YouTube.

A focus for the Commission in 2017 was to start a dialogue with the current Municipal Administration to address the lack of a safe, accessible drop off at the Alaska Center for the Performing Arts (ACPA). It is our hope that we can assist the Municipality to ensure that there are adequate accommodations at the ACPA so that persons with disabilities are able to safely access events at the ACPA.

Our Commissioners and staff attended numerous outreach events in 2017, such as; the Anchorage Women's March, the Disability Equity Forum, the Alaska Black Business Expo, Anchorage Bridge Builders Meet the World, Know Your Rights Forum, You Have the Right to Report Forum, World Refugee Day, 2017 PrideFest, Welcoming Week Naturalization Ceremony, Human Rights Day Vigil and the Alaska ADA Community of Practice.

We also welcomed three new commissioners: Albert Berke, Lea McDermid and Joshua Vo who were all appointed effective January 10, 2017.

In addition to attending outreach events, AERC staff processed 523 inquiries from residents and visitors to Anchorage and the surrounding areas who contacted our office during 2017. Of those inquiries, 134 new complaints were filed. Additionally, 126 pending cases were closed by settlement, investigation or conciliation.

The Commission and AERC staff will continue their work to eliminate and prevent discrimination in our community through public education and enforcement of the anti-discrimination laws.

Sincerely,

A handwritten signature in cursive script that reads 'Wanda V. Greene'.

Wanda Greene, Chair

A handwritten signature in cursive script that reads 'Pamela T. Basler'.

Pamela T. Basler, Executive Director



III. FUNCTIONS OF THE ANCHORAGE EQUAL RIGHTS COMMISSION

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.

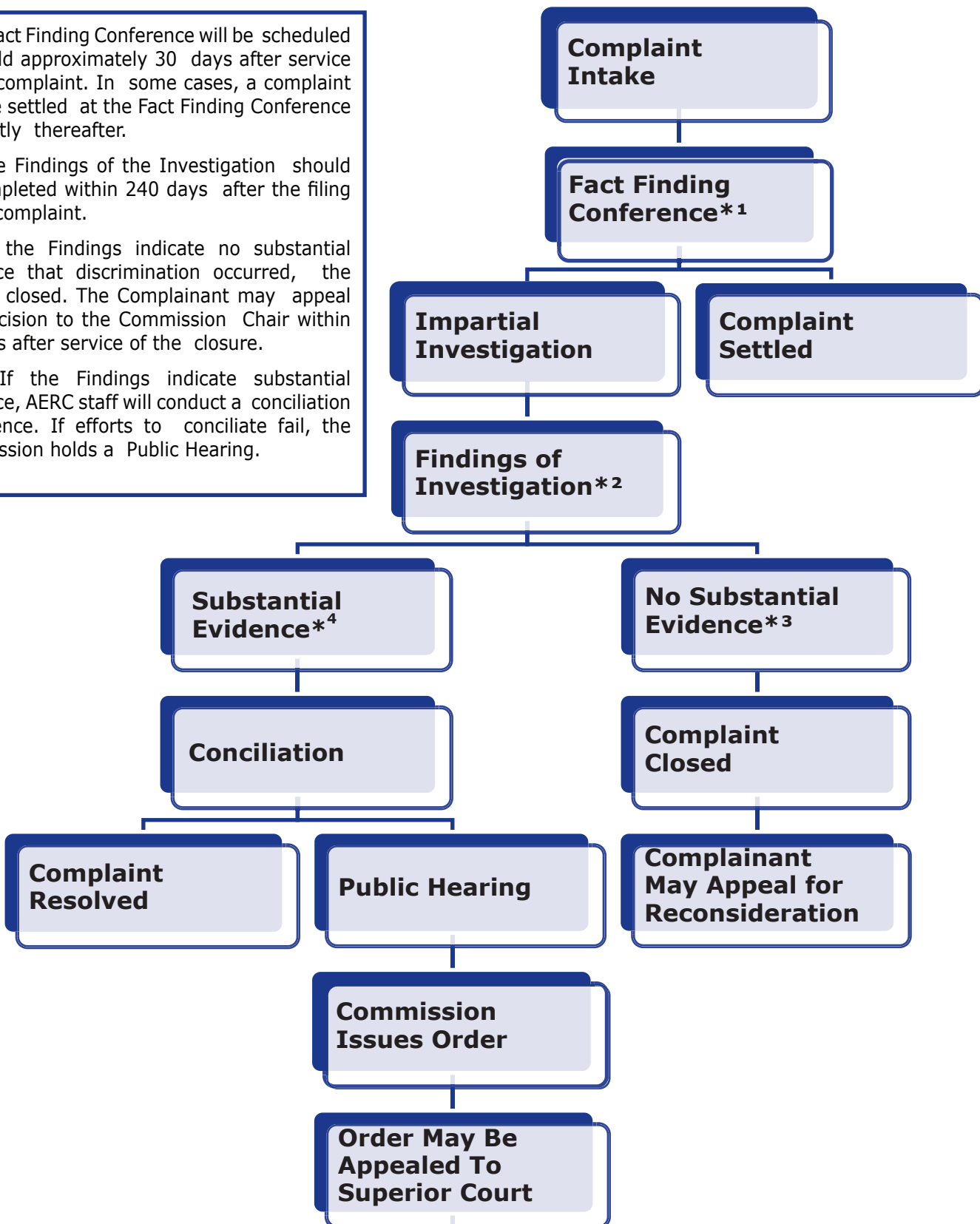
AERC COMPLAINT PROCESS FLOWCHART

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
Edie Bailey, Member
Herbert J. Turner, Member
Shirley Tuzroyluke, Member
Wa Kou Yang, Member

Staff

Pamela T. Basler, Executive Director
Belinda A. Davis, Investigator
Eric M. McGhee, Investigator
Andrew B. Sundboom, Investigator
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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



V. REPORT ON OUTREACH ACTIVITIES AND EDUCATION PROGRAMS

Community Outreach

In 2017, 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 created two informational videos called “You Have the Right to Report Hate Crimes,” and “You Have the Right to Report - Youth at Work,” which are posted online.

AT-A-GLANCE

- 270** Number of events attended by AERC staff or commissioners
- 10** Number of events the AERC tabled
- 5** Number of events where AERC staff presented information on AERC jurisdiction and case processing procedures
- 4** Number of events sponsored or co-sponsored by the AERC

- **The AERC presented information on AERC jurisdiction and case processing procedures.** The AERC provided several types of training including general anti-discrimination training and “Know Your Rights at Work” training. The AERC also presented on its services and jurisdiction at a co-sponsored event with the federal Equal Employment Opportunity Commission.
- **The AERC created informative 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 easily shared throughout the Anchorage community. The first video highlighted hate crimes and bias incidents and provided information on how and who to report such incidents to. The second video was focused on youth at work and provided information regarding discrimination in the workplace. Both videos can be found online at www.muni.org/AERC.
- **The AERC staff and commissioners continued to be active in the community and online.** The AERC tabled at various events throughout the Anchorage community, such as at Anchorage Welcoming Week events, Anchorage Bridge Builders Meet the World and at PrideFest, among many others. The AERC also continued to post informative articles on its social media accounts 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 2017 include:

Incident Reports: The ACPRTF addressed three incident reports made by citizens regarding their contact with local law enforcement.

Meeting Focus: During 2017, the ACPRTF held eleven regular meetings that were open to the public. During those meetings, the ACPRTF heard various presentations from local area law enforcement. The presentation topics included subjects such as: the Anchorage Police Department's 2017 Action Plan, Homicide Investigations and Evidence Collection, Active Shooters, Unsolved Homicides, and Gangs in Anchorage.

Citizens and organizations also informally addressed concerns or presented issues of importance in front of the Task Force. Some of those issues included an informal request by a Neighborhood Watch Program to have neighborhood watch signs installed in their neighborhood and information from the Small Business Administration on programs it offers for socially and economically disadvantaged individuals.

Membership: The ACPRTF welcomed the South Sudanese American Community as a new member organization to the ACPRTF.



Anchorage Community Police Relations Task Force

CUSTOMER CLAIMS DOG IS A SERVICE ANIMAL

The Commission did not find in favor of a Complainant who alleged that she was discriminated against on the basis of her disability after she was instructed by a restaurant owner to remove herself and her animal, which she claimed is a service animal, from the restaurant. The restaurant's manager, concerned that the animal was unleashed and being allowed up onto a table at the restaurant, did what was allowed under the law to determine if the animal should be allowed in the restaurant, which is to ask (i.) is the dog a service animal required because of a disability? and (ii.) what work or task has the dog been trained to perform?

If the customer had confirmed that her dog is a service animal trained to perform a qualifying task (See ADA.gov for more information), no further inquiries could have been made about the customer's disability or the animal's qualifications as a service animal, and the individual must be allowed to continue to access and enjoy the facility with their service animal in the same way any other customer is permitted to do so. Unfortunately, in this instance, after the restaurant's manager asked the two questions, the customer became upset, and the discussion escalated to such a point that the manager asked the customer to leave after the take-out was ready.

During investigation, Commission staff attempted to gather information needed to establish that the Complainant's dog was a service animal. To show that an animal is a service animal, an individual must be able to prove to Commission staff that they have a medical condition that qualifies them as disabled under the Americans with Disabilities Act, as amended, and that their animal received the requisite training to provide the needed assistance. Although a customer cannot be required to provide this information to a business owner, a Complainant is required to provide this information to the Commission to support a claim of discrimination. In this case, the Complainant refused to cooperate with the investigation and did not provide the information needed, thus the complaint was dismissed.

Commission staff encourages businesses and individuals to refer to its Service Animal brochure on the Commission's website at www.muni.org/AERC.

SMALL DOGS CAN SERVE!

A customer with a small breed service dog alleged that a local grocery store did not accommodate her service dog in their place of business. The customer alleged that a Supervisor at the store informed her that pets were not allowed inside and that the store's security guard repeatedly told her that her dog must wear a vest and have documentation clearly stating that the dog is a service animal. During the Fact Finding Conference (FFC), the grocer representative denied that the customer was asked to prove her dog was a service animal or leave the store. Immediately after the FFC, both parties agreed to settle the complaint by entering into a Pre-Determination Settlement Agreement in which the grocer agreed to re-train its staff on its Service Animal Policy and to re-distribute the policy to staff.

Commission staff reminds businesses that service dogs cannot be identified by appearance or size alone. While medium-sized dogs are commonly used as service animals, small dogs can be used for medical alerting, such as for seizures, among other things.

FEMALE EMPLOYEE RESIGNS AFTER THREATS OF SEXUAL VIOLENCE

A long-term male manager made sexual advances towards a younger, less-tenured, female employee, who rejected the advances of the older male manager. While at first believing she had successfully handled the situation, the female employee eventually sought assistance from another supervisor after the male manager's behavior towards her continued and became more concerning. The supervisor attempted on his own to prevent any further harassment towards the female employee, but, unfortunately, the efforts taken were unsuccessful and the male manager's harassment escalated, resulting in the female employee being threatened with sexual violence and fearing for her safety. The female employee immediately alerted the employer about the male manager's threatening behavior and filed a police report and sought a protective order from the courts soon thereafter.

The employer took what they believed to be adequate precautions to prevent its male manager from harassing the female employee any further. Unfortunately, due to the employer's unwillingness to remove the male manager from the workplace altogether and lapses in communication with the female employee about the precautions the employer was taking, the female employee continued to fear for her safety. Because the employer did not provide the protections and assurances necessary to allow the female employee to feel safe in the workplace again, she resigned from her employment. The female employee filed a complaint with the Anchorage Equal Rights Commission and the complaint was substantiated after a comprehensive investigation by Commission staff. As a result of the Commission's findings, the employer was required to provide training to all of its staff on workplace harassment and supervisors' responsibilities to prevent workplace harassment, and paid its former employee significant damages.

TALKING IS VITALLY NECESSARY!

A union office worker alleged that she had a disability and had requested a reasonable accommodation from her employer. Instead of accommodating her disability so that she could do the essential functions of her job, the worker explained that she was terminated.

A Fact Finding Conference was held with the employer and employee to gain additional evidence as mandated by Municipal Code before an impartial investigation is conducted. The Code allows the employer and employee to reach an agreement to voluntarily settle the complaint prior to the issuance of a Determination. At the Fact Finding Conference, the parties came to an agreement to voluntarily settle the Complaint. The agreement was subject to review and approval by the Anchorage Equal Rights Commission (AERC).

The Pre-Determination Settlement Agreement was approved by the AERC. The terms of the Agreement included: (1) back wages for the worker, (2) required training for employees, management staff and union officials regarding discrimination in the workplace, specifically engaging in the interactive process and providing reasonable accommodation to employees with disabilities under the Americans with Disabilities Act, as amended; and (3) placement of the AERC poster at the worksite.

The Americans with Disabilities Act, as amended, requires an employer to actively engage with an employee who asks for a reasonable accommodation. Part of the engagement process requires that an employer get the pertinent medical information about the employee's condition and discuss what specifically the employee is seeking as a reasonable accommodation. If the employer is unable to provide the specific accommodation asked for by the employee, the law requires the employer to interact with the employee to seek and discuss other possible reasonable accommodation options. However, at the end of the interactive process, the employer has the choice of which reasonable accommodation to provide to the employee.

PESTY INSECTS!

An employee with a degree in Chemistry and an advanced degree in Project Management complained that he was terminated because of his race and age. Evidence showed that the employee was hired as a probationary employee for a pest management control company, subject to obtaining a Pesticide Applicator Certification required by the Alaska Department of Environmental Conservation (DEC) and Pesticide Control Program (PCP). Evidence showed that the company is regulated by the DEC-PCP, the Environmental Protection Agency, and the Municipality of Anchorage.

Evidence showed that the employee received 80 hours of in-house training before he took his Pesticide Applicator test but failed it. Evidence showed that the employee then received an additional 80 hours of training, in which he shadowed a licensed Pesticide Applicator, for "how-to training." Evidence showed that the employee took the test a second time and passed. Evidence showed that although the Pesticide Applicators are responsible for using the appropriate products, the company advised them to call the company if they had questions about the use of any products.

The impartial investigation revealed that a customer contacted the company to have a wasps/bees nest removed from the customer's property because the customer's child and spouse had been stung numerous times. Evidence showed that the employee was assigned to the job and he was given instructions recommending the use of Yellow Jacket Foam to rid the property of the wasps/bees. The use of this product did not require a spray application. Evidence showed that the employee used a different pesticide, inconsistent with the manufacturer's product labeling, and sprayed the product in the customer's trees. By doing so the employee violated state and municipal laws which required a 48 hour public notice posting in the area being sprayed and any adjacent locations which included a day care facility. Evidence also showed that due to windy weather conditions, the product drifted beyond the customer's property. The employee's actions subjected the employer to possible sanctions and fines.

In addition to the above incident, evidence showed that the employer had received several customer complaints about the employee, including him entering the home of a wheelchair-bound customer without the customer's permission to look for bug spray. Evidence also showed that the employee damaged company equipment and failed to notify the employer of the damage as required by its policy.

Based on the impartial investigation, staff determined that the employer offered compelling and legitimate business reasons for terminating the employee and found no substantial evidence to support the employee's allegation.

LONG LOST RELATIVE!

A female employee alleged that she was terminated by her employer based on her race and that her employer also refused to release her personal property after she was terminated.

An impartial investigation revealed that the employee was employed at a facility that housed minimum security adult furloughs, court ordered restitution cases, and confined, unsentenced and sentenced misdemeanants from the state and federal governments. Evidence showed that two employees reported the employee to a supervisor after they allegedly saw the employee hug a federal resident in front of the facility's main security booth, a violation of its Standard of Employees' Conduct Policy. The matter was referred to the employer's corporate office located in Florida for investigation, and the employee was suspended and placed on unpaid administrative leave. The internal investigation showed that the male resident hugged the employee. The employee stated that she saw the resident's name on a roster and thought that the resident's name sounded familiar so she asked the resident to come and talk to her in the security area. The employee said that when the resident came down to the security area, she did not recognize him because he had recently returned

to the state after being absent for several years. However, the resident recognized the employee and gave her a spontaneous hug. The employee asserted that, while she was required to notify the employer of any conflict of interest with a state resident, no such policy existed for federal residents. Evidence showed that the conflict of interest policy applied to all residents of the facility.

Regarding her personal property, evidence showed that the employer returned all of the property it had in its possession and delivered the personal property to its attorney's office. This was done at the request of the employee. After retrieving her property, the employee still claimed that not all of her property had been returned. AERC staff recommended that the employee file a small claims case with the court.

The impartial investigation found no evidence to support the employee's allegation and staff issued a no substantial evidence determination.

PACKAGES, PACKAGES, AND MORE PACKAGES!

A Driver working for a worldwide transportation and service company complained that he was terminated based on his race and sex and that the company did not fire an employee not within his protected class. Evidence showed that the Driver had worked for the company in Texas, Kentucky and Alabama and held several different positions prior to transferring to Alaska. As part of his benefit package, the Driver received reduced-rate shipping, subject to company guidelines. The benefits were available to the Driver, his spouse and eligible dependent children.

Evidence showed that an unidentified male individual entered one of the company's stores and attempted to use the Driver's discount shipping benefit to mail several large boxes. Evidence showed that store staff advised the male individual that he could not use the Driver's shipping discount benefit. Evidence showed that the Driver, dressed in his work uniform, came into the store to assist the unidentified male in using the Driver's shipping discount. A verbal altercation ensued between the Driver and company staff in the presence of customers. After he left the store, the staff contacted the local office to report the actions of the Driver.

Evidence showed that the company suspended the Driver until it conducted an internal investigation, which included interviewing the Driver and store staff members. The company's Security Specialist advised the Driver to be truthful and honest during the interview. Initially, the Driver denied that he had given the male individual permission to use his shipping discount and stated that he intended to pay full price to ship the items when he came into the store. However, the company records revealed that the Driver had allowed the male individual, and others, to use his shipping discount benefit before "causing an excessive shipping alert" notification on the Driver's account.

During a subsequent interview, the Driver recanted his initial account of the store incident and admitted that he had violated the company's Shipping Discount Policy. This violation also violated the company's Acceptable Conduct Policy. Evidence showed that because the Driver had been issued prior warnings, he was subject to termination.

A review of the status of the other employee that the Driver alleged was not terminated confirmed that the other employee was not terminated for the following reasons: (1) the employee was truthful and cooperative during the investigation, and (2) the employee had not been issued any prior warnings. Evidence showed that that employee received a Warning Letter.

Based on its own impartial investigation, AERC staff issued a determination of no substantial evidence and closed the complaint.

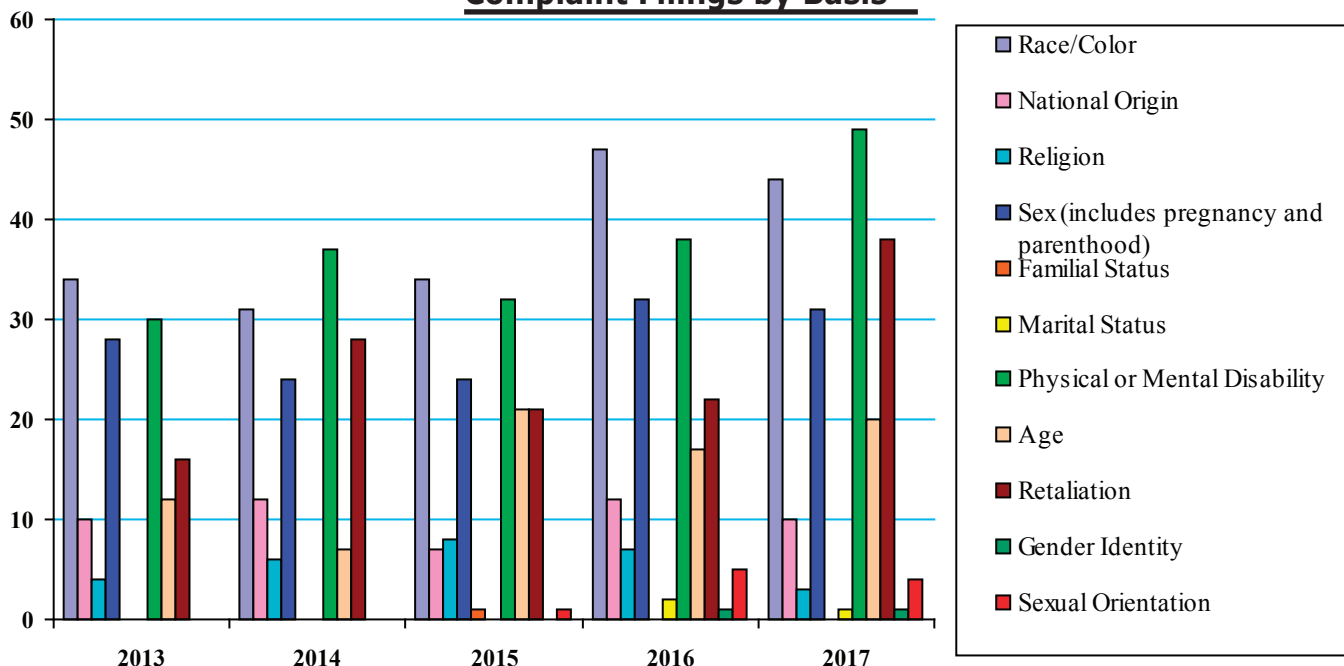
Inquiries and New Complaints

	2013	2014	2015	2016	2017
Inquiries	441	406	431	442	523
New Complaints	96	107	99	111	134
% of Perfected Complaints and Inquiries	21.5%	26.4%	23.0%	25.1%	25.6%

Complaint Filings By Area Of Discrimination

	2013	2014	2015	2016	2017
Employment	81	98	88	100	126
Housing	4	4	3	4	3
Public Accommodations	7	4	6	6	5
Financing	1	0	0	0	0
Educational Institutions	3	0	2	0	0
Practices of the MOA	0	1	0	1	0
TOTALS	96	107	99	111	134

Complaint Filings by Basis *



* Many complaints were filed on more than one basis



VI. ENFORCEMENT ACTIONS AND STATISTICS (CONTINUED)

Case Age

		Current			Over 240			Total Cases	Total % over 240
		80 or less	81-190	191-240	241-320	321-400	400 or more		
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	68	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	35.7%	35.7%	17.15%	4.3%	1.43%	5.7%	100%	11.43%
2017	# of Cases	31	30	6	4	5	4	80	13
	% of Cases	38.75%	37.5%	7.5%	5%	6.25%	5%	100%	16.25%

Resolutions Providing For Elimination of Discriminatory Practices

	2013	2014	2015	2016	2017
Total Predetermination Settlements, Conciliations or Settlements that include remedial measures provided by Title 5	38/38	53/53	33/33	34/34	39/39
Total Dollars in Settlements	\$262,983	\$975,722	\$339,701	\$105,263	\$234,778

2017 Post-Determination Cases As Of 12/31/2017

Number Of Cases In Conciliation Status: 1 Number Of Cases In Reconsideration Status: 4

Determinations and Case Closures

	2013	2014	2015	2016	2017
Total Determinations and Case Closures	92	105	97	107	126



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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