

**ANCHORAGE EQUAL RIGHTS COMMISSION**

AERC

**AERC**

Anchorage Equal Rights Commission

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**2020 ANNUAL REPORT**

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## **2020 COMMISSION MEMBERS**

Kimberly Pace, Chair  
Diane Heaney-Mead, Vice-Chair  
Joshua Vo, Secretary  
Darrel Hess, Member  
Albert Berke, Member  
Lea McKenna, Member  
Gabriela Olmos, Member  
Minoo Minaei, Member  
Eric Talbert, Member  
Heather Barbour, Member

## **2020 STAFF MEMBERS**

Mitzi Bolaños Anderson, Executive Director  
Stephanie M. Jedlicka, Senior Investigator  
Marie Husa, Investigator  
Gita Franklin, Investigator  
Joshua S. Blalock, Intake & Outreach Coordinator/Investigator  
Natalie K. Day, Executive Assistant

## **CONTACT INFORMATION**

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Deaf and Hard of  
Hearing Persons: Dial 711 for Alaska Relay Services  
Website: [www.muni.org/aerc](http://www.muni.org/aerc)  
Facebook: [www.facebook.com/AnchorageEqualRightsCommission](https://www.facebook.com/AnchorageEqualRightsCommission)  
Twitter: [www.twitter.com/AnchorageERC](https://www.twitter.com/AnchorageERC)

## **MEETING DATES AND LOCATION INFORMATION**

The AERC Commissioners regularly meet at 6:00 p.m. on the third Thursday of odd months in the Mayor’s Conference Room, Suite 830 in City Hall, or virtually via Microsoft Teams. Meeting information is posted on the MOA Public Notices website, the AERC website, and under Upcoming Events on the MOA Boards and Commissions website.



## II. A MESSAGE FROM THE CHAIR AND EXECUTIVE DIRECTOR

To the Honorable Acting Mayor Austin Quinn-Davidson, the Anchorage Assembly, and the Community of Anchorage:

On behalf of the Anchorage Equal Rights Commission (AERC), we are pleased to present AERC's 2020 Annual Report. The report reflects the work of Commissioners and staff throughout the year in furtherance of AERC's mission to eliminate and prevent discrimination within the Municipality and to provide education to the public about municipal and federal anti-discrimination laws.

As our community creatively adjusted to the uncertainty of the COVID-19 pandemic, AERC adapted its outreach efforts with our community's safety in mind. We partnered with the Office of Equal Opportunity, the Anchorage Ombudsman, and the Anchorage Library to bring Municipal employees and partners two virtual presentations on equity and inclusion: (1) "Beyond Diversity Trainings and Implicit Biases: Toward an Anti-Racist & Equity Approach," by Dr. E.J. Ramos David; and (2) "Microaggressions, Bias & the Fight for Equity," by Dr. Kevin Nadal. These presentations were recorded and remain available to all Municipal employees. AERC staff also adapted its Discrimination in the Workplace trainings to a virtual setting and continued offering these to the community. In the summer, we partnered with the Alaska State Commission for Human Rights to provide a Disability Discrimination training for the Alaska Small Business Development Center.

Staff kept their skills sharp in 2020 by engaging in virtual training, including: (1) the U.S. Equal Employment Opportunity Commission (EEOC) and Fair Employment Practices Agencies (FEPA) National Annual Training Conference; (2) the Pacific Northwest Annual EEOC Workshop; (3) the EEOC's COVID-19 & Americans with Disabilities Act Training; and (4) Facing Race: A National Virtual Conference presented by Race Forward.

Pursuant to our mandate to enforce Title 5 of the Anchorage Municipal Code and federal anti-discrimination laws, such as the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964, AERC staff processed 408 inquiries, including 53 related to COVID-19, from residents and visitors to Anchorage and the surrounding areas during 2020. Of those inquires, 82 new discrimination complaints, including 11 related to COVID-19, were filed with our agency, and 61 of those were co-filed with the EEOC. Additionally, 83 pending cases were closed by settlement, investigation, or conciliation in 2020.

We also welcomed two new commissioners, Heather Barbour and Eric Talbert, who were both appointed effective March 10, 2020. Also in March, Marie C. Husa, a former AERC investigator and commissioner, rejoined our team as a Professional Investigator.

Commissioners and staff look forward to continuing our work to eliminate and prevent discrimination in our community through public education and enforcement of local and federal anti-discrimination laws.

Sincerely,

*Kimberly J. H. Pace*

Kimberly J. H. Pace, Chair

*Mitzi B. Anderson*

Mitzi B. Anderson, 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 law 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
- Color
- Religion
- National Origin
- Age
- Sex (Pregnancy and Parenthood)
- Sexual Orientation
- Gender Identity
- Marital Status
- Physical Disability
- Mental Disability
- 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, sexual orientation, gender identity, marital status, or physical or mental disability, or the aiding, abetting, inciting, coercing, or compelling thereof.

#### **AMC 5.20.010**

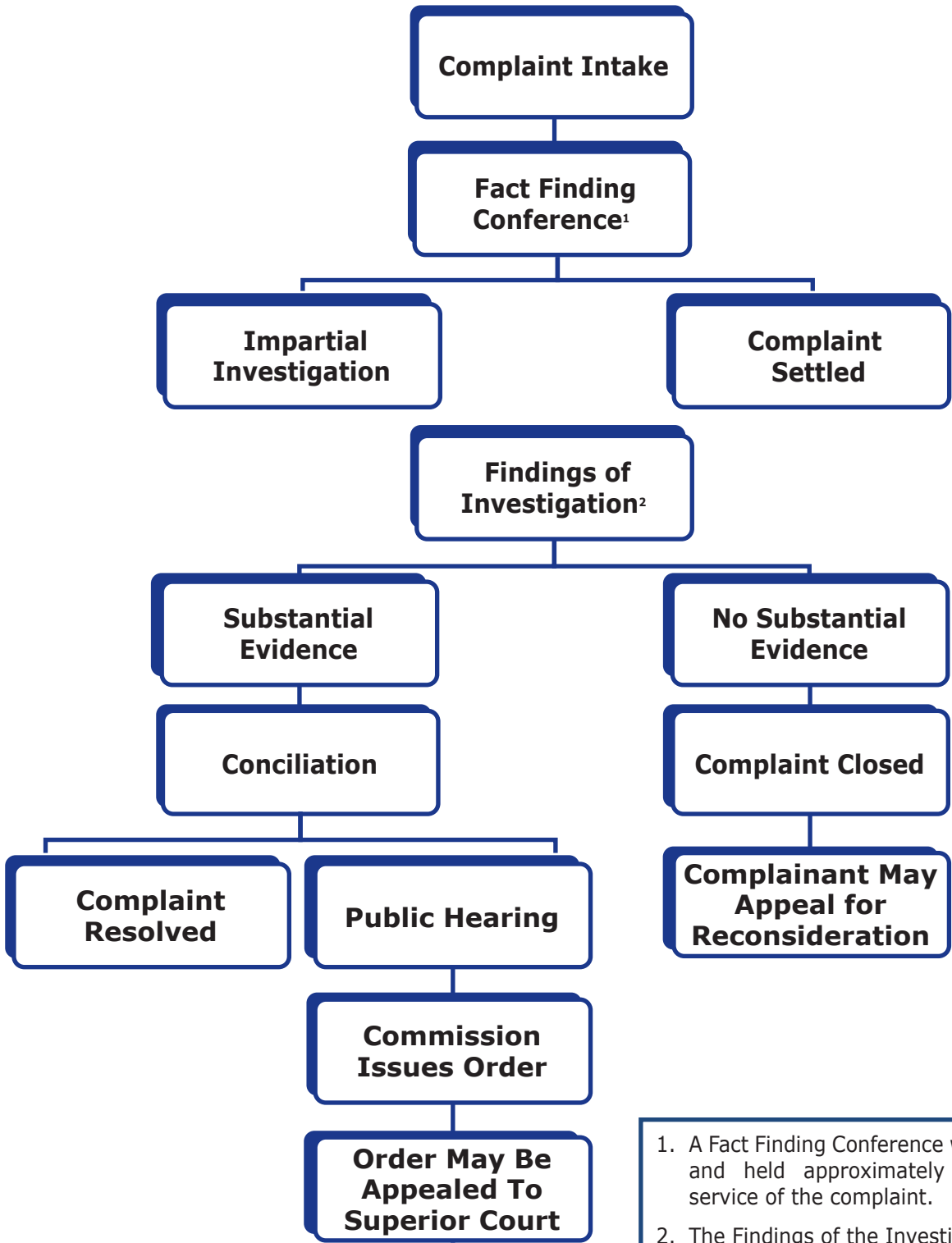
Discrimination also includes retaliating against someone for engaging in a protected activity, such as complaining of discrimination or requesting a reasonable accommodation.

### What is the AERC complaint process?

If you feel that you are being discriminated against, call our office and a staff member will listen to your concerns. A complaint will be drafted for you if the AERC determines that it has jurisdiction over your concerns. Please see the complaint process flow chart for more information.

If the AERC does not have jurisdiction over your concerns, 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.  
 2. The Findings of the Investigation should be completed within 240 days after the filing of the complaint.

## **AERC STRATEGIC PLAN 2020 - 2025**

### **Commission Members**

Kimberly J. H. Pace, Chair  
Diane Heaney-Mead, Vice Chair  
Joshua Vo, Secretary  
Lea McDermid McKenna  
Gabriela Olmos  
Minoos Minaei  
Darrel Hess  
Heather R. Barbour  
Eric Talbert

### **Staff**

Mitzi Bolaños Anderson, Executive Director  
Stephanie M. Jedlicka, Investigator  
Gita Franklin, Investigator  
Marie C. Husa, Investigator  
Joshua S. Blalock, Investigator  
Natalie K. Day, Senior Office Associate

### **Distribution control**

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### **Document location**

Anchorage Equal Rights Commission  
632 W. Sixth Avenue, City Hall  
Suite 110  
Anchorage, Alaska 99501

### **Mission**

The Anchorage Equal Rights Commission enforces municipal and other anti-discrimination laws on behalf of all residents 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 collaboration and technology.

**Goal Two**

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

**Goal Three**

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

**Staff Goals****Goal One**

Respond to inquiries in a timely manner.

**Goal Two**

Timely investigate allegations of discrimination.

**Goal Three**

Eliminate and prevent discriminatory practices by providing outreach and education to 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 Fairness and Impartiality

Teamwork is How We Do Business

The COVID-19 pandemic highlighted the health and economic disparities, among others, that exist in our community. It also strengthened our commitment to recognizing how and why these inequities exist and finding ways to eliminate them.

With minimal in-person events, 2020 was a year of reflection for our outreach program. It was a year to focus within our own agency and on Municipal employees and programs. Staff engaged in trainings that examined structural racism and ways to dismantle it, and developed new partnerships, while growing our established connections.

We were also able to direct individuals to appropriate resources as we received calls from concerned residents this year, unsure of where to turn for pandemic relief programs.

### Training for Municipal Employees and Partners:

"Beyond Diversity Trainings and Implicit Biases: Toward an Anti-Racist & Equity Approach," by Dr. E.J. Ramos David, Professor of Psychology at the University of Alaska Anchorage and leading expert on internalized oppression and colonial mentality.



"Microaggressions, Bias & the Fight for Equity," by Dr. Kevin Nadal, Professor of Psychology at John Jay College of Criminal Justice and City University of New York, and leading researcher in understanding the impacts of microaggressions.

In partnership with the Office of Equal Opportunity, the Anchorage Ombudsman, and the Anchorage Public Library, the AERC co-sponsored the above equity presentations to provide Municipal employees and partners an opportunity to better understand equity and inclusion issues in our workplace and community. We also hosted debrief sessions after the live showing, as well as after a replay scheduled later in the year. Employees and partners engaged in authentic conversation and reflection and laid a foundation for future discussions.

### Staff Training Highlights:

- U.S. Equal Employment Opportunity Commission (EEOC) and Fair Employment Practices Agencies (FEPA) National Annual Virtual Training Conference
- The Pacific Northwest Annual Virtual EEOC Workshop, focusing on addressing racism in the workplace and thinking beyond the binary
- EEOC's COVID-19 and the Americans with Disabilities Act Virtual Training
- Facing Race: A National Virtual Conference presented by Race Forward
- Allyship and Action, a 4-week series, 3 hours per week, sponsored by The Alaska Center and Native Peoples Action, covering topics such as power, privilege, and decolonization
- Anti-Racism Training, a 3-day series, hosted by First Alaskans Institute

**Community Trainings:**

- Americans with Disabilities Act: What Businesses Should Know – The AERC collaborated with the Alaska State Commission for Human Rights (ASCHR) to host a training for the Alaska Small Business Development Center and its members, focused on helping small business owners navigate their rights and responsibilities under federal, state, and local anti-discrimination laws.
- Discrimination in Employment – The AERC again collaborated with ASCHR to host a training for Zender Group’s Rural Alaska Community Environmental Job Training Program (RACEJT), which provides job training for residents of rural communities impacted by environmental health issues.

**Pandemic-Related Groups:**

- Equity Cabinet – This group of department heads initially came together to discuss equity issues arising from pandemic relief efforts, but later expanded to analyze and make recommendations on other equity-related community and staff concerns.
- Equity and Inclusion Subcommittee – Part of the Economic Resiliency Task Force (ERTF), this subcommittee discusses and develops outreach activities to ensure that information related to pandemic relief efforts is appropriately communicated throughout the community.

**Community-Police Relations:**

- The AERC solicited applications and selected 12 individuals, including one alternate, to serve on a Founding Committee, which is tasked with developing the framework and recruiting members for a Community-Police Relations Council that will work to strengthen community-police relationships.

**Virtual Civics Fair:**

- The AERC developed a video presentation highlighting our mission and work for UAA’s virtual Civics Fair, part of the 3rd Annual Democracy & Civic Action Week hosted by the Center for Community Engagement & Learning (CCEL).

**Social Media:**

- In early 2020, as uncertainty over the pandemic spread, the AERC provided messages of unity and hope on social media with staff videos recorded in Spanish, Swedish, Farsi, and Tagalog. Social media posts also included information on various pandemic relief programs available to the community.

**ACT QUICKLY AND DO THE RIGHT THING**

A pizza delivery driver alleged that her Manager retaliated against her after she complained that he was harassing her. Complainant alleged that Respondent's Manager called her "hon" and "honey," touched her arm, stroked her hair, and hugged her from behind in front of other employees. Complainant reported the harassment to another Manager and requested to transfer to another store, which was approved.

Evidence showed that Respondent's Owner conducted an immediate investigation into Complainant's allegations, but Respondent's investigation did not identify any witnesses to Complainant's allegations. Because Respondent's security video recording software only preserves one week of recordings at a time, the AERC could not review relevant video footage. However, evidence showed that Respondent reviewed the available footage and found that the video revealed Respondent's Manager stroking the back of Complainant's hair three times. Evidence shows that Respondent terminated its Manager on the same day.

Investigation showed that Respondent promptly conducted its internal investigation into Complainant's allegations and that it took appropriate corrective action upon the results of its investigation. Investigation did not produce evidence of retaliation.

**NO EVIDENCE OF UNLAWFUL RETALIATION**

An employee, who had previously filed two complaints against his employer, filed another complaint alleging that he was retaliated against when Respondent failed to interview or hire him for a new position. A Fact Finding Conference was held in the matter, and an investigation ensued.

The investigation revealed that, prior to receiving Complainant's application, Respondent had reviewed other applications, interviewed several applicants for the new position, and already extended a job offer to the successful job applicant. Investigation further showed that it was Respondent's standard business practice to keep a position posted pending the result of the successful applicant's background check. Investigation determined that Complainant applied for the position during this timeframe and that his application was therefore not considered.

Investigation did not show that Respondent retaliated against Complainant as a result of his prior AERC complaints when it did not select him for the positions in question.

### **HIS SNOUT WAS OUT**

A male patron alleged that he went to Respondent's Business with his mask covering his mouth and when Respondent asked him to cover his nose, he responded that he has a disability and could not breathe if his nose was covered. The male patron further alleged that Respondent asked him to leave the premises without fulfilling his order.

The male patron filed an AERC disability discrimination complaint, and a Fact Finding Conference was held in the matter. The Respondent asserted that it did not discriminate against Complainant and asked him to cover his nose or to practice social distancing, but Complainant refused. Respondent further asserted that when it advised Complainant to utilize its curbside services next time, he became verbally abusive, and as such, Respondent asked him to leave the premises. Before the case could be investigated, the parties entered into a Pre-Determination Settlement Agreement. The terms required that Respondent provide a handwritten letter of apology to Complainant. Additionally, Respondent agreed to post an AERC informational poster in its place of business. No further action was taken by staff, and the case was dismissed as settled.

### **SOCIALIZING WITH EMPLOYEES**

A male employee alleged that Respondent discriminated against him when it terminated his employment based on his sex and sexual orientation.

Investigation showed that Respondent's Owners socialized with Complainant prior to his hire and were aware of Complainant's sexual orientation at the time of hire. Investigation showed that Respondent's Owners' children had an excellent relationship with Complainant. Investigation showed that Respondent had several concerns regarding Complainant's performance, including inconsistent attendance and failing to follow through on tasks. Investigation showed that although Respondent had already made the decision to terminate Complainant, it allowed him to attend a long-planned marketing event outside of Anchorage. Investigation showed that Respondent's Owners checked into a large rental house together with their children, Complainant, and other employees and their families. Each employee had a separate room. Investigation showed that Complainant brought two guests to the house without permission, and after an awkward interaction with the children, Respondent had Complainant leave the house and terminated his employment. Investigation showed that Respondent terminated Complainant's employment for poor performance and poor judgment during the work trip, and a no substantial evidence of discrimination finding was issued.

**DISCRIMINATION BY ASSOCIATION**

An employee who has a minor child with a disability alleged that her employer refused to allow her to work a flexible schedule so that she could take her child to medical appointments, and also refused to allow her to work from home or to bring her child to work, even though it allows other employees to do so. The employee alleged that she complained to Human Resources about this, but Respondent failed to address her concerns and later terminated her employment. The employee filed a disability discrimination (by association) and retaliation complaint with the AERC. Respondent asserted that it did everything it could to provide flexibility to Complainant, but it was unable to meet her need to leave with little to no notice or to work fewer than 40 hours per week.

Investigation showed that Respondent provided Complainant a flexible work schedule so that she could take time off to attend appointments with her child, but Respondent frequently did not know where Complainant was or when she would be at work. Investigation showed that Respondent does not allow any employees to work from home during the first year of their employment and that other employees asked to work from home during this same timeframe and Respondent also refused their requests. Investigation showed that tension began to grow on Complainant's team when Complainant would be assigned to events or meetings with community partners, but would then be unable to attend due to lack of childcare. Investigation showed that employees were allowed to bring their children to the office only in an emergency.

Investigation did not show that Respondent treated Complainant differently than other employees because of her association to her child with a disability or retaliated against her for complaining about unfair treatment. AERC issued a no substantial evidence of discrimination finding.

**SUCCESSFUL SETTLEMENT**

Complainant filed an AERC complaint alleging that his employer's manager discriminated against him based on his sex, sexual orientation, and marital status by subjecting him to unwanted verbal and physical conduct. Complainant asserted that he reported this conduct to his employer, but instead of investigating his complaint, he was retaliated against when Respondent's manager threatened him with more physical violence and eventually terminated his employment.

Prior to the Fact Finding Conference, the parties reached a settlement that included: (1) Respondent affirming that it would not discriminate against any person on the basis of their protected class, including sex, sexual orientation, and marital status; (2) Respondent agreeing to post an AERC informational poster at the place of business; and (3) Respondent paying back wages to Complainant.

**MASK POLICIES AND TRAINING**

A shopper visited Respondent's local business during a time when Respondent was imposing limits on how long a customer could shop inside the store because of COVID-19-related safety precautions. The customer asserted that Respondent allowed 20 minutes for customers wearing masks, but only 5 minutes for customers who were unable to wear a mask. Complainant asserted that he informed Respondent's store clerk that he had a disability that prevented him from wearing a mask and requested that he be allowed the full 20 minutes to shop inside the store, but that Respondent denied his request.

A Fact Finding Conference was held in the case but, prior to an investigation, the parties reached a voluntary settlement that included Respondent receiving one hour of training related to the Americans with Disabilities Act. AERC staff conducted this training virtually.

**LET THEM PLAY**

A bartender alleged that her former employer retaliated against her for complaining of sexual harassment by terminating her employment and cutting her off from a sports team sponsored by the employer. Complainant alleged that the Team Captain informed her that she could not play on the team because Respondent refused to sponsor the team if she remained a member.

Investigation shows that Respondent approved sponsorship of the team, which involved paying the team's league fees, but did not have enough funds to pay the fee. Investigation shows that the Team Captain, who was not Respondent's employee, personally paid for the team's league fees, with the understanding that Respondent would reimburse him when funds became available.

Investigation showed that it was the Team Captain's decision to remove Complainant from the team and that the Team Captain is not Respondent's employee or agent. The Team Captain said he thought that it would be in the best interest of the team if she did not play until her complaint against Respondent had been resolved. Evidence did not show that Respondent directed the Team Captain to deny Complainant her spot on the team.

The AERC issued a finding of no substantial evidence but recommended that Respondent receive training in the laws regarding retaliation, as the Team Captain's conduct may have been retaliatory if attributed to Respondent.

**Inquiries and New Complaints**

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Inquiries</b>	442	523	498	516	<b>408</b>
<b>New Complaints</b>	111	134	119	130	<b>82</b>
<b>% of Perfected Complaints and Inquiries</b>	25.1%	25.6%	23.9%	25.2%	<b>20.09%</b>

**Complaint Filings By Area Of Discrimination**

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Employment</b>	100	125	106	116	<b>68</b>
<b>Housing</b>	4	3	5	6	<b>7</b>
<b>Public Accommodations</b>	6	6	6	4	<b>6</b>
<b>Financing</b>	0	0	0	0	<b>0</b>
<b>Educational Institutions</b>	0	0	0	0	<b>1</b>
<b>Practices of the MOA</b>	1	0	3	4	<b>0</b>
<b>TOTALS:</b>	111	134	119	130	<b>82</b>

**Complaint Filings by Basis \***

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
<b>Race/Color</b>	47	44	45	38	<b>32</b>
<b>Retaliation</b>	22	38	31	37	<b>29</b>
<b>Physical or Mental Disability</b>	38	49	43	50	<b>28</b>
<b>Sex (includes pregnancy and parenthood)</b>	33	30	33	28	<b>25</b>
<b>Age</b>	17	20	17	23	<b>13</b>
<b>National Origin</b>	12	10	6	11	<b>7</b>
<b>Religion</b>	7	3	1	4	<b>2</b>
<b>Sexual Orientation</b>	7	6	8	3	<b>2</b>
<b>Gender Identity</b>	1	1	2	1	<b>2</b>
<b>Marital Status</b>	2	1	2	1	<b>2</b>

\* Many complaints were filed on more than one basis



### Case Age

		80 or less	81-190	191-240	241-320	321-400	400 or more	Total Cases	Total # and % Over 240
<b>2016</b>	# 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%
<b>2017</b>	# 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%
<b>2018</b>	# of Cases	11	33	9	7	7	4	71	18
	% of Cases	15.49%	46.48%	12.68%	9.86%	9.86%	5.63%	100%	25.35%
<b>2019</b>	# of Cases	28	28	18	12	3	6	95	21
	% of Cases	29.47%	29.47%	18.95%	12.63%	3.16%	6.32%	100%	22.18%
<b>2020</b>	# of Cases	<b>12</b>	<b>19</b>	<b>8</b>	<b>8</b>	<b>12</b>	<b>36</b>	<b>95</b>	<b>56</b>
	% of Cases	<b>12.63%</b>	<b>20.0%</b>	<b>8.42%</b>	<b>8.42%</b>	<b>12.63%</b>	<b>37.89%</b>	<b>100%</b>	<b>58.94%</b>

### Resolutions Providing For Elimination of Discriminatory Practices

	2016	2017	2018	2019	2020
Total Predetermination Settlements, Conciliations or Settlements that include remedial measures provided by Title 5	34/34	39/39	41/41	33/33	<b>23/23</b>
Total Dollars in Settlements	\$105,263	\$234,778	\$195,644	\$161,481	<b>\$55,476</b>

### 2020 Post-Determination Cases As Of 12/31/2020

Number Of Cases In Conciliation Status: 0      Number Of Cases Appealed to State Court: 0

### Determinations and Case Closures

	2016	2017	2018	2019	2020
Total Determinations and other Case Closures	107	126	126	108	<b>83</b>



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## VII. COMMENTS, THOUGHTS, IDEAS

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## **Anchorage Equal Rights Commission**



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