

History of HCRC

The State legislature has declared that discrimination in employment, public accommodations, housing, and access to state & state-funded services is against public policy. The Hawai'i Civil Rights Commission (HCRC) was established in 1988 to enforce the State's anti-discrimination laws contained in the Hawai'i Revised Statutes Chapters 368, 378 (part 1), 489, and 515.

The first Commission Board and Executive Director were appointed in 1988-1990. The HCRC officially opened its doors to the public on January 2, 1991.

General Procedure

Two requirements must be fulfilled before the HCRC can accept a complaint:

- there must be a "basis" for the alleged discriminatory action, i.e., the complainant was treated in an unequal manner because of his/her race, sex, disability, or other protected status.
- the complaint must be filed with the HCRC within 180 days of the alleged incident (or most recent incident if there is a recurring pattern of discrimination).

After a **complaint** is filed, an HCRC investigator begins an objective **investigation** by collecting documents and contacting witnesses from both the complainant's and respondent's sides. The investigator may also explore the possibility of settling the complaint or resolving it through mediation.

If there is insufficient evidence to find "reasonable cause" to believe that discrimination has occurred, the case is closed and a right-to-sue letter is issued to the complainant. Should **reasonable cause** be determined, the HCRC enforcement staff will attempt to conciliate or settle the complaint.

If conciliation is unsuccessful, a **hearing** is scheduled. An HCRC enforcement attorney will present the case in support of the complaint before an impartial HCRC hearings examiner. The respondent (represented by itself, or any counsel of its choice) also presents its case at this time. The complainant may also intervene and be represented by counsel or other representative during the hearing. The hearings examiner will issue a **proposed decision** based on the evidence.

The proposed decision is reviewed by the HCRC Board which will accept/reject/modify the decision, issue a **final order**, and award remedies if appropriate. This decision is legally binding. Either party has the right, within 30 days to file an **appeal** with the Circuit Court. This will be the first time that the case will be in the judicial arena.

Structure

The HCRC is guided by its five-member Commission Board, appointed for staggered terms by the Governor (with advice & consent of the Senate).

Administrative matters are directed by the HCRC Executive Director and carried out by support staff. The HCRC enforcement section investigates complaints and in appropriate cases, mediation is offered. If reasonable cause is determined, the HCRC pursues settlement or conciliation. Should conciliation fail, the case is brought before the HCRC hearings examiner.

To avoid any prejudice, a separation is maintained between the adjudication section and the enforcement section.

For information on these and other aspects of discrimination, contact the:



830 Punchbowl Street, Room 411
Honolulu, HI 96813

Phone: 586-8636

Information: 586-8640

TDD: 586-8692

FAX: 586-8655

Neighbor Islands call (toll-free):

Kaua'i: 274-3141, Ext. 6-8636#

Maui: 984-2400, Ext. 6-8636#

Hawai'i: 974-4000, Ext. 6-8636#

Lāna'i & Moloka'i: 1-800-468-4644 Ext. 6-8636#

All non-800 numbers are area code (808)

E-mail: hcrc@aloha.net

Website: www.state.hi.us/hcrc

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This pamphlet is a general summary of the state's discrimination laws and does not have the force or effect of administrative rules or Hawai'i laws.

If there are any inconsistencies, the rules and Hawai'i law will control.

*it is illegal to
discriminate against
someone based on their:*

SEX

RACE

ANCESTRY

RELIGION

COLOR

DISABILITY

Marital Status*

Familial Status*

Arrest & Court Record*

National Guard Participation*

Age*

Sexual Orientation*

**applies only to certain laws.*

in:

EMPLOYMENT

PUBLIC ACCOMMODATIONS

**ACCESS TO STATE &
STATE-FUNDED SERVICES**

**REAL PROPERTY
TRANSACTIONS**



Employment Practices

Under Hawai'i Revised Statutes Chapter 378, it is unlawful for an employer, employment agency, or labor organization to discriminate based on:

- sex
- race
- ancestry
- religion
- color
- disability
- age
- marital status
- assignment of income for child support obligations
- arrest & court record
- National Guard participation
- sexual orientation

Examples of employment discrimination are:

- a sporting goods store advertises a job opening for young men.
- you are paid less than your co-workers (of a different ethnic group) who have the same seniority, experience, and job description.

GLOSSARY:

ancestry: an individual's or ancestor's place of origin; or the physical, cultural, or linguistic characteristics of an ethnic group.

complainant: the person who files a complaint of discrimination with the HCRC.

conciliation: the adjustment and settlement of a complaint in a non-antagonistic manner, with a preference towards avoiding a hearing.

disability: the state of having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment.

Public Accommodations

Under Hawai'i Revised Statutes Chapter 489, it is unlawful to discriminate in a place of public accommodations based on:

- sex
- race
- ancestry
- religion
- color
- disability

Examples of such discrimination are:

- a restaurant refuses service because you have a mental or physical disability.
- a store gives discounts to people of the opposite sex, but you still have to pay full price.
- a night club says it's full, but you see people of other races allowed in after you were turned away.
- a hospital denies you medical service because they perceive you as HIV-positive.
- a shopping center has parking stalls for customers with disabilities, but access is blocked by rows of shopping carts.

familial status: being a parent with legal custody and domiciled with a minor child; a person who is domiciled with a minor child and has written or unwritten permission from the legal parent; a person who is pregnant; or a person in the process of securing legal custody of a minor.

jurisdiction: the legal scope of authority. The State Legislature has empowered the HCRC to enforce certain anti-discrimination statutes.

marital status: the state of being married or being unmarried.

mediation: a voluntary, confidential process where a neutral third-party helps the parties come together to talk and decide how to end their dispute.

Access to State & State-funded Services

Under Hawai'i Revised Statutes Chapter 368, § 1.5, individuals with a disability shall not be excluded from participation in, be denied the benefits of, or be subjected to discrimination by programs and activities of the state, or those that receive state financial assistance. The only protected basis in this section is:

- disability

An example of such discrimination is when:

- your child is not considered eligible for an after school program, receiving funding from the state, because of the child's disability.

GLOSSARY (continued)

place of public accommodation: a business, accommodation, refreshment, entertainment, recreation or transportation facility of any kind whose goods/services are offered/sold/made available to the general public as customers, clients, or visitors.

reasonable cause: having more evidence for, than against, that a wrongful act of discrimination has occurred.

remedies: actions to correct unlawful discrimination such as: job promotion, punitive/compensatory damages, legal and equitable relief.

respondent: the person/business/entity against whom the complaint is filed.

right to sue: the complainant has the right to file a private civil suit. but must first receive a "right to sue" letter from the HCRC.

sex discrimination: unfair or unequal treatment because of a person's gender. Sex discrimination also includes:

pregnancy - female employees are protected due to disabilities resulting from pregnancy, childbirth, or related medical conditions, and they have return rights to their original job (or a comparable one); and

sexual harassment - unwanted sexual advances or offensive visual/verbal/physical conduct of a sexual nature

Real Property Transactions

Under Hawai'i Revised Statutes Chapter 515, it is unlawful for an owner, real estate broker, salesperson, or any other person engaged in a real property transaction to discriminate because of:

- sex
- race
- ancestry
- religion
- color
- disability
- age
- marital status
- familial status

Examples of housing discrimination are:

- you are charged higher rent than tenants of the opposite sex.
- you are not given pool privileges because you are perceived as being HIV-positive.
- a landlord refuses to rent to you because you have children.
- a realtor tells you that property is not available for inspection, sale, rental, or lease, but later shows the same property to people of a different ethnic group.
- a salesperson discourages you from buying or renting a home in a certain neighborhood because you are a different race than most of the present residents.
- you have difficulty obtaining financing, because of your ancestry, although you have sufficient income and a satisfactory credit rating.