

# **Annual Report**

**July 1, 2003 — June 30, 2004**

# **Hawaii Civil Rights Commission**

**Linda Lingle,  
Governor**

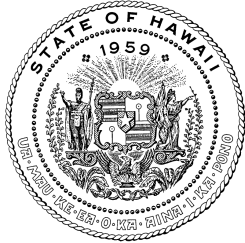
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**William Hoshijo,  
Executive Director**

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## **Mission Statement**

**The mission of the Hawaii Civil Rights Commission is to eliminate discrimination by protecting civil rights and promoting diversity through enforcement of anti-discrimination laws and education.**

## **Overview: Fair and Effective Enforcement**

The state of Hawaii has a strong commitment to the protection of civil rights. Article I, Section 5 of the Hawaii Constitution provides that “no person shall ... be denied the enjoyment of ... civil rights or be discriminated against in the exercise thereof because of race, religion, sex or ancestry.” The legislature gave meaning to this commitment by creating the Hawaii Civil Rights Commission (HCRC) through the enactment of Act 219 in 1988 and Acts 386 and 387 in 1989.

The HCRC was organized in 1990 and officially opened its doors in January 1991. For thirteen years the HCRC has enforced state laws prohibiting discrimination in employment (H.R.S. Chapter 378, Part I), housing (H.R.S. Chapter 515); public accommodations (H.R.S. Chapter 489), and access to state and state-funded services (H.R.S. §368-1.5). The HCRC receives, investigates, conciliates, and adjudicates complaints of discrimination.

The HCRC has five volunteer Commissioners. The Commissioners are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and commitment to preserve the civil rights of all individuals.

The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes. The HCRC has a staff of thirty (30) persons who are divided into separate enforcement and adjudication sections.

## **An Effective And Uniform Enforcement Scheme**

Prior to the establishment of the HCRC, jurisdiction over state anti-discrimination laws was split among several state departments. Enforcement was limited and sporadic. State litigation to enforce fair employment practices laws was virtually non-existent. The only recourse for those aggrieved was to bring their own cases to court. Few employment discrimination cases brought under state law were adjudicated, and there was little case law. For complainants who could not afford to hire private attorneys to seek relief in court, there was no administrative process to adjudicate their claims.

The intent of the legislature in creating the HCRC was “...to establish a strong and viable commission with sufficient ... enforcement powers to effectuate the State’s commitment to preserving the civil rights of all individuals.”<sup>1</sup> The cornerstone of the HCRC statutory scheme was the establishment of a uniform procedure “...designed to provide a forum which is accessible to anyone who suffers an act of discrimination.”<sup>2</sup>

## **A Fair Administrative Process**

The HCRC is committed to, and its procedural safeguards are structured to ensure, fairness to both complainants and respondents. The HCRC is a five-member Commission with jurisdiction to enforce state civil rights laws. The HCRC is divided into two separate and distinct sections: the enforcement section, which receives, investigates, and prosecutes discrimination complaints; and the adjudication section which hears, issues orders and renders final determinations on complaints of discrimination filed with the HCRC.

The Commissioners have delegated HCRC enforcement authority to the Executive Director. The Commissioners retain the authority to adjudicate and render final decisions based on the recommendations of their Hearings Examiner, and oversee the adjudication section through their Chief Counsel.

The Commissioners and adjudication section are not involved in or privy to any actions taken by the Executive Director in the investigation and pre-hearing stages of the HCRC process. Likewise, the Executive Director and enforcement section are not permitted to communicate *ex parte* with the Commissioners or adjudication section about any case.

The enforcement section investigates complaints of discrimination as a neutral fact-gatherer. At the conclusion of an investigation, a determination is made whether or not there is reasonable cause to believe unlawful discrimination has occurred.

The law requires filing of a complaint with the HCRC before filing a discrimination lawsuit in state court. Otherwise, the circuit court will dismiss a lawsuit for failure to exhaust administrative remedies. This requirement prevents overburdening the courts with non-judicial and non-meritorious cases, as well as cases that can be closed or settled in the administrative process. The great majority of cases filed with the HCRC are resolved and/or closed without resort to the courts.

## **Civil Rights Law Enforcement: State & Federal Law**

Federal fair employment and fair housing laws are enforced by the U.S. Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD), respectively. Pursuant to workshare cooperative agreements, both EEOC and HUD rely on the HCRC to investigate complaints filed under both state and federal law (“dual-filed” complaints).

While Hawaii and federal fair employment and fair housing laws are similar, they are not identical. Hawaii has protected bases that are not covered under federal law, and there are substantial differences in the definition of

“employer” and the statute of limitations for filing a charge of employment discrimination. In addition to these jurisdictional differences, Hawaii law provides stronger protection against pregnancy discrimination, sexual harassment, and disability discrimination in employment.

The greater protections in Hawaii law are attributable to the strong civil rights mandates contained in the Hawaii State Constitution, HCRC statutes, HCRC rules, HCRC Commission decisions, and state court caselaw. In contrast, federal court interpretations of federal civil rights laws have resulted in fewer protections against discrimination, particularly in the areas of disability and sexual harassment. The issue of state versus federal standards is an important one, particularly in states like Hawaii which have a historically strong commitment to equal opportunity and non-discrimination.

There is a trend towards limiting jurisdiction and process under civil rights statutes: sovereign immunity barring individual claims against the states under certain federal civil rights statutes; free speech and free exercise of religion claims raised in defense of discrimination complaints; and equal protection and other constitutional claims raised to challenge enforcement processes. In this context, strong enforcement of state civil rights laws is more important than ever before.

## **The HCRC Today**

During FY 2003 - 2004, the HCRC experienced significant changes in management and attorney staff, with the appointment of the Deputy Executive Director and four enforcement attorneys. In addition, three of five HCRC Commissioners were appointed during FY 2004. With these key positions filled, staff and Commissioners have renewed efforts to maintain and improve the HCRC's enforcement and public education activities:

**Investigation and charge processing.** HCRC Commissioners and staff, with input from a working group of stakeholders (complainant attorneys, respondent attorneys, government attorneys and EEO officers, employers and employer organizations, labor organization representatives, and civil rights organizations and advocates), focused efforts on ways to improve efficiency in the investigation process without sacrificing effective civil rights law enforcement.

**Mediation.** The HCRC's voluntary mediation program completed its fifth full year of operation, working with the Mediation Centers of Hawaii on Oahu, Hawaii, Maui, and Kauai. 24 cases settled in mediation for monetary total relief exceeding \$300,000, with settlements in 83% of the cases referred to mediation.

**Public education.** The HCRC continued its commitment to prevent and eliminate discrimination through public education. HCRC staff made numerous presentations on civil rights and discrimination to labor, business, professional organization, civil rights advocacy, and other community organization audiences. Highlighted public education efforts included fair housing training on Kauai, Maui, Hawai'i, and Oahu, and outreach and education efforts co-sponsored by the U.S. Equal Employment Opportunity Commission on Kauai and Hawai'i. The HCRC implemented its plan to hold regularly scheduled training on an annual basis in Honolulu, as a better use of limited resources to reach a broader audience. An updated and enhanced HCRC website was also an effective outreach tool, recording nearly 180,000 hits during FY 2004, or an average of nearly 15,000 hits per month.

**Litigation.** During FY 2004, the HCRC was involved in two cases before the Hawai'i Supreme Court, one involving the definition of "disability" under state law, and the other review of a declaratory ruling on the scope of HCRC jurisdiction to accept and investigate sex discrimination complaints.

The HCRC Commissioners and staff continue their unwavering commitment to the HCRC mission - to eliminate discrimination by protecting civil rights and promoting diversity through enforcement of anti-discrimination laws and education. We renew our pledge to fair and effective enforcement, so that no person shall be denied his or her civil rights under Hawaii law.

## **Objectives and Goals for 2004-2005:**

### **Case Inventory:**

The HCRC is committed to maintaining its case inventory at a level that allows for timely investigation of complaints as well as allocation of sufficient resources for complex and meritorious complaints. HCRC Commissioners and staff will make and implement plans for reducing the length of time to investigate complaints, setting measurable targets and goals for performance. Special focus will be placed on reducing older case inventory.<sup>3</sup>

### **Voluntary Mediation Program:**

The HCRC will continue to improve and expand its voluntary mediation program to encourage and offer mediation in more cases. A pilot program will be implemented to utilize mediation in housing discrimination cases.

## Public Awareness

The HCRC will continue to focus and work with federal, state, business, labor, and community partners to expand outreach and public education statewide, especially on the neighbor islands, and will explore expanded public-private partnerships as a means to develop user-friendly public education resources. The HCRC will continue to offer scheduled introductory training for the public on civil rights laws on a regular basis.

The accompanying report is submitted pursuant to H.R.S. §§ 368-4 and 515-9.

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<sup>1</sup>1989 House Journal, Standing Committee Report 372.

<sup>2</sup>Id.

<sup>3</sup>Aged case reduction is a priority for the HCRC, as well as for HUD and EEOC.



## Mediation Program

HCRC's voluntary mediation program successfully completed its fifth full fiscal year on June 30, 2004. Complainants, respondents, and the HCRC, with the strong support of all the Commissioners, want prompt and fair resolutions to discrimination complaints. To help accomplish this goal, the HCRC developed its voluntary mediation program, a process in which neutral third parties (usually a team of two co-mediators) help the involved individuals discuss, clarify, and settle complaints.

Mediators are unbiased and do not rule on the merits of the complaint. Rather, the HCRC provides them with the basic facts of each case needed to understand the dispute. The mediators then assist parties in reaching agreements such as simple apologies, policy changes, monetary settlements, or other appropriate solutions. Mediation saves time, money and resources, and reduces stress by allowing the parties to explain their side of the case and to control the process of resolving their dispute in a non-adversarial manner.

HCRC works with trained, senior mediators from the Mediation Centers of Hawaii (MCH), a statewide network of community non-profit mediation centers. MCH mediators are trained in civil rights laws by HCRC staff on a regular basis. An HCRC mediation coordinator facilitates the process by explaining mediation and its benefits to the parties. There are mediation centers on Oahu, Maui, Hawaii, and Kauai. The centers charge nominal fees for the sessions, which can be waived or reduced where there is a situation of financial hardship. Private mediation is also available, at a higher cost, if the parties choose.

Mediation can occur at any stage of the complaint process. Mediation is first offered when the complaint is accepted, because disputes are often easier to resolve while the facts are fresh and before potential damages accumulate and the positions of the parties become rigid.

During FY 2003-2004, 42 cases were referred into mediation; 29 were disposed of (completed) during the year, with 24 of those cases resulting in mediated settlements. This represented an 82.8% overall settlement rate, which was up from a 54% settlement rate last year. The total monetary value of mediated agreements was up by 40.1% to \$323,117. Most of the completed mediations (72.4%) were by the Mediation Center of the Pacific in Honolulu; followed by private mediation (20.7%) and the Ku'ikahi Mediation Center in Hilo (6.9%).

The most typical primary protected bases of completed mediations were: disability (27.6%); race, age, and arrest & court record (13.8% each). Other primary protected bases included: sex, retaliation, religion, and sexual orientation. Employment cases accounted for all 42 referrals.

The program has received high marks in satisfaction. Evaluations are sent to the parties in all mediated cases. The average rating of whether parties "would recommend the program to others," was a 4.2 (on a 1-5 scale, with 5 being "strongly agree").

The following are some examples of cases settled in mediation:

- A complainant who alleged she was terminated from her position with a government agency based on articles appearing in a local newspaper about her arrest, brought a complaint for arrest and court record discrimination. In mediation with the agency, the complainant reached a \$5,000 settlement and the agency agreed to reinstate her.
- A non-profit organization allegedly subjected an employee to religious harassment and retaliation after she complained to the manager. She was terminated from her position of Administrative Assistant, earning \$27,000/year. The complainant alleged preferential treatment given to her co-workers of a different religious denomination, verbal abuse about her religion, and that the organization hired only employees of a certain denomination. The Mediation Center of the Pacific helped the parties settle the dispute for \$30,000.
- A female employee with a large private company alleged sexual harassment (verbal, visual, and physical) by a co-worker, creating a hostile and offensive work environment. Complainant was also allegedly subjected to retaliation after reporting the harassment and was constructively discharged from her position of Dispatcher/Receptionist, earning \$9.00/hour. In private mediation, a monetary settlement was reached of \$28,000.
- A complainant alleged she was subjected to racial harassment and unequal terms/conditions. She was constructively discharged from her job as sales executive, earning commissions with a media company. She believed she was discriminated against because of her race (African-American) based on her allegations of a verbal hostile and offensive working atmosphere and preferences given to employees of other ethnic backgrounds. In private mediation a global settlement was reached of the civil rights claims and pending civil actions in court. Monetary consideration was \$30,000.
- An employee alleged she was terminated from her position of Medical Assistant with a small health provider, earning \$14.00/hour,

which she held for 5 years, on the basis of her disability. Complainant alleged that she asked her supervisor if she was being terminated because of her disability, and the supervisor answered, "yes." The Mediation Center of the Pacific assisted in a monetary settlement of \$15,000 and a letter of reference.

- A male employee who worked for a computer company alleged he was terminated from his position of Direct Marketer/ Telemarketer, earning \$12.00/hour. The complainant alleged he was discriminated against because of his race (African-American), based on allegedly not being given a job description, not properly trained, and subjected to verbal abuse. The Mediation Center of the Pacific assisted the parties in reaching a monetary settlement of \$7,500 and a letter of reference.
- A sales executive for a large media group alleged he was discriminated against based on his age, then 62 years old. The employee alleged he was assigned less favorable new accounts than younger sales executives, lost some of his "revenue" accounts re-assigned to younger sales executives, and was told by upper management that they thought a younger sales executive would probably do better than complainant did with his accounts. The president of the company allegedly told the complainant before assembled staff that "old spark plugs" needed to be changed and the company needed to get "new spark plugs". The Mediation Center of the Pacific helped the parties to reach a settlement of \$11,200 and cessation of any further unfavorable remarks regarding the complainant.
- A bookseller, employed for three years by a large national bookstore chain and earning \$8.75/hour, alleged harassment on the bases of his sexual orientation and age. He alleged that he was subjected to increased scrutiny, warnings, delay of breaks, no accommodations to his schedule, and rejection for promotions because "he did not fit the profile". In private mediation, the parties agreed to a monetary settlement of \$12,500, neutral job references, and modification of personnel records to reflect the facts.
- Four consolidated cases in which reasonable cause to believe discrimination had occurred ("cause" cases), were settled through private mediation \$150,000 and are described in greater detail in the case settlements section of this annual report.

Although monetary settlements were achieved in most agreements, all mediated agreements involved some form of non-monetary affirmative

relief. Typical examples of non-monetary relief in this year and prior years include:

- 1) frank discussion of disputes, which often lay the groundwork for eventual settlement or restoration of the prior employment relationship;
- 2) restoration of employee benefits;
- 3) formal apology (by either or both sides);
- 4) increasing hours for part-time employees;
- 5) providing neutral or positive references for former employees;
- 6) removal of inappropriate negative comments in employee records;
- 7) provision of reasonable accommodations;
- 8) changing shifts when practicable;
- 9) policy revisions and postings; and
- 10) clarifications of communications between employer and employee, leading to more productive working environments.

## Public Education & Outreach

In addition to enforcing anti-discrimination laws, the HCRC is committed to preventing and eliminating discrimination through public education. The HCRC Commissioners and staff have maintained a number of public education efforts, working with civil rights, business, labor, professional, and non-profit organizations, on new and continuing initiatives.

On October 9, 2003, the HCRC conducted its first annual general public training. A diverse capacity crowd of nearly 100 organizational representatives and individuals attended the event, which was held in the DLIR conference room,. The audience comprised 41.5% government agencies and 58.5% private sector (including nonprofits, individuals, unions, and businesses) attendees. The training evaluations returned by attendees showed that 96% said they would recommend this training to their colleagues.

The public is encouraged to reserve seats for future annual trainings to be held in October by calling the HCRC office and completing a "Request for Speaking Engagement" form, which includes a reservation section. HCRC is also considering more advanced trainings in the future.

HCRC staff conducted presentations and outreach activities for the following organizations and events:

- Hawaii Medical Services Association
- Honolulu Community College
- Organization of Chinese Americans
- Honolulu Police Department Project Outreach
- Community Homebuyers Fairs
- DLIR business fair for contractors
- Annual Martin Luther King, Jr. Holiday Parade
- NAACP Martin Luther King, Jr. Banquet
- 50th Anniversary of *Brown v. Board of Education*
- Assistance to Spectrum Seminars on fair housing laws
- Trinity Broadcast Network (Fair Housing Month)
- Hawaii District Conference (commemorating *Brown v. BOE*)
- International Peace Poem Project (Black History Month)
- Fair housing trainings at Maui Community College, Blaisdell Center
- University of Hawaii at Manoa sexual diversity panel
- Gay Pride Festival
- Annual training for mediators in civil rights law

The HCRC independent website received 179,707 hits during the fiscal year. This was a 25.7% increase over fiscal year 2003. Analysis of the state webmaster's detailed monthly index indicates that the site continued to receive a broad range of hits from the public, businesses, non-profits, government, and the

bar. Website usage by the public has increased every year since HCRC began the site.

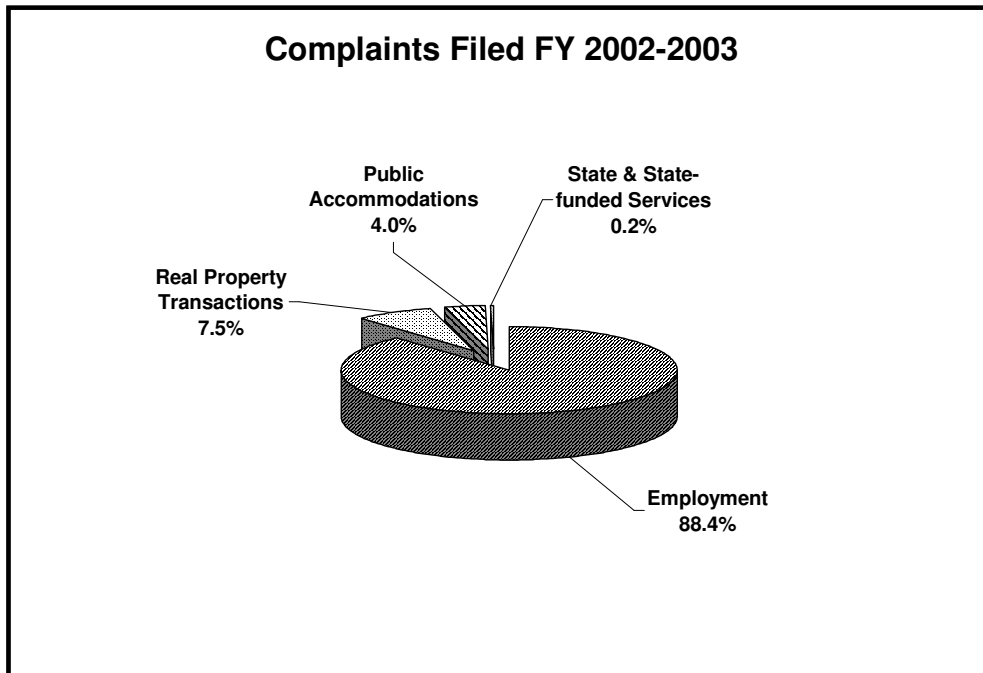
The HCRC wishes to express its deepest appreciation to Dr. William Puette of the University of Hawaii, Center for Labor Education & Research for his voluntary efforts in designing and maintaining an excellent website.

## Caseload Statistics

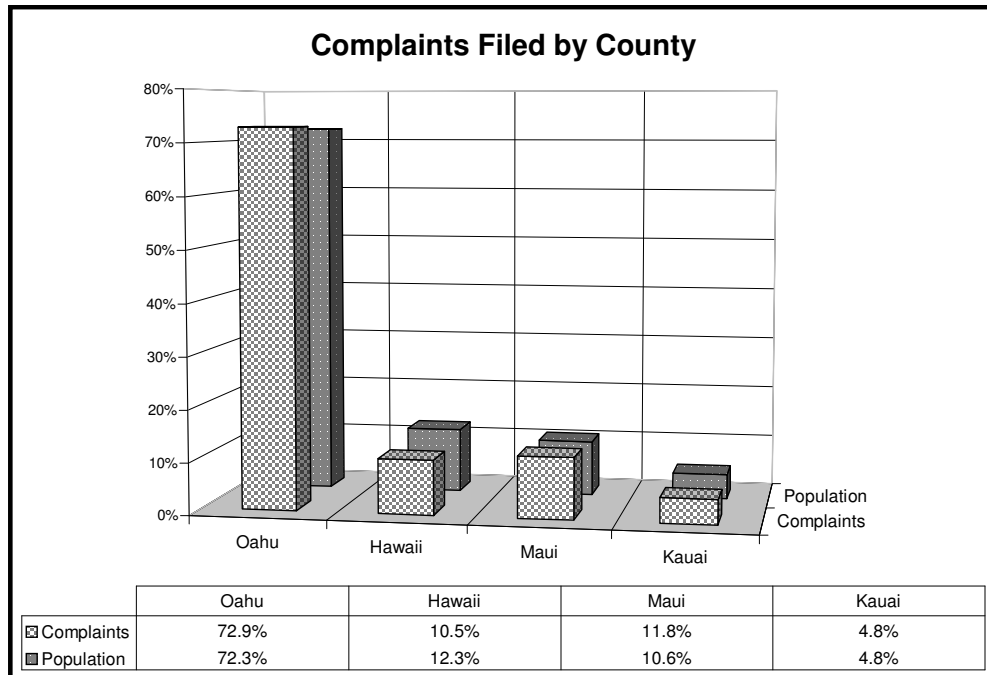
### Intake

During FY 2003-2004, the HCRC received nearly 5000 telephone and walk-in inquiries (4923). 782 intakes were completed by HCRC investigators during FY 2003-2004. 628 complaints of discrimination were filed with HCRC, or an average of 52 cases a month.

Of the 628 complaints that were filed with the HCRC, 419 complaints originated with HCRC investigators (averaging 35 per month), and 209 cases originated with the federal Equal Employment Opportunity Commission (“EEOC”). These 209 cases are dual-filed under state law with HCRC. The 628 cases included 555 employment cases, 25 public accommodations cases, 47 housing cases, and 1 case involving state and state-funded services. The other inquiries and intake interviews did not lead to filed charges due primarily to: a) lack of jurisdiction; b) failure to correlate the alleged act(s) with the protected basis or bases; or c) a complainant's decision not to pursue the complaint.



The 628 charges accepted by HCRC consisted of 458 Oahu complaints, 66 Hawai'i County complaints, 74 Maui County complaints, and 30 Kauai County complaints. The number of complaints filed from each county was consistent with its proportion of resident population in the state.



## Closures<sup>4</sup>

HCRC investigators and attorneys closed 442 cases during FY 2003-2004, down from 471 cases in FY 2002-2003, for an average closure rate of 36.83 cases per month in FY 2003-2004, down from 39.25 cases per month in FY 2002-2003. In addition to the 442 closures during the fiscal year, HCRC investigations resulted in

### <sup>4</sup> ANALYSIS AND EXPLANATION OF CLOSURE DATA

This closure data does not reflect the number of completed investigations that result in cause recommendations and determinations. Generally, the reason for this distinction is that cases are not closed upon issuance of a notice of cause, but are then conciliated, and, if conciliation fails, are docketed for hearing.

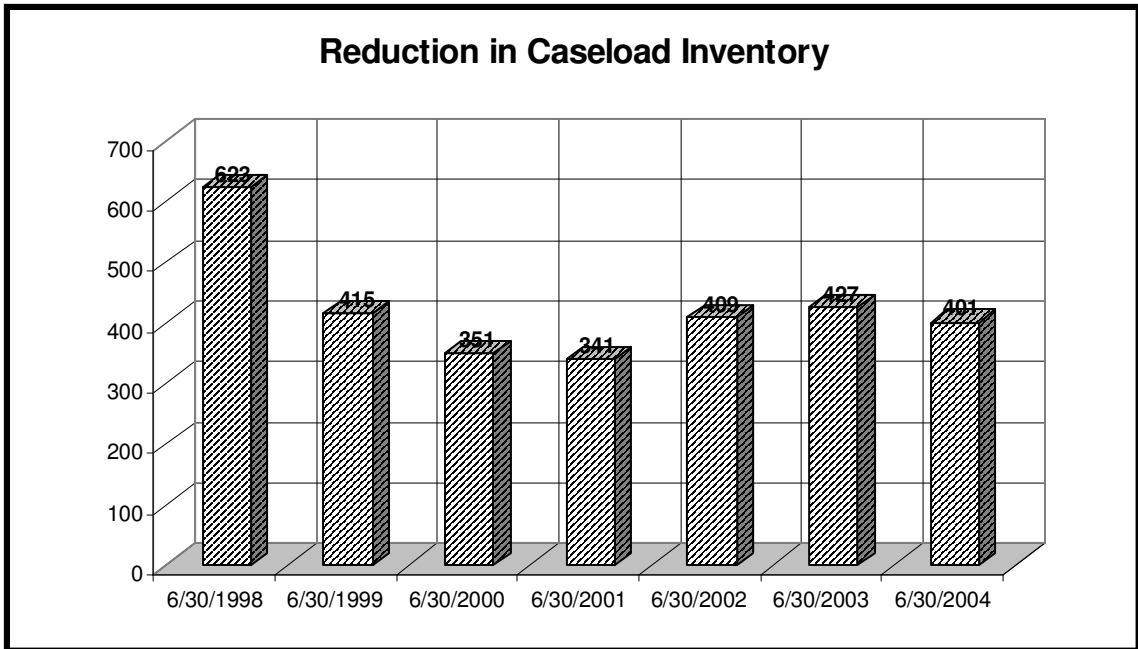
Historically, there is a relationship between the number of cause cases and predetermination settlements/resolutions between parties—the larger the number of notices of cause, the smaller the number of settlements/resolutions, and vice versa. Typically, cause recommendations and settlements/resolutions constitute between 15-25% of the total of those cases that are either investigated to a cause/no cause determination or settled or resolved by predetermination settlement or resolution between the parties.

During FY 2003-2004, HCRC investigations resulted in 22 cause recommendations, and 52 cases were closed on the basis of pre-determination settlement or resolution between parties. 291 cases were closed on the basis of no cause determinations upon completion of investigation. The ratio of cause cases and predetermination settlement/resolution (77) to no cause cases (291) for this fiscal year is 26%.



cause determinations in 22 cases.

As of June 30, 2004, there were 401 cases pending with HCRC investigators. Through its prioritized charge processing system and specialization in investigation, the HCRC has maintained its inventory at consistent levels over the past five fiscal years. Maintaining this reduced case inventory brings the HCRC closer to the optimum caseload of 30 cases per investigator, as recommended by the Legislative Auditor in "A Study on Implementation of the Civil Rights Commission for the State of Hawai'i" (Report No. 88-9, January 1989). In order to maintain the case inventory at this level, however, HCRC must continue to close approximately 450 cases each fiscal year.



The HCRC has continued to maintain an average closure period of approximately eleven months. The average period for case closure by investigators was 348 days, as compared to 342 days for FY 2002-2003 and 351 days for FY 2001-2002. A review of this fiscal year shows the following reasons for closures:

	No. of Cases	% of Subtotal	% of Total Closures
<b>Merit Closures</b>			
Resolved by Parties	42	11.70%	9.50%
Pre-Determination Settlements	10	2.79%	2.26%
Cases Settled or Otherwise Resolved After a Cause Determination	16	4.45%	3.62%
No Cause Determinations	<u>291</u>	<u>81.06%</u>	<u>65.84%</u>
<b>Subtotal</b>	<b>359</b>	<b>100.0%</b>	<b>81.22%</b>
<b>Non-merit Closures</b>			
Complainant Elected Court Action	46	55.43%	10.41%
No Jurisdiction	4	4.82%	0.90%
Complaint Withdrawn	9	10.84%	2.04%
Complainant Not Available	8	9.64%	1.81%
Complainant Failed to Cooperate	13	15.66%	2.94%
No Significant Relief Available	<u>3</u>	<u>3.61%</u>	<u>0.68%</u>
<b>Subtotal</b>	<b>83</b>	<b>100.0%</b>	<b>18.78%</b>
<b>Total Number of Closures</b>	<b>442</b>		<b>100%</b>

## Employment Cases

H.R.S. Chapter 378, Part I prohibits discriminatory employment practices based on race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, assignment of income for child support obligations, National Guard participation, or breast feeding/expressing milk. Examples of such practices are outlined in H.R.S. § 378-2.

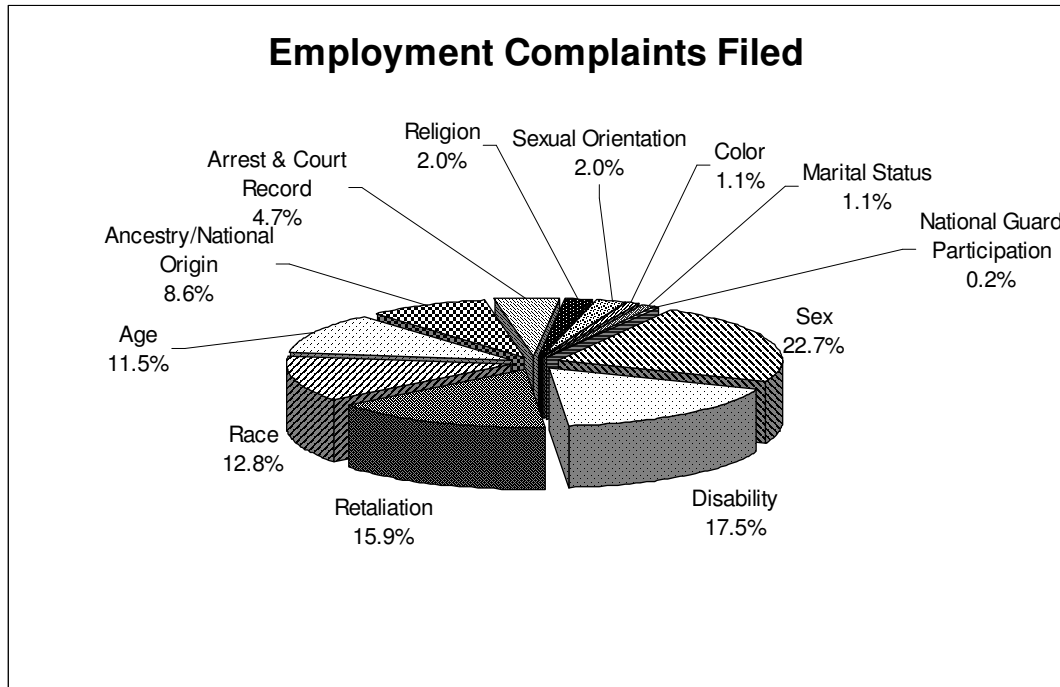
The HCRC has a work-share agreement with EEOC. Where there is concurrent jurisdiction, a case is filed with both agencies, but only the intake agency conducts the investigation, thereby eliminating duplicate enforcement activity. During the fiscal year a total of 555 employment cases were accepted by the HCRC. HCRC was the intake agency for 346 of these cases, and HCRC dual-filed another 209 cases originating with EEOC. Of the HCRC-originated cases, 78.9% were also filed with EEOC.

Of the 555 employment cases accepted in FY 2003-2004, sex was the basis cited most often, with 126 cases, accounting for 22.70% of all employment discrimination cases. Within the sex category, 50 cases alleged sexual harassment (40% of all sex cases) and 33 cases were based on pregnancy (26% of all sex cases).

Disability was the second most common basis with 97 cases, representing 17.48% of all employment cases. Retaliatory conduct was next with 88 cases, representing 15.86% of accepted employment cases, followed by race discrimination with 71 cases (12.79%), and age discrimination with 64 cases (11.53%).

There were 48 cases based on ancestry/national origin discrimination (8.65%); 26 cases based on arrest & court record (4.69%); 11 cases based on religion (1.98%); 11 cases based on sexual orientation (1.98%); 6 cases based on color (1.08%); and 6 cases based on marital status (1.08%). There was 1 case based on National Guard participation (0.18%) and there were no cases based on child support obligations.

The case closure period averaged 355 days for the 366 employment cases that were closed (or caused) by HCRC investigators during FY 2003-2004.



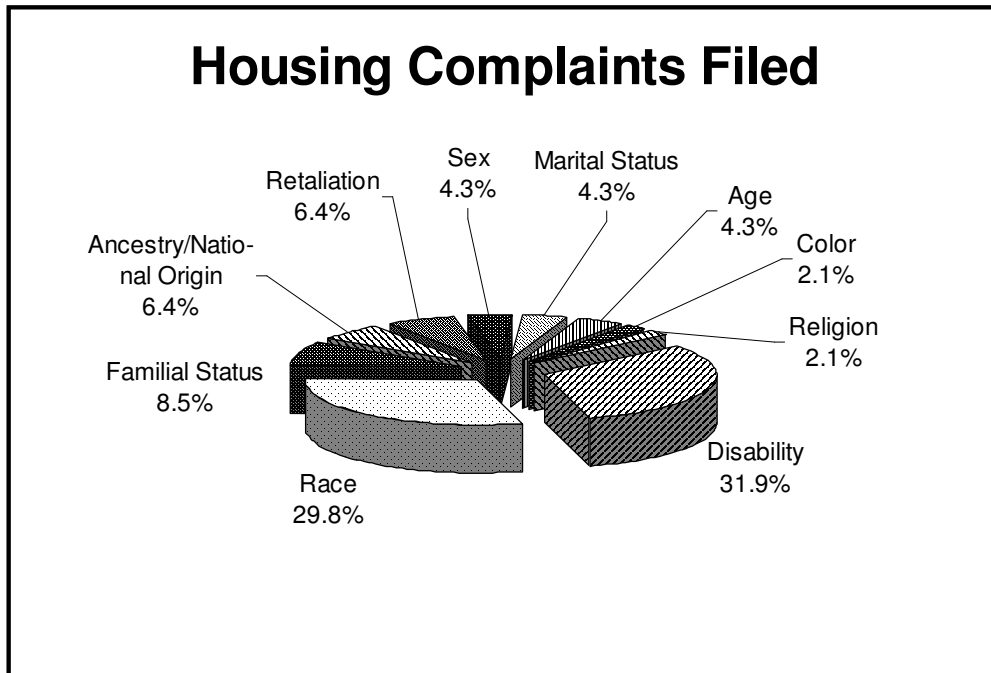
### Housing Cases

H.R.S. Chapter 515 is Hawai'i's fair housing law. It prohibits discriminatory housing practices based on race, sex, color, religion, marital status, familial status, ancestry, disability, age, or HIV infection. Examples of such unlawful practices are listed in H.R.S. § 515-3 and include actions such as refusing to rent, sell, or grant loans to an individual because of one or more of the above protected bases.

The HCRC has a work-share agreement with the U.S. Department of Housing & Urban Development (HUD). HUD refers most of the complaints it receives

regarding unlawful discrimination in real estate transactions in Hawai'i to the HCRC for investigation.

During FY 2003-2004, the HCRC accepted 47 cases of housing discrimination. There were 15 cases based on disability status (31.9%); followed by 14 cases based on race (29.8%); 3 cases based on ancestry/national origin (6.4%); 3 cases alleging retaliatory conduct (6.4%); 4 cases based on familial status (8.5%); 2 cases based on sex (4.3%); 2 cases based on age (4.3%); 2 cases based on marital status (4.3%); 1 case based on color (2.1%); and 1 case based on religion (2.1%). Housing case closures averaged 276 days for the 43 cases closed (or caused) during FY 2003-2004.

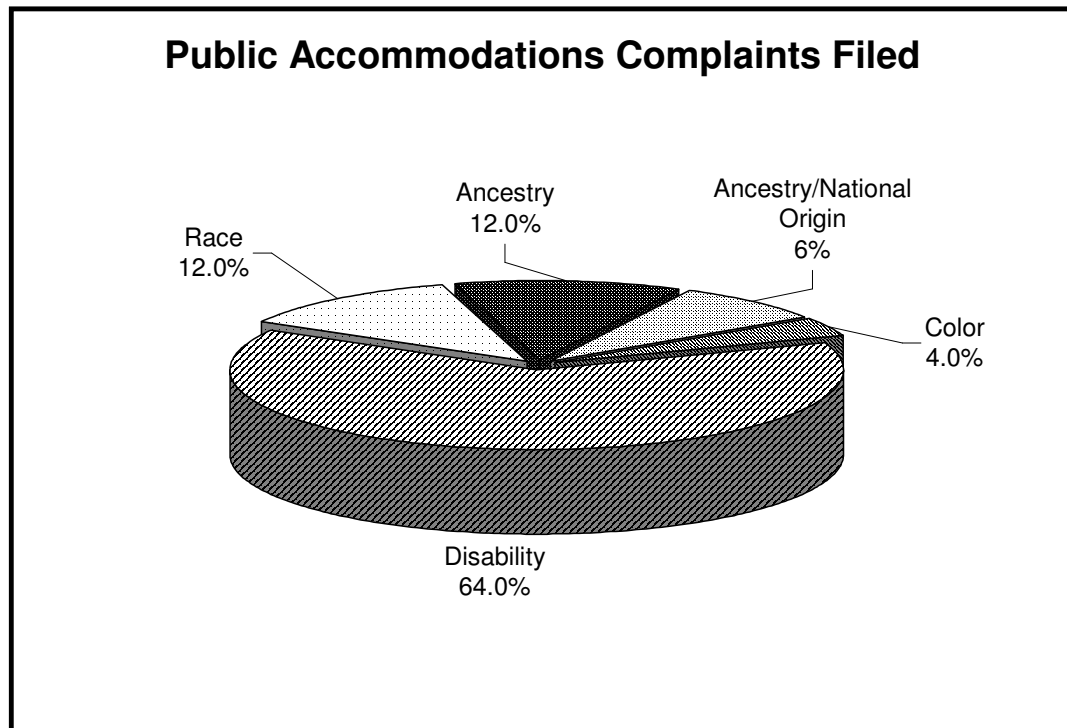


### Public Accommodations Cases

H.R.S. Chapter 489 prohibits unfair discriminatory practices that deny, or attempt to deny a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of a place of public accommodation on the basis of race, sex, color, religion, ancestry, or disability. Public accommodations include retail stores, restaurants, theaters, sports arenas, public transportation, healthcare providers, hotels, and banks.

During the fiscal year, 25 new cases of public accommodations discrimination were accepted. There were 16 cases based on disability discrimination, accounting for 64% of all accommodations cases; 3 cases alleging race discrimination (12%); 3 cases based on ancestry (12%); 2 cases based on sex discrimination (8%); and 1 case based on color (4% each). There were no cases based on religion.

Public accommodations case closures averaged 369 days for the 39 cases closed (or caused) during FY 2003-2004.



### Access To State & State-Funded Services Cases

H.R.S § 368-1.5 prohibits state agencies, or any program or activity receiving state financial assistance, from excluding from participation, denying benefits or otherwise discriminating against persons with disabilities (the only protected class under this statute).

During the fiscal year, there was 1 case filed under § 368-1.5. No cases were closed during FY 2003-2004.

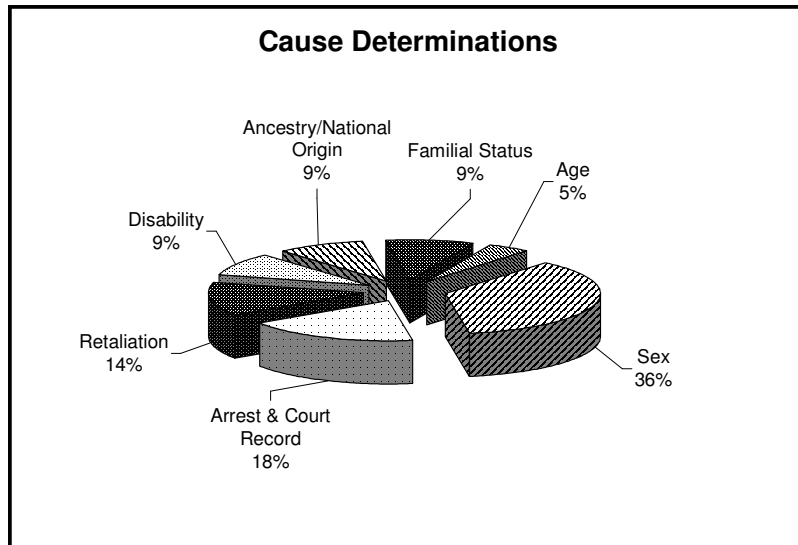
### Cause Cases

When the investigation results in a recommendation that there is reasonable cause to believe that discrimination has occurred, the case is assigned to an HCRC enforcement attorney for legal action. In FY 2003-2004, 22 recommendations for cause determinations were brought forward for legal action. Of these cases, 15 (68%) were employment cases, 4 (18%) were housing cases, and 3 (14%) were public accommodations cases.

Of the 22 investigations where the result was a cause recommendation, 8 involved discrimination on the basis of sex (36.4%), 4 involved discrimination due

to arrest and court record (18.2%), and 3 involved retaliation (13.6%). Additionally, 2 investigations involved discrimination due to disability (9.1%), 2 investigations involved ancestry/national origin (9.1%), and 2 investigations involved familial status (9.1%). 1 investigation involved age (4.5%).

During FY 2003-2004, enforcement attorneys closed 16 cases, and all but 14 of these cases (87.5%) were negotiated settlements.



## Case Settlements

The HCRC promotes and encourages settlement during all stages of the complaint process. Through pre-determination settlements, mediation, and conciliation, the HCRC obtains relief and resolves complaints while avoiding unnecessary litigation. These settlements provide closure for the parties and conserve HCRC investigation and litigation resources for complex or precedent setting cases.

During FY 2003-2004 the total monetary relief obtained through settlements totaled nearly \$500,000.00. In the 14 settlements obtained by HCRC attorneys in cases with a finding of reasonable cause, the monetary relief obtained for parties through conciliation, including cases resolved through mediation, totaled \$304,750.00. In the 52 cases settled prior to an investigative finding, monetary relief totaled \$184,835.27. This figure includes both pre-determination settlements obtained through HCRC investigators (\$11,718.00) and investigative settlements obtained through the HCRC Mediation program (\$173,117.27).

In addition to monetary relief, significant affirmative relief was also obtained. The HCRC seeks affirmative relief for four basic reasons: to enforce civil rights laws; stop discriminatory conduct; prevent future harm to complainants; and assist respondents in avoiding future violations. HCRC settlements and conciliation agreements routinely include various types of affirmative relief, including developing and implementing anti-discrimination policies, employee and supervisor training on anti-discrimination policies, posting policies, and publishing notices informing the public of HCRC's role in enforcing state anti-discrimination laws.

In some instances, non-monetary relief can be an important element of a settlement. For example, in FY 2003-2004, there were complainants who received letters of apology pursuant to the terms of a settlement. A simple apology sometimes goes a long way towards healing the rift between a complainant and respondent, and this form of relief is often not available as a court ordered remedy. Some cases are resolved when an employer, housing provider, or public accommodation corrects an unlawful discriminatory policy or practice after notice of the violation. During FY 2003-2004, a significant number of employers, housing providers, and public accommodations voluntarily agreed to correct unlawful employment applications, leave policies, or house rules.

The following descriptions are illustrative of the HCRC cases that were conciliated and the relief that was obtained during FY 2003-2004:

- A complainant alleged she was terminated because she was pregnant. The settlement included payment of \$25,000 to the Complainant, adoption of anti-discrimination employment policies in compliance with Chapter 378, and training for the employer's staff on such non-discrimination policies.
- In another case alleging employment discrimination based on pregnancy, settlement included payment of \$18,000, reinstatement with the employer,

adoption of anti-discrimination employment policies, and training for the employer's staff on such non-discrimination policies.

- Settlement of a case alleging employment discrimination based on disability resulted in the Complainant receiving \$10,000. The employer also adopted a written non-discrimination policy and training.
- In a case alleging termination and failure to accommodate pregnancy-related disability leave, the case was settled for \$35,000, the adoption of anti-discrimination employment policies, and a letter of reference.
- A case alleging unlawful pre-employment inquiries based on age resulted in a settlement of \$1,750 to the complainant.

### **HCRC Warning Letters**

In an effort to prevent future or recurring problems, HCRC provides respondents with "warning letters" advising them of unlawful or potentially unlawful practices that HCRC discovers during the course of its investigation of other claims against the respondent. In those instances in which the HCRC investigation does not result in a recommendation of reasonable cause on the claims filed but the HCRC investigator finds other unlawful practices, such as a discriminatory written policy or employment application, or conduct in the workplace that could rise to the level of unlawful harassment if repeated, HCRC will advise the respondent of the potential violations and give the respondent information about how it can correct the possible violation of the law. Warning letters have resulted in policy and application form changes, as well as discrimination prevention training for employees and managers.



## **Case Decisions**

### **Contested Case Hearings**

During FY 2003-2004, one case was docketed for hearing and two pending cases settled. One of these cases, Hoshijo on behalf of Sims and Quinata vs. SCI Corporation, was a complex case remanded from the Hawaii Supreme Court and involved extensive pre-hearing litigation before it settled.

### **Litigation and Court Rulings**

#### Executive Director Standing

In RGIS Inventory Specialist v. Hawaii Civil Rights Commission, 104 Hawai'i 58 (2004), the Hawaii Supreme Court held that the Executive Director of the Hawaii Civil Rights Commission did not have standing to petition the Commissioners for a declaratory ruling on whether there was jurisdiction to investigate. The Court took the unusual step of having oral arguments. In ruling that the Executive Director did not have standing to petition, the Court vacated the circuit court's ruling on the main issue of whether a transgender person was protected from sex discrimination because the person does not conform to gender stereotypes.

As a result, the case goes back to the Executive Director for investigation. Neither the HCRC's declaratory ruling that gender stereotyping was a viable theory to investigate claims made by transgender persons nor the circuit court's decision which ruled otherwise governs the investigation.

#### Statute of Limitations For Sex Discrimination Claims

In Asentista V. Young Men's Christian Association of Honolulu, Civil No. 02-1-1961-08 (1<sup>st</sup> Cir.), the HCRC intervened in a circuit court case involving the statute of limitations for filing sexual harassment claims in circuit court. The case began with a complaint that was initially filed with the HCRC. The investigation resulted in a finding of no cause, and the complainant was issued a notice of right to sue. The complainant filed a civil action within 90 days of the notice as provided by HRS § 368-12.

The defendants claimed that the civil action was filed too late based on HRS § 378-3(10), which allows victims of sexual harassment to file a direct action in court in two years, without having to file a complaint with the HCRC first. (HRS § 378-3(10) is the only exception to the requirement that a discrimination complaint be filed with the HCRC before a party can proceed to court. It was added because of a concern that victims of sexual harassment are often unable to meet the 180 day filing deadline because of the emotional trauma they may

face.) Based upon HRS § 378-3(10), defendants argued that plaintiff had to file within two years of the incident despite the express language in HRS § 368-12 which provides that a complaint must be filed within 90 days of the notice of right to sue.

The HCRC argued that HRS § 378-3(10), which was added to help victims of sexual harassment who did not file timely complaints with the HCRC, should not be interpreted to penalize those who file timely complaints with the HCRC. Under the right to sue provision, plaintiff had filed in a timely action because it was filed within 90 days of the right to sue.

The circuit court ruled that plaintiff had filed a timely action (within 90 days of the right to sue) because the investigation resulted in a no cause determination and the issuance of a right to sue. However, the court also ruled that if a complainant requests a notice of right to sue instead of waiting for a reasonable cause determination, the applicable statute of limitations would be two years after the date of the harm.

The HCRC disagrees with the part of the court's decision which changes the filing deadline for sexual harassment complainants who request a right to sue. The case was settled by the parties after the court's ruling so the issue was not appealed.

#### Discovery of Documents in HCRC File: Unemployment Hearing Tapes

In Fasone v. Horseshoe Chocolate Incorporated dba Rocky Mountain Chocolate Factory, Civil No. 03-1-0809-04 (1<sup>st</sup> Cir.), the plaintiff filed a discrimination action in circuit court. The plaintiff subpoenaed the HCRC to disclose cassette tape recordings of plaintiff's unemployment appeals hearing. The HCRC had obtained copies of the recordings from the appeals referee's office as part of its investigation.

Under HRS § 383-95(a), the unemployment hearing tapes are confidential and cannot be disclosed unless there is an appeal of the unemployment decision. The tapes were provided to the HCRC under HRS § 383-95(a)(3) which allows the unemployment referee's office to disclose information to "any ... state ... agency charged with the administration of a fair employment practice or anti-discrimination law[.]" The HCRC claimed a Rule 501, statutory privilege under HRS § 92F-19(b), which provides that the HCRC is subject to the same limitations on disclosure as the unemployment appeals referee's office.

The court ruled that the HCRC was justified in refusing to comply with the subpoena because it had a statutory privilege under Rule 501 and HRS § 92F-19(b) to keep the tapes confidential. The court also ruled that the tapes were not

were not created as a result of or from a complaint filed with the Hawai`i Civil Rights Commission so they were not subject to disclosure under HRS § 368-4.

#### Discovery of Documents in HCRC File: Assertion of EEOC Privilege

In Fiatoa v. Brigham Young University-Hawaii, Civil No. 03-00258 (U.S. Dist. Ct.), plaintiff filed a civil action based upon the Family and Medical Leave Act. Earlier, Plaintiff had filed a complaint for employment discrimination with the HCRC but the civil action did not contain an employment discrimination claim.

The defendant subpoenaed the HCRC files. (Because this case was filed in federal district court, the state statutory privilege in HRS § 368-4 could not be asserted.) The HCRC objected to the subpoena on behalf of the Equal Employment Opportunity Commission (EEOC) claiming that the files were confidential under federal law. Because the workshare agreement with the EEOC requires that the HCRC comply with federal law in maintaining the confidentiality of the files, the HCRC objected. Under the workshare agreement, the HCRC files are considered to be EEOC files, if the complaint is dual-filed with both agencies. Under federal law, EEOC files are confidential and can only be disclosed if there is a civil action based upon the discrimination complaint filed with the HCRC or EEOC. Because the civil action did not raise any discrimination claims, the EEOC would not be authorized to release the files.

The federal district court did not rule on the whether the HCRC could raise EEOC's privilege because it dismissed the civil action for reasons unrelated to the subpoena.

#### HCRC Investigation When There Are Related Civil Service Claims

In Hawai`i Civil Rights Commission v. Hawai`i Labor Relations Board, Civil No. 03-1-1859-09 (1<sup>st</sup> Cir.), the HCRC intervened in a petition for declaratory relief filed by the Hawaii County Civil Service Commission (CSC). The CSC sought a declaration that it could defer a civil service claim for non-selection to the HCRC because the claimant had also filed a discrimination claim for non-selection with the HCRC. The declaration was based upon HRS § 76-14(c)(1), which requires deferral of civil service claims when "the action complained of constitutes a prohibited practice subject to the jurisdiction of another appellate body or administrative agency."

The Hawaii Labor Relations Board declared that the CSC could defer the entire case and did not have to investigate any civil service claim for non-selection because the person had also filed a discrimination claim for non-selection with the HCRC. Even though the civil service claim also charged that the non-hiring was based upon two purely-civil service issues, the Board

declared that the HCRC could investigate and decide the two purely-civil service issues at the same time it decided the discrimination claim.

The HCRC appealed to the circuit court and argued that the Board's interpretation of the deferral statute, HRS § 76-14(c)(1), was wrong because the two purely-civil service claims were not prohibited practices under HCRC's jurisdiction. The declaration would result in the loss of the two civil service claims because the HCRC has no legal authority to decide civil service claims or grant any relief for civil service violations and if the HCRC concluded there was no discrimination but the civil service laws were violated, it could not grant relief under the civil service law. Moreover, the Board's declaration was contrary to HRS § 76-47(a), which gives the CSC the exclusive authority to decide civil service issues. The HCRC contended that the proper interpretation of HRS § 76-14(c)(1) should be a separation of the claims so that the two purely-civil service claims would be decided by the CSC and the discrimination claim decided by the HCRC, so that the person would not lose any claims.

The circuit court ruled that HRS § 76-14(c)(1) meant that the HCRC should investigate the discrimination claim first and if there are any civil service issues remaining, the CSC would still have jurisdiction to decide them. No appeal was taken by either party. The HCRC will investigate the discrimination claim and leave it up to the CSC to decide any remaining civil service issues.

## **Legislation**

There were no laws relating to civil rights or discrimination enacted in the last session.

## **Appendix**

### **Overview**

The Hawaii Civil Rights Commission (HCRC) was established under Act 219, L. 1988, and Acts 386 and 387, L. 1989.

The HCRC's enabling statute, H.R.S. Chapter 368, declares that discrimination because of race, color, religion, age, sex, sexual orientation, national origin, ancestry, or disability in employment, housing, public accommodations, or access to services receiving state financial assistance is against public policy. Certain bases are not protected under all laws under HCRC jurisdiction.

The HCRC exercises jurisdiction over Hawaii's laws prohibiting discrimination in employment (H.R.S. Chapter 378, Part I), housing (H.R.S. Chapter 515), public accommodations (H.R.S. Chapter 489), and access to state and state-funded services (H.R.S. § 368-1.5). Under its statutory mandate, the HCRC receives, investigates, conciliates, litigates, and adjudicates complaints of discrimination, providing a uniform procedure for the enforcement of the state's discrimination laws.

The HCRC has five volunteer Commissioners. They are appointed by the Governor, with the consent of the Senate, based on their knowledge and experience in civil rights matters and commitment to preserve the civil rights of all individuals.

The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes. The HCRC has a staff of twenty-nine (29) persons who are divided into separate enforcement and adjudication sections.

### **Administrative Procedure**

Before the HCRC accepts a complaint of discrimination, a complaining person must allege that:

- 1) She or he has been subjected to unlawful discrimination<sup>1</sup> because of a "protected basis,"<sup>2</sup> and,
- 2) The unlawful discrimination occurred within the previous 180 days.<sup>3</sup>

After a complaint is filed with HCRC, in appropriate cases the parties are offered an opportunity to voluntarily mediate the complaint through the HCRC Mediation Program. If the parties agree to mediate, the HCRC mediation coordinator refers the parties to a community mediation center, which schedules and holds mediation sessions. Parties may alternatively choose to hire a private mediator.

In cases not referred to mediation, or those in which mediation is unsuccessful, an HCRC investigator conducts an objective, fact-finding investigation. HCRC investigators favor neither party, and gather evidence to allow the Executive Director to make a determination in each case. As appropriate, the HCRC investigator collects, reviews, and analyzes documents, and contacts and interviews witnesses. Some witnesses questioned may be identified by the complainant or by the respondent, and some are independent witnesses, including experts, who are identified by the investigator, by other witnesses, or are discovered during the investigation. In many cases, the investigator also attempts to settle the complaint prior to an investigative determination (pre-determination settlement).

After an HCRC investigation is completed, H.R.S. 368-13(b)-(c) requires the Executive Director to determine whether reasonable cause exists to believe that discrimination has occurred. Where no reasonable cause is found, the Executive Director dismisses the complaint and issues a right to sue letter to the complainant. Where a determination of reasonable cause is recommended, the complaint is assigned to an HCRC enforcement attorney for legal review and final recommendation to the Executive Director.

Upon the issuance of a finding of reasonable cause to believe that unlawful discrimination has occurred, the HCRC enforcement attorney attempts to conciliate or settle the complaint.<sup>4</sup> If conciliation is unsuccessful, the complaint is docketed for a contested case hearing. An HCRC enforcement attorney presents the case in support of the complainant before an impartial hearings examiner. The respondent (represented by themselves or by counsel or representative of their choice) is also given the opportunity to present its case at the hearing. Generally, a complainant may intervene in the contested case process as a party and also be represented by counsel or other representative of their choice.

After the completion of the contested case hearing, the hearings examiner issues a proposed decision based on the evidence. The five-member Commission Board then reviews the proposed decision and the hearing record. The parties may file written exceptions and support statements and present oral arguments to the Board. The Commission Board then accepts, rejects, or modifies the proposed decision, issues a final decision and order, and awards remedies, if appropriate. This decision is legally binding. If any party disagrees with the decision, she/he has 30 days to file an appeal to the State Circuit Court. Furthermore, a Respondent who appeals a decision of the Commission Board is entitled to a jury trial on any claims that form the basis for an award of common law damages.<sup>5</sup>

The HCRC enforcement and administrative process is more cost effective than litigation in court. It provides for the investigation of complaints and access to justice for those who lack the resources to pursue their claims in court. This is particularly important in employment discrimination cases, where employees have often lost their source of income through termination and have little or no control over the evidence needed to prove discrimination.

The HCRC enforcement and adjudication process also funnels cases away from the courts, saving judicial resources and associated costs. Complainants

who file suit in court must first exhaust administrative remedies by filing a complaint with the HCRC. The primary reason for this requirement is to prevent the courts from being overburdened with non-jurisdictional or non-meritorious complaints, or with complaints that can be closed or settled in HCRC's administrative process. In fact, the great majority of complaints filed with HCRC are resolved or disposed of without resort to the courts.<sup>6</sup>

Although only a small number of cases are brought to administrative hearing and result in final Commission decisions, these cases are important because they create a body of legal precedent. Case law precedents – in Hawai'i and across the United States -- provide the basis for anti-discrimination principles, such as the doctrine of sexual harassment. Case law also establishes standards that define the rights and protections under by civil rights laws, and give guidance to employers, landlords, and businesses on how to prevent and eliminate discrimination.

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1 "Unlawful discrimination" may occur in any of the following ways:

- a. Disparate Treatment – this is the usual form of discrimination; it occurs when individuals are treated in an unequal manner because of a "protected basis." Examples of disparate (unequal) treatment include: firing an employee because of her race, her age, or because she is pregnant; refusing to serve a person because of his race or his disability; refusing to rent to a person because of her race; or refusing to rent to a family because it has young children.
- b. Reasonable Accommodation – this is the second most common way that discrimination appears; it occurs when an individual is denied a "reasonable accommodation" designed to allow an individual to have equal access or equal benefits. Examples of failure to accommodate include: refusing to allow a seeing impaired customer into a taxicab because he is accompanied by a seeing-eye dog; refusing to allow a pregnant cashier to sit on a stool so that she can work while pregnant; or refusing to make exceptions to a condominium association's "no pets" house rule to allow a disabled resident to keep a service animal.
- c. Disparate Impact -- the least common way that discrimination appears; however, when discrimination occurs in this form, it may impact the greatest number of people. Disparate impact occurs when a policy, practice, or test that has a "disparate impact" on persons with a particular "protected basis." Examples of disparate impact include: a pre-employment test that includes a number of questions that are not job related but have the effect of disqualifying a large number women, or men, or any other protected basis.

<sup>2</sup> "Protected basis" is the criteria that it is unlawful for a respondent to discriminate upon. Protected bases vary depending on the statute involved:

- a. State Funded Services (Chapter 368, H.R.S.) The only protected basis is disability.
- b. Employment (Chapter 378, Part I, H.R.S.) The protected bases that an employer, employment agency, or labor organization may not discriminate on are: race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, or arrest and court record.
- c. Public Accommodations (Chapter 489, H.R.S.) The protected bases that a public accommodation may not discriminate on are: race, sex, color, religion, ancestry, or disability.
- d. Housing (Chapter 515, H.R.S.) The protected bases that an owner, a real estate broker or any person engaging in a real estate transaction, may not discriminate on are: race, sex, color, religion, marital status, familial status, ancestry, disability, age or HIV (human immunodeficiency virus) infection.

<sup>3</sup> Complaints filed with HCRC usually involve a discrete act – such as termination, eviction, demotion, etc. – or involve acts that are ongoing and constitute a continuing violation. An example of a

“continuing violation” is sexual harassment that began more than 180 days before the complaint is filed, but continued or ended less than 179 days before the complaint is filed. When discrimination involves a discrete act, such as termination, the HCRC can only accept a complaint within 180 days of that complained action.

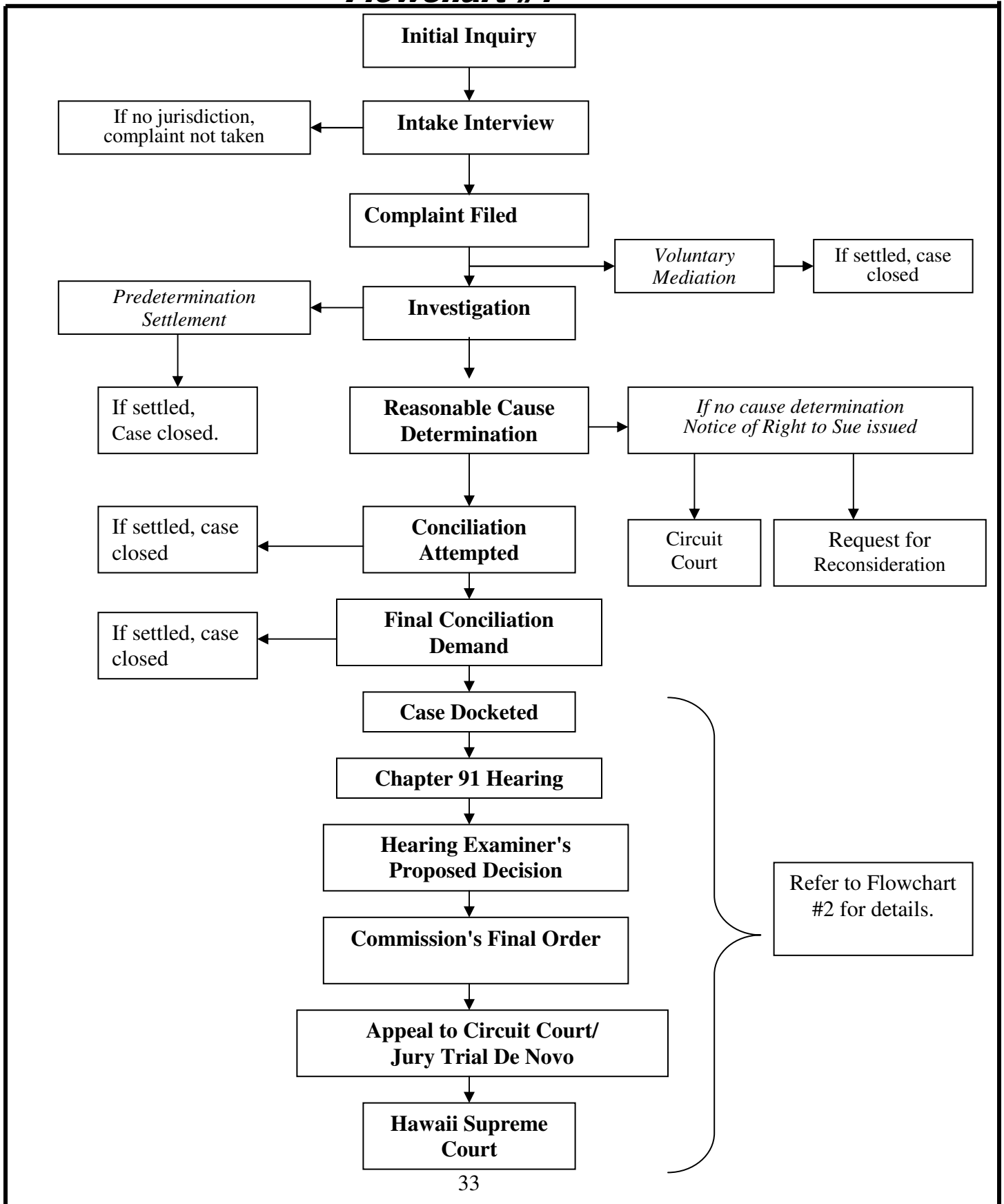
<sup>4</sup> During FY 2003-2004, of all complaints closed (442), 28.2% (125) were closed on the basis of the complainant electing court action or other administrative closure. The remaining cases (317) were closed on the basis of a completed investigation or a pre-determination settlement: in 65.84% (291) the Executive Director found no cause and dismissed the complaint; in 3.62% (16) the case was resolved through settlement or litigation by HCRC enforcement attorney after the issuance of a notice of cause; and 11.76% (52) were settled prior to a cause determination.

<sup>5</sup> The HCRC administrative procedure and circuit court appeal is illustrated in Flowchart # 1. In *SC/ Management Corporation, et. al. v. Darryllyne Sims, et. al.*, No. 24485, June 18, 2003, the Hawai`i Supreme Court held that “a respondent who appeals a final order of the HCRC, pursuant to HRS § 368-16, is entitled to a jury trial on any claims that form the basis for an award of common law damages by the HCRC.”

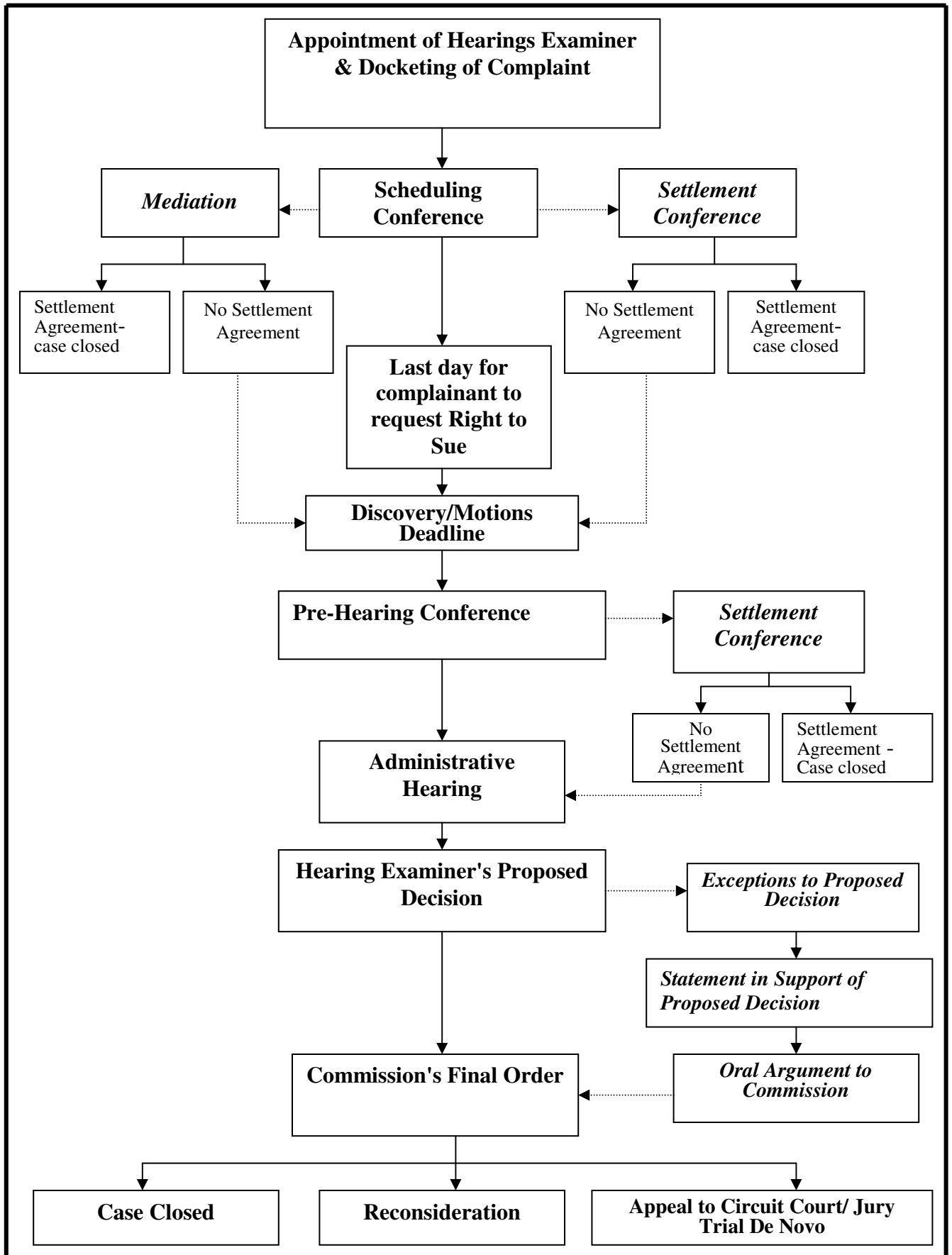
<sup>6</sup> HCRC case dispositions are illustrated in Flowchart # 2.



## **HCRC Procedural Flowchart #1**



## ***HCRC Contested Case Flowchart #2***



## **HCRC Commissioners**

### **Harry Yee**

**Chair (terms 1997-2001, 2001-2003)**

During FY 2002-2003, Mr. Yee was an attorney in private practice. He served as President of the Federal Bar Association, Hawaii Chapter and on the board of the National Asian Pacific American Bar Association. Mr. Yee served as an Assistant Attorney General with the Civil Rights Division of the Massachusetts Office of the Attorney General and managing attorney for Greater Boston Legal Services, Chinatown Office. He was a member of the Greater Boston Civil Rights Coalition and the George Lewis Ruffin Society, which promotes greater understanding between minority communities and the criminal justice system. Mr. Yee was appointed Chair of the Commission in December 1998. He was reappointed for another four-year term in 2001. Mr. Yee resigned as Chair and Commissioner, effective September 5, 2003, and is now an Assistant United States Attorney in Honolulu.

### **Allicyn Hikida Tasaka**

**Commissioner (terms 1996-2000, 2000-2004)**

During FY 2003-2004 Ms. Tasaka was Executive Director of the Hawaii State Commission on the Status of Women. She was the Communications Director for former Lieutenant Governor Mazie Hirono, chair of the Hawaii State Commission on the status of Women and the first woman president of the Honolulu Chapter of the Japanese American Citizens League (JACL). She also serves as director on the boards of the Hawaii Women's Political Caucus, Winners at Work, Awareness Foundation and as a commission of the Department of Education's General Equity in Athletics Advisory Commission.

### **Richard Turbin**

**Commissioner (term 2002-2004)**

Mr. Turbin was born in New York City and graduated from Cornell University, Magna Cum Laude, and Harvard Law School where he served as editor and author of the Harvard Civil Rights Law Review. He has been a litigation lawyer in Hawaii for 31 years. He is the chair of the Kahala Neighborhood Board, the president of the Consumer Lawyers of Hawaii, and a board member of Mothers Against Drunk Driving (MADD) and the Judicial History Center. He has also served as the Hawaii State Bar Association chair of the legal malpractice insurance section and the 1999-2000, chair of the Tort and Insurance Practice Section (TIPS) of the American Bar Association (ABA), which is comprised of 30,000 members, the largest such organization in the world. Mr. Turbin's term lapsed on June 30, 2004.

**Coral Wong Pietsch**  
**Chair (term 2003-2007)**

Coral Wong Pietsch was appointed a Commissioner by the governor and confirmed by the Senate on March 24, 2004. She is the Senior Civilian Attorney for the U.S. Army Pacific Command and is a member of the U.S. Army Reserves. She oversees the Personnel and Labor Law practice at Headquarters, U.S. Army Pacific Command, as well as the Ethics and the Environmental Law programs. She is also responsible for providing advice and guidance on international law issues. She is the first female General in the 226-year history of the US Army Judge Advocate General Corps, and first Asian American female to reach the rank of Brigadier General in the Army. From 1986 to 1991, she served as Labor Counselor for the U.S. Army Support Command Hawai`i, and was responsible for providing training to managers and supervisors on Title VII, the Rehabilitation Act, and sexual harassment.

**Lisa A. Wong**  
**Commissioner (term 2003-2007)**

Ms. Wong was appointed Commissioner by the governor and confirmed by the Senate on March 24, 2004. Ms. Wong received her Bachelor of Business Administration, Personnel and Industrial Relations from the University of Hawai`i and founded the University of Hawai`i Society of Human Resources, student chapter. Ms. Wong has been a human resources professional for 34 years, responsible for employee relations, equal employment opportunity programs, affirmative action programs, management and supervisory training, and diversity and compliance programs. Ms. Wong is currently the Human Resources Manager for the Hawai`i Convention Center. She previously served as human resources manager for the Hawaii division of Affiliated Computer Services, Inc. Currently, Ms. Wong is chair of the Society of Human Resources Management annual state conference, which provides training to human resources professionals, executives, managers, supervisors and entrepreneurs in areas such as discrimination, sexual harassment, diversity, and dispute resolution. She has been active in numerous organizations and volunteer projects, including the Associated Chinese University Women, Honolulu Chinese Jaycees, Aloha United Way, Junior Achievement, Hawaii Medical Fellowship Foundation, Hawaii Bone Marrow Registry, and the Chinese Chamber of Commerce.

**Roger Daniel Rizzo**  
**Commissioner (term 2003-2005)**

Mr. Rizzo was appointed Commissioner and confirmed by the Senate on March 24, 2004. His degrees include: a bachelor's degree in International Relations, a master's degree in Business Administration specializing in Finance, and a

doctorate in jurisprudence. Mr. Rizzo was a civil trial attorney and successfully tried over 25 complex cases to verdict. Recently Mr. Rizzo has done volunteer work with the Maui Health Department Director and authored a bill to regulate tobacco. He has also done volunteer work for the Maui Health Department, the Community Clinic of Maui, the Teach Me To Live Organization, the Self Help Housing Corporation of Hawaii, the Lahaina Salvation Army, the Maria Lanakila Catholic Church, the Lahaina Holy Innocents Church, the Lahaina Church of Jesus Christ of Latter Day Saints, and S.C.O.R.E.

### **HCRC Staff**

The HCRC staff consists of 30 individuals in the following positions:

- Executive Director
- Enforcement Staff:
  - Deputy Executive Director
  - Enforcement Attorneys (4)
  - Administrative Services Asst.
  - Investigator-Supervisors V-VI (3)
  - Investigator III-IV (11)
  - Secretary III
  - Legal Stenographer I
  - Clerk Typists (4)
- Adjudication Staff:
  - Chief Counsel
  - Hearings Examiner
  - Secretary II