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Maine Human Rights Commission

2024 Annual Report

July 1, 2023 - June 30, 2024

Maine Human Rights Commission
51 State House Station, Augusta, Maine 04333
www.maine.gov/mhrc

TABLE OF CONTENTS

Letter of Transmittal	3
Origin, Jurisdiction, and Members of the Commission	4
Process	5
Staffing	5
Budget	5
Case Activity	
Complaints Filed	6
Cases Closed Before Commission Determination	7
Hearings Determinations	8
Reasonable Grounds Rates	8
Post Reasonable Grounds Conciliations	8
Litigation	9
Conclusion	9



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Kit Thomson Crossman
EXECUTIVE DIRECTOR

Barbara Archer Hirsch
COMMISSION COUNSEL

October 10, 2024

The Honorable Janet Mills, Governor

The Honorable Troy Jackson, President of the Maine Senate

The Honorable Rachel Talbot Ross, Speaker of the Maine House of Representatives

State House, Augusta, Maine 04333

Dear Governor Mills, President Jackson, and Speaker Talbot Ross:

On behalf of the Commissioners and staff of the Maine Human Rights Commission (“Commission”), we are pleased to present you with our agency’s Fiscal Year 2024 (“FY 2024”) Annual Report.

This year has been a time of transition for the Commission. In August 2023, the Commission’s Executive Director, Amy Sneirson, retired after 12 years of tireless advocacy for equal rights for all Mainers under the law. Deputy Commission Counsel Kit Thomson Crossman was appointed by the Commissioners as Acting Executive Director in her place, and was appointed to the position permanently in November 2023. Over the next several months, Executive Director Thomson Crossman worked to fully staff the Commission with the best-qualified candidates to fill vacant positions, including two new positions (an investigator and a business manager) created by Governor Mills and the Legislature in 2023. As of the date of this letter, the Commission has filled 14 of its 15 full time positions. The Commission has also permanently adopted many of the changes that made it more flexible and accessible during the height of the COVID pandemic, such as electronic filing and hybrid Commission meetings. With so much change, the Commission continued in FY 2024 to uphold our statutory charge to enforce Maine’s anti-discrimination laws. A few highlights are as follows:

- The Commission received 660 new complaints in FY 2024, down slightly from the prior year’s 683.
- Of new complaints filed, 66% were based on employment, 19% were based on housing, 15% were based on public accommodations, 3% were based on education, and one case was based on credit extension. (Please see footnote 6, *infra*, regarding the percentage totals.)
- Investigators wrote reports after completed investigations in 154 cases during FY 2024.
- In approximately 66% of the cases with investigator’s reports, there was no disagreement by parties with the recommended findings.
- Commissioners found “reasonable grounds” to believe unlawful discrimination occurred in 20% of cases with investigator’s reports.
- The Commission closed 665 cases in FY 2024.
- At the end of FY 2024, 726 cases remained pending.
- Commission staff participated in or delivered more than 80 educational events during FY 2024.

The Commission continues to work to eliminate unlawful discrimination for all citizens of and visitors to Maine. We hope this report is of assistance, as our agency seeks to work closely with the Executive and Legislative branches as we jointly assure the citizens of Maine the protections afforded by the Maine Human Rights Act.

Sincerely,

Edward David, Acting Commission Chair

THE COMMISSION

Established in 1971, the Commission is a quasi-independent state agency that enforces Maine's anti-discrimination laws encompassed in the Maine Human Rights Act ("MHRA") at Title 5 of the Maine Revised Statutes ("M.R.S."), Sections 4551-4634. The MHRA charges the Commission with investigating conditions and practices which allegedly detract from enjoyment of full human rights and personal dignity (whether carried out legally or illegally, and whether by public agencies or private persons) and recommending measures calculated to promote full enjoyment of human rights and personal dignity. The MHRA mandates that the Commission "shall conduct such preliminary investigation as it determines necessary" to determine if there are "reasonable grounds" (or "cause") to believe that unlawful discrimination occurred in employment, housing, education, access to public accommodations, extension of credit, genetic non-discrimination, and/or offensive place names. 5 M.R.S. § 4612(1)(B). The Commission also investigates Maine Whistleblowers' Protection Act ("WPA") retaliation complaints pursuant to 26 M.R.S. §§ 831 - 834-A.

During FY 2024, the Commission had jurisdiction over allegations of discrimination in the following areas:

JURISDICTIONAL BASIS	EMPLOYMENT	HOUSING	ACCESS TO PUBLIC ACCOMMODATION	CREDIT EXTENSION	EDUCATION	YEAR ENACTED
Age	X	N/A	N/A	X	N/A	1972
Ancestry	X	X	X	X	N/A	1972
Color	X	X	X	X	N/A	1972
National Origin	X	X	X	X	X	1972
Race	X	X	X	X	X	1972
Religion	X	X	X	X	N/A	1972
Marital Status	N/A	N/A	N/A	X	N/A	1973
Sex	X	X	X	X	X	1973
Physical disability	X	X	X	N/A	X	1974
Mental disability	X	X	X	N/A	X	1975
Receipt of Public Assistance	N/A	X	N/A	N/A	N/A	1975
Pregnancy	X	N/A	N/A	N/A	N/A	1979
Familial Status (minor child)	N/A	X	N/A	N/A	N/A	1981
Workers' Comp Retaliation	X	N/A	N/A	N/A	N/A	1987
Whistleblower Retaliation	X	N/A	N/A	N/A	N/A	1988
Children (lodging only)	N/A	N/A	X	N/A	N/A	1989
MHRA Retaliation/Interference	X	X	X	X	X	1993
Genetic Information	X	N/A	N/A	N/A	N/A	1998
Sexual Orientation (including GI and GE)	X	X	X	X	X	2005
Familial status (minor child & dependent adult)	X	X	N/A	N/A	N/A	2021
Domestic Violence Victim (Perm. Prot. Order)	X	X	N/A	N/A	N/A	2021
Ancestry, Religion, Color	N/A	N/A	N/A	N/A	X	2021
Age	N/A	N/A	X	N/A	N/A	2021

The agency's structure is such that five volunteer Commissioners are appointed by a Governor and confirmed by the Judiciary Committee for staggered five-year terms; a Governor may designate the Chair of the Commission. The Commissioners appoint a Commission Counsel and an Executive Director. The MHRA ensures that the Commission is apolitical, with the requirement that no more than three Commissioners may be from any political party. The MHRA requires the Commission to offer parties to a complaint an opportunity to try to resolve the dispute prior to a determination of whether there is cause to believe that unlawful discrimination occurred. Commissioners make final determinations on all discrimination complaints investigated by Commission staff that are not resolved administratively or settled. The MHRA specifically authorizes the agency to pursue remedies for unlawful discrimination in court when enforcement in the public interest is necessary. 5 M.R.S. § 4612. The Commission has "the further duty to recommend measures calculated to promote the full enjoyment of human rights and personal

dignity by all the inhabitants of this State", 5 M.R.S. § 4566, and occasionally is called upon to present information to the Maine Legislature about matters that might affect human rights in the State.

PROCESS

The Commission receives an intake questionnaire (which it drafts into a complaint, if MHRA jurisdiction exists) or a complaint, notifies the respondent, and obtains its answer to the complaint and agency requests for information and documents. The Commission sends those to the complainant to get their reply and additional information supporting their allegations. If at that time a complaint is not administratively dismissed or resolved by the parties, or the complainant has not proceeded directly to court, the case is assigned to an investigator for a preliminary investigation. The investigator prepares a written report outlining relevant facts, applicable laws, and recommended findings on each claim as to whether there are "reasonable grounds", or cause to believe unlawful discrimination or retaliation occurred. The Commission staff provides reports with summaries of investigation, legal analysis, and recommendations to Commissioners for decision at public meetings. After a cause finding, the Commission attempts to resolve the dispute by agreement ("conciliation"); if conciliation is unsuccessful the complainant and Commission both may file lawsuits in court.

STAFFING

The Executive Director, who is ultimately responsible for all agency activity, hires and supervises Commission staff. In FY 2024, just over half of the agency's staff were investigators, who: reviewed hundreds of Intake Questionnaires to screen out non-jurisdictional matters or draft complaints in jurisdictional matters; conducted fact-finding as to whether complainants substantiated discrimination claims; and wrote Investigator's Reports that analyzed facts, applied legal principles, and recommended specific findings to the Commissioners. During FY 2024, a Lead Investigator assisted in supervising this work. Commission Counsel provided legal advice to Commissioners and staff; reviewed all investigator reports for legal sufficiency; litigated enforcement actions in the public interest; drafted proposed legislation; and provided information to the Legislature. During FY 2024, a Deputy Commission Counsel assisted with these duties. Other staffers included: a Director of Operations, hired in February 2024, who managed personnel, budget/fiscal, information technology, annual reporting, and office matters; a Business Manager in a newly created position, hired in March 2024, who managed the day-to-day office operations including accounts payable and receivable, building maintenance, daily operational agency needs; and three secretary associate legal staffers, who handled all new complaint filings, early case processing, case closures, and Commission meeting matters, assisted by the Business Manager. The Commission's Executive Director handled finance/budget, operations, and personnel supervision, along with most agency outreach activity and public/Legislative information-sharing, among various other things.

BUDGET

The Commission's FY 2024 budget appropriation was \$2,149,324. Approximately 30% of the total agency budget (\cong \$636,107) was anticipated revenue from federal work-sharing agreements with the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing & Urban Development.¹ Due to the highly personnel-intensive nature of investigating, resolving, and litigating complaints, about 90% of the agency's General Fund budget (\$1,268,203) was allocated to fixed personal service costs such as salaries and benefits. Just 10% of the agency's General Fund budget (\$136,950) was allocated to "all other" operating expenditures to support program activities.

CASE ACTIVITY

As in past years, the Commission continued to devote most of its resources to processing discrimination complaints filed with it. During FY 2024, 660 new complaints were filed (down by just 23 complaints from the prior year) and

¹ Special revenue funds accounted for \$108,064, or 5% of the Commission's FY 2024 total budget appropriation.

the Commission closed 665² cases. By the end of FY 2024, the Commission's pending inventory of cases decreased slightly from the prior year.

	HISTORICAL CASE ACTIVITY DATA 2015 - 2024										
FISCAL YEAR	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	
ACTIVE CASES FY START	732 ³	760	863	842	768 ⁴	710	795	726	756	684	
+ CASES FILED	660	683	614	760	775	715	709	687	611	739	
- CASES CLOSED	665	654	717	713	701	748	755	615	621	667	
ACTIVE CASES FY END	727	789	760	863	842	677	749	798	723	756	

Complaints Filed

Many Commission complaints involve protected classes that vary depending on the distinct areas of jurisdiction under which each case arises. Very often, a single complaint will contain multiple separate allegations of discrimination, or "claims", that require different factual and legal analyses and complex investigations. These more complex investigations require substantially increased Commission work and staff. The overall number of case filings was slightly lower than the average for the past ten years, but the cases continue to be more complex than ever, with multiple complainants, respondents, and legal claims, as well as mixed areas of jurisdiction.

The number of housing complaints was slightly lower in FY 2024 than FY 2023, but continues to be much higher than pre-pandemic years. Such complaints are time- and resource-intensive, and their substantial increase continues to have noteworthy impacts on all aspects of the Commission's operations in FY 2024.

² The data presented in this report may not include all decisions actually made in the time period, as the data collection relies on a computerized case system that presents data given certain defined parameters. Cases in which the Commissioners found reasonable grounds to believe discrimination occurred continued through a conciliation process and therefore may not have been closed and reported within the same year the Commission decision occurred. The figures cited in this section of the report represent cases considered by the Commission and closed in Fiscal Year 2024.

³ During FYs 2021 and 2022, the federal partner on whose database the Commission relied for case counting purposes transitioned from one platform to another. This, perhaps predictably, resulted in several problems including an inability to use the reporting function and inaccurate case numbers due to some data not initially transitioning. These initial issues have been largely remedied, and as a result, data for FY 2022 has been updated (see footnote 6). However, at the end of FY 2023 and FY 2024, the database deleted data for cases filed under particular statutes for reasons beyond the Commission's control. As a result of the unreliability of the federal partner's database, for this Annual Report and the foreseeable future, the Commission has moved to using its own, internal database. This has resulted in a discrepancy between the number of pending cases at the end of FY 2023 and the beginning of FY 2024, but should lead to more robust and accurate data moving forward.

⁴ After updating inventory data, the FY 2020 beginning inventory was adjusted up from 677 to 768 due to case consolidations and coding corrections.

AREA of JURISDICTION Fiscal Year	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015
EMPLOYMENT	437 (66%)	389	395 ⁵	435	554	508	492	482	480	548
HOUSING	127 (19%)	145	98	133	124	106	113	103	60	92
PUBLIC ACCOMMODATION	98 (15%)	107	123	172	110	128	104	105	71	98
EDUCATION	17 (3%)	16	31	21	18	17	14	5	5	8
CREDIT EXTENSION	1 (.002%)	-	-	-	2	-	-	2	2	-
OFFENSIVE NAMES	-	-	-	-	-	-	-	-	-	-
TOTALS	660⁶	683	614	760	806	761	723	695	618	748

Cases Closed

The MHRA itself provides only for two statutory results in cases: a finding of “reasonable grounds” (or cause) or a finding of “no reasonable grounds”. Since cases that are withdrawn related to settlement or which end administratively are not cause findings, they are dismissed pursuant to the Act as “no reasonable grounds” findings. As a result, our cause rate statistics may be less than fully informative, so we report in more detail the various ways in which Commission cases close.

Before Commission Determination

- *Voluntary Resolutions.* Parties to a case often agree to resolve their dispute, either privately (leading to a complainant request to withdraw their complaint) or with the assistance of a Commission investigator or mediator (leading to a settlement agreement shared with the Commission). During the period, 151 cases resolved voluntarily, with 34 cases resolved by settlement agreement and 68 by withdrawal of complaint (with benefits to the complainant) before the Commission issued a determination; complainants obtained \$3,471,663.85 in monetary relief in these closures. In addition to monetary awards, resolutions often include non-monetary, equitable relief such as an offer of a job or housing unit, modifications providing accessibility, reinstatement, cleared personnel records, policy changes, recommendation letters, and non-retaliation provisions.
 - Our Third-Party Neutral Mediation Program, available for a small fee, is very successful in resolving claims. In FY 2024, Commission staff referred 58 cases to mediators. Commission mediators facilitated settlement in 25 out of 55 mediations actually held during the same time period, a 45% success rate.⁷

⁵ For the past two fiscal years, the FY 2022 data reflected 291 employment discrimination complaints, which deviated significantly from prior years' data on employment discrimination complaint filings. As noted in footnote four, above, the federal partner on whose data we previously relied has remedied many of the initial problems with data transfer and reporting, leading to a more accurate count for prior years.

⁶ A number of complaints filed each FY contain allegations in more than one area of jurisdiction, for example employment and housing, or education and public accommodations. Because of this overlap, the percentages provided total more than 100%.

⁷ The date mediations were performed may differ from the date of the actual settlement and may fall outside the reporting period. The Mediation Program is funded entirely via a fee-for-service model by which each party to a mediated case pays \$275 toward mediation, with those funds flowing through the Commission's State of Maine Mediation Program account to be paid out to a mediator at a rate of \$500 per case. The Commission is approved to utilize its State Mediation Program account to receive and pay out up to \$44,000 for mediation activities. The differential in what is paid in per case (\$550) and what is paid out per case (\$500) is dedicated to paying mediation fees for parties who are indigent, and on occasion interpreter fees if needed for mediation. In FY 2024, the Commission referred 58 cases to its program mediators; in the same time frame, the Commission's program mediators held 55 mediations, with 25 successfully reaching agreement. The agency approved two indigency applications in FY 2023 and collected \$7,425 of previously unpaid mediation invoices.

- *“Right-to-Sue” letters.* If the Commission does not complete investigating a case within 180 days of the complaint’s filing, or if a complainant can show good cause for requesting the letter earlier and the Executive Director certifies that it is probable the Commission will not be able to conclude its investigation within those 180 days, a complainant may ask the agency to end its investigation and authorize them to go to court with MHRA remedies intact. Complainants requested 80 right-to-sue letters in FY 2024.
- *Administrative Dismissals.* The Commission’s Executive Director has authority to dismiss a complaint for a variety of reasons, including (among other reasons) a complainant’s failure to: timely file a complaint, file a complaint over which the Commission has jurisdiction, substantiate a discrimination claim, or cooperate with the Commission process. During FY 2024, 127 cases were administratively dismissed: 12 for lack of jurisdiction; 47 due to complainant’s failure to cooperate/proced with the investigation; and 68 for other administrative reasons including untimely filing, death of a complainant, duplicate charges, and/or a failure to substantiate claims.
- *Withdrawals without benefits.* Before the Commission issues an investigator’s report, a complainant may withdraw their complaint of discrimination. After a report has been issued, the Commission may allow a complaint to be withdrawn. Complainants withdrew 24 complaints (not including complaints that were withdrawn due to arriving at a settlement agreement) during FY 2024.

Hearings Determinations

If a case is not resolved as described above, a Commission investigator prepares a report summarizing their investigation, setting out the legal framework applicable to each claim, and recommending a finding as to whether cause exists to believe that unlawful discrimination occurred. The Commission sets these reports for public hearing. If no party submits a written objection to the recommended findings, the Commission places the report on its Consent Agenda; the Commission adopts the recommendations in all Consent Agenda reports at a public hearing without argument. If one party does submit a written objection to the recommendations, the Commission hears oral argument on the case at a public meeting and then votes on each recommendation. In FY 2024, the Commission issued approximately 154 investigator’s reports.

- Over half the time (66% of cases with investigator’s reports), no party objected to the recommended findings. Those cases were decided on the Consent Agenda in FY 2024.
- In FY 2024, Commissioners voted to find cause to believe discrimination occurred in 31 out of 154 cases decided after an investigator’s report (20% of cases decided). The overall cause rate for all cases processed in FY 2024 was 5.25%, a statistic that includes the many cases closed with a no-cause finding even though benefits flowed to complainants via settlements and right-to-sue letters.

Post-Cause Activity

Some of the 665 cases the Commission closed in in FY 2024⁸ were resolved in cases in which the Commission had previously found cause. If the parties reach a conciliation resolution including public interest remedies sought by the Commission, there is a formal agreement by the Commission, complainant, and respondent, with the Commission monitoring implementation of terms. The Commission participated in 16 such conciliations in FY 2024, and reached 9 agreements (including one case where conciliation happened in FY 2023), for a total of \$436,000 to complainants. The Commission also sent final dismissal letters in 10 cases where settlement agreements from prior fiscal years had been fully completed.

⁸ As noted above, data presented in this report may not include all decisions actually made in the time period, as the data collection relies on a computerized database system that presents data given certain defined parameters. There were additional case closures that occurred in FY 2024 but which were not counted in as closures in the available database system for technical reasons.

LITIGATION

When post-cause conciliation fails, the MHRA authorizes the Commission to file a lawsuit in court (in the name of the agency and in the public interest, but also for the use of the complainant) to address unlawful discrimination and prevent its recurrence. Commission Counsel makes recommendations to the Commissioners in each cause case with failed conciliation, to assist Commissioners in deciding whether to file a lawsuit in each case. When Commissioners vote to file a lawsuit, Commission Counsel directs these legal efforts and represents the agency. When FY 2024 started, there were 13 Commission enforcement actions pending in court. During FY 2024, the Commissioners declined to file litigation in 13 cases and authorized litigation in 5 new cases.⁹ Also during FY 2024, the Commission filed 4 new complaints and resolved 1 case that had been referred for litigation. At the end of FY 2024, there were 16 Commission enforcement lawsuits pending in court.

CONCLUSION

This Annual Report has outlined the Commission's activities for FY 2024, including: investigating 660 new complaints; continuing investigative work on 732 complaints pending from FY 2023; closing 665 cases; participating in/delivering 81 trainings; and providing testimony at the Maine Legislature. Given all of this, and our extremely small staff, the volume of the Commission's work in FY 2024 was daunting (and accomplished with very limited resources). Each Commissioner and staff member at the agency feels responsible to the public to enforce the MHRA in Maine in the manner in which that law was written and intended. We appreciate the opportunity to have done that in this past fiscal year, and look forward to doing so in the next.

⁹ Any party, including the Commission, has two years from the most recent date of discrimination or 90 days from the date the case is closed, to file suit. Therefore, some of the 5 cases where litigation was authorized in FY 2024 have not been filed in court yet, and some of the 4 cases which were filed in court were authorized in prior FYs.