



Colorado Civil Rights Division
Colorado Civil Rights Commission

Annual Report

Fiscal Year 2018-2019

Hon. Jared Polis, Governor

Patty Salazar, Executive Director, Department of Regulatory Agencies

Aubrey Elenis, Director, Colorado Civil Rights Division



COLORADO
Department of
Regulatory Agencies
Colorado Civil Rights Division

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Letter from the Director

Aubrey Elenis, Esq.



Dear Coloradans:

I am honored to share this report with you, which highlights the work of the Colorado Civil Rights Division (CCRD) and the Colorado Civil Rights Commission during the 2018-2019 fiscal year.

As the Director, I am charged with overseeing the day to day operations of the CCRD, which is charged with enforcing Colorado's anti-discrimination laws in the areas of employment (Colorado Revised Statutes § 24-34-402), housing (Colorado Revised Statutes §24-34-502), and places of public accommodation (Colorado Revised Statutes § 24-34-602). CCRD investigates complaints of discrimination in the areas of employment, housing, and places of public accommodation based on an individual's protected class status, such as sex, disability, sexual orientation, race, color, religion, national origin, age, or marital status in an effort to ensure a Colorado for all.

We promote awareness of civil rights laws through training and education to groups and individuals across the state. We work in cooperation with federal and local agencies, such as the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development/Office of Fair Housing and Equal Opportunity (HUD/FHEO), as well as community-based organizations that promote and protect civil rights.

The Division strives to process complaints in an efficient and timely manner, even when demand for the Division's services is rising. The Division is currently partnering with the State of Colorado Office of Information and Technology (OIT) to enhance its online filing and case management system, CaseConnect, in order to capture more complaint information and case processing steps online.

The Division partners with organizations such as the Colorado Housing and Finance Authority (CHFA), Denver Metro Fair Housing Center, county and city governments, as well as other organizations statewide to provide outreach and education related to the Division's processes and procedures, as well as training in anti-discrimination laws, in order to expand awareness about the rights and responsibilities of individuals, business and organizations as defined in the Colorado Anti-Discrimination Act (CADA). The Division is dedicated to serving all Coloradans, and I encourage you to learn more about the Division and the Commission in this annual report, and by visiting our website: <https://www.colorado.gov/dora/civil-rights>

Regards,

A handwritten signature in blue ink that reads "Aubrey Elenis".

Aubrey Elenis, Director
Colorado Civil Rights Division

Letter from the Commission

Dear Coloradans:

We are pleased to present this annual report outlining the work and accomplishments of the Commission and the Civil Rights Division during the 2018-2019 state fiscal year. In this annual report, you will find information regarding the powers and duties of the Commission and the distinct duties of the Division, including intake, investigation and Alternative Dispute Resolution (ADR) processes, as well as highlights and statistics regarding cases filed and case outcomes.

The Colorado Civil Rights Commission is a seven member volunteer board appointed by the Governor and confirmed by the Colorado State Senate. The Commission reviews appeals submitted by Complainants in which a No Probable Cause determination has been issued in their case by the CCRD. In addition, the Commission decides whether or not a case should be set for hearing before an Administrative Law Judge when a Probable Cause decision is issued, and the parties are unable to resolve the case through conciliation, which is a process offered through the Division's Alternative Dispute Resolution program.

We are committed to partnering with individuals, businesses, organizations, and communities statewide to promote awareness of the state's anti-discrimination laws in the areas of employment, housing and places of public accommodation. We encourage you to attend our monthly meetings held in Denver and around Colorado so that you can hear about the current activities of the Commission and the Division and participate in discussions regarding the civil rights issues in your local communities. We also encourage you to visit our website, <https://www.colorado.gov/dora/civil-rights>, to learn more about the Colorado Anti-Discrimination Act, its enforcement, and as well as current news and events.

We are honored to serve on the Commission and committed to enforcing the state's anti-discrimination laws in the areas of employment, housing, and places of public accommodation with support from the Colorado Civil Rights Division, the Department of Regulatory Agencies, and the Attorney General's office. Thank you for the opportunity to engage in this important work.

Respectfully,

The Colorado Civil Rights Commission

Colorado Civil Rights Commissioners Serving During Fiscal Year 2018-2019



Kendra Anderson



Anthony Aragon



Sergio Cordova



Miguel Elias



Carol Fabrizio



Charles Garcia



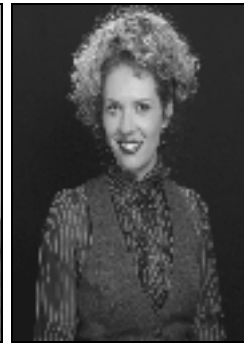
Richard Lewis



Rita Lewis



Ajay Menon



Jesse Pocock

The Commission Members pictured above served during all or part of the fiscal year 2018-2019 (July 1, 2018, through June 30, 2019). Commissioners serve four-year terms and often terms are staggered. Only seven members serve on the Commission at any given time.

CCRC & CCRD Overview

Civil Rights Commission

The **Colorado Civil Rights Commission** (Commission or CCRC) is a seven-member, bipartisan panel appointed by the Governor of Colorado pursuant to the Colorado Anti-Discrimination Act.

As defined by state law, the Commission is composed of members representing various political parties, the community at large, as well as businesses, representatives from labor organizations, and groups that have been historically discriminated against. The members come from regions across the State of Colorado.

Functions of the Civil Rights Commission

The work of the Commission is initiated following the intake and investigative work of the Division, which is further described below. The mission of the Commission is to review appeals of cases investigated and dismissed by the Civil Rights Division; reach out to various communities to provide awareness of civil rights issues and protections; conduct hearings involving illegal discriminatory practices; initiate investigations regarding discrimination issues with broad public policy implications; advise the Governor and General Assembly regarding policies and legislation that address discrimination; and adopt and amend rules and regulations that provide standards and guidelines regarding the State statutes prohibiting discrimination.

Civil Rights Division

The **Colorado Civil Rights Division** (Division or CCRD) is a neutral, fact-finding, administrative agency that provides civil rights education to the community, provides mediation and alternative dispute resolution services to resolve civil rights claims, and conducts investigations of charges of discrimination alleging violations of the Colorado Anti-Discrimination Act in the areas of employment, housing, and in places of public accommodation.

Civil Rights Division's Investigative Process

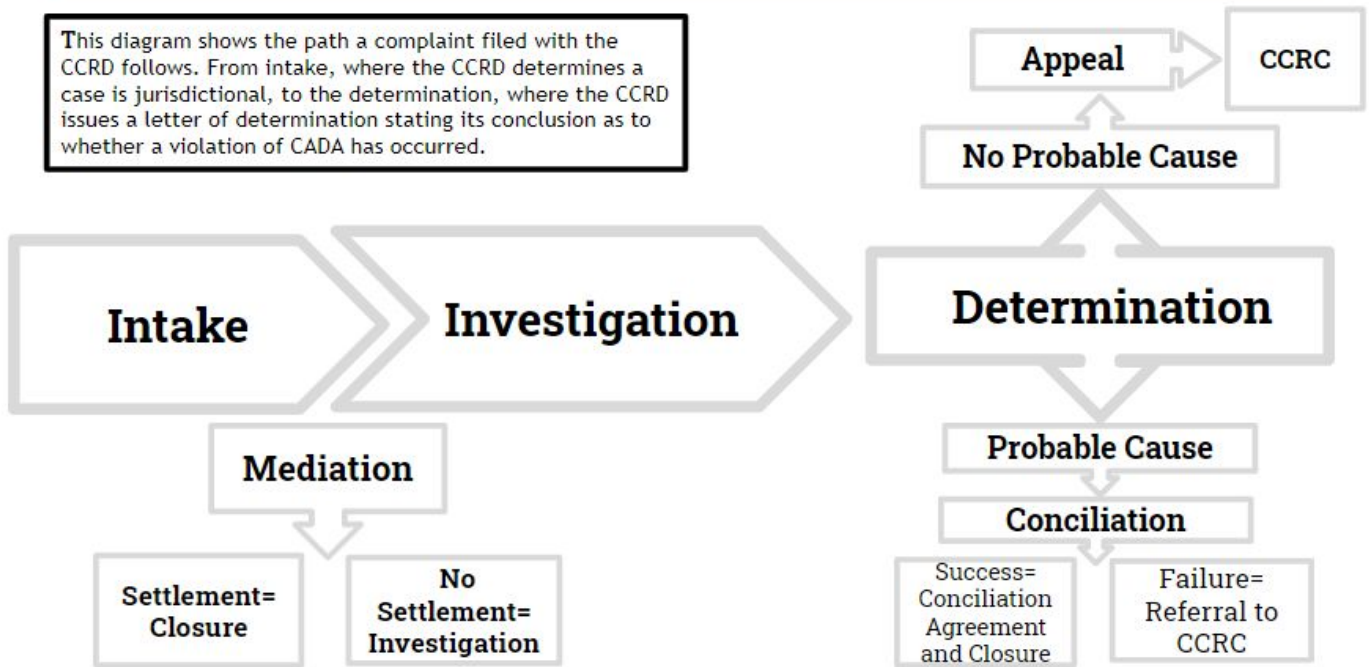
After a complaint is filed, an investigation is initiated. The investigation involves the collection of documentary evidence, witness interviews, and any other evidence relevant to resolving the complaint.

Once the investigation is completed, the Division Director or her designee issues a decision as to whether sufficient evidence exists to support the allegations of discrimination. If the decision is that no discrimination occurred, a Complainant may appeal the decision to the Commission.

If the Division finds that discrimination occurred, the statute requires that the Division attempt to settle the matter with the parties through a mandatory mediation conference, called conciliation. If conciliation is unsuccessful, the Commission determines whether to set the case for an adjudicatory administrative hearing.

CCRD Complaint Process

This diagram shows the path a complaint filed with the CCRD follows. From intake, where the CCRD determines a case is jurisdictional, to the determination, where the CCRD issues a letter of determination stating its conclusion as to whether a violation of CADA has occurred.



Civil Rights Division’s Mediation Process

In order to resolve matters at the earliest possible stage in a case, the Division offers an Alternative Dispute Resolution (mediation) program early in the investigation process, which can identify viable options for the early constructive resolution of cases.

Civil Rights Division’s Education Offerings

Because the Division is a neutral agency, it cannot provide legal advice or provide an opinion on a claim that may be brought before the Division. However, the Division and Commission engage in outreach and education to inform Coloradans of issues in civil rights and discrimination law.

The Division offers educational opportunities to businesses, employers, and housing providers to help them ensure that they comply with the Colorado Anti-Discrimination Act (CADA). The Division also partners with other organizations and through independent outreach efforts to better serve the communities of Colorado.

The Division is increasingly providing internet-based access to all educational materials and has reached thousands of individuals and numerous communities to provide awareness of anti-discrimination laws in Colorado. As statutory revisions are made affecting pertinent civil rights laws, updates are made to brochures, teaching programs, and the Division’s website that reflect those changes.

How does the CCRD & CCRC Help Serve Coloradans?

The shared mission of the Division and Commission is to promote equal treatment of all people in Colorado and foster a more open and receptive environment in which to conduct business, live, and work. The Division is dedicated to promoting fair and inclusive communities through the enforcement of the civil rights laws, mediation, education, and outreach to ensure a Colorado for all.

Enforcement

Case Processing

The primary mission of the Colorado Civil Rights Division (CCRD) is to enforce anti-discrimination laws in the areas of employment, housing, and places of public accommodation under Title 24, Article 34, Parts 3-7, of the Colorado Revised Statutes. The Division investigates matters that come to its attention from Complainants in the public or which the Commission files with the Division on its own motion. The Division also works in conjunction with, and maintains work-share agreements with its federal counterparts, the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD). To avoid duplication of effort and provide more efficient customer service to the public, the Division investigates matters that are filed with both EEOC and HUD (“dual filing”), as well as cases that have jurisdiction exclusive to Colorado law. The staff of the Division strives to provide the best customer service to the public, as well as to all parties in any case, by the fairest and most transparent methods possible.

Charges Filed with CCRD

Fiscal Year	Employment Charges Filed	Housing Charges Filed	Public Accommodations Charges Filed	Total Charges Filed
FY 16-17	903	159	76	1138
FY 17-18	1163	346	184	1693
FY 18-19	1027	113	143	1283

Cases are filed with the Division by Complainants alleging discrimination based on a protected class. A “protected class” is a characteristic of a person which cannot be targeted for discrimination. The specific Colorado Anti-Discrimination law falls under Title 24 of the Colorado Revised Statutes.

Protected Classes in Colorado

Housing - Employment - Public Accommodations (PA)

Age (employment only)

Ancestry

Color

Creed

Disability

Familial status (housing only)

Marital status (housing and PA only)

Marriage to Co-worker (employment only)

National Origin

Pregnancy (employment only)

Race

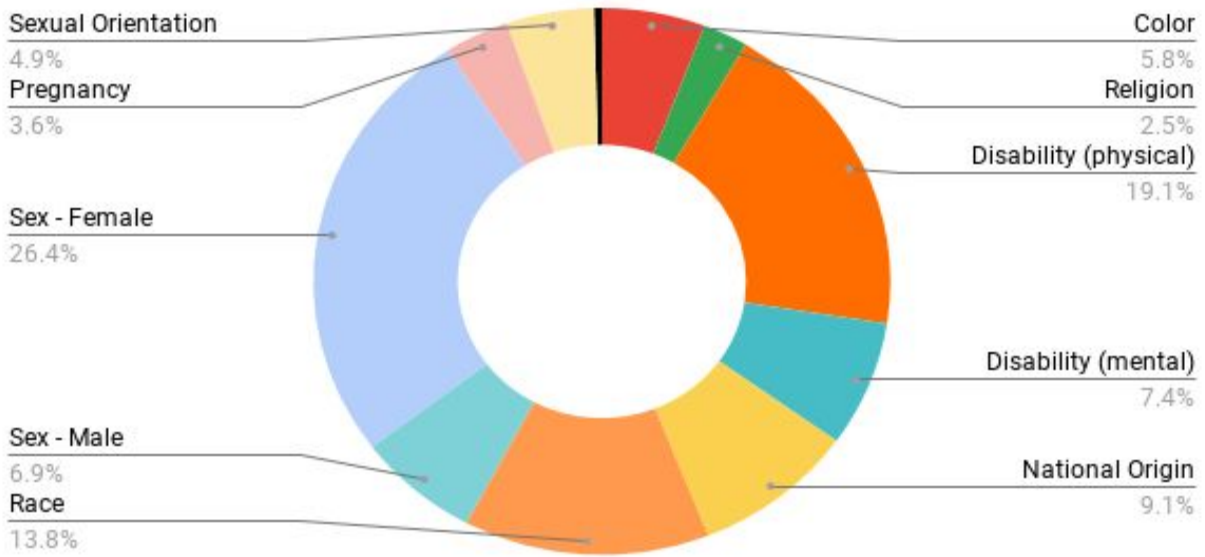
Religion (employment and housing only)

Retaliation (for engaging in protected activity)

Sex

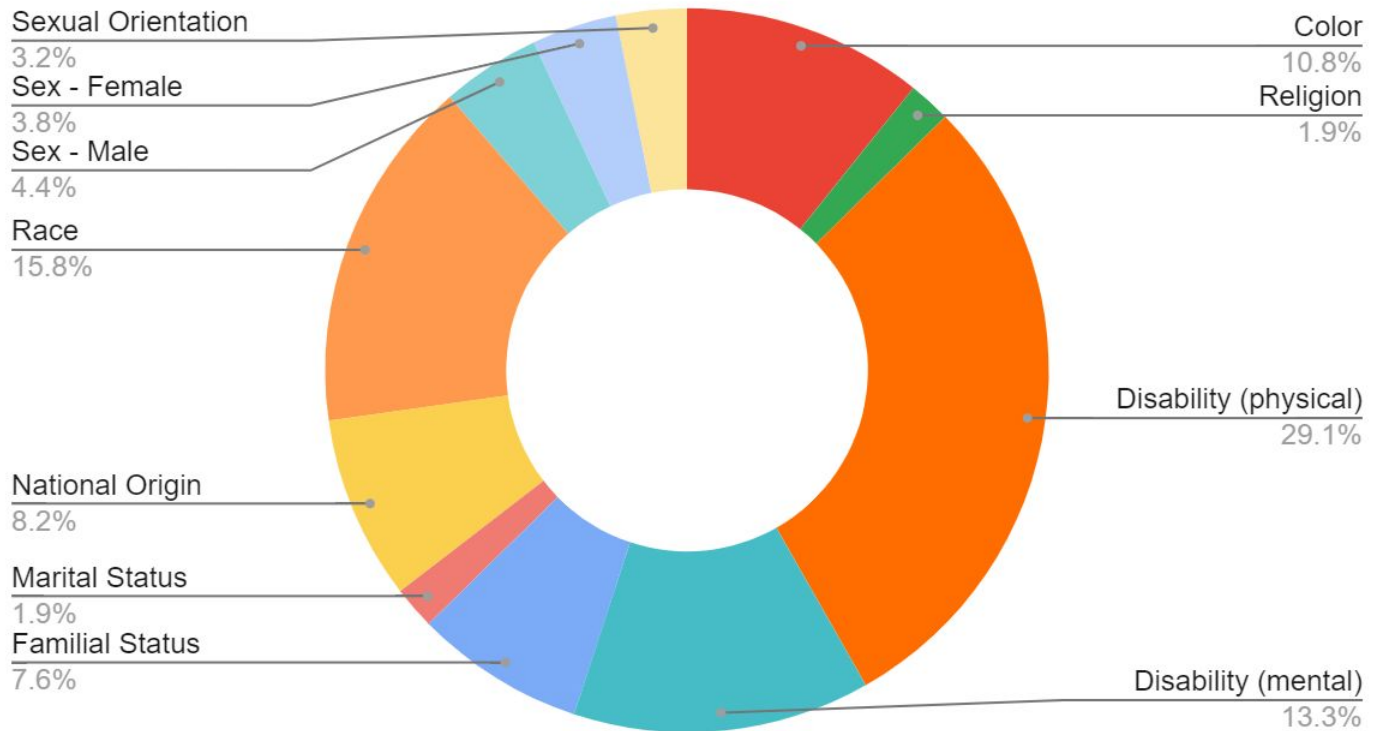
Sexual Orientation/Transgender Status

Employment - Protected Class as percentage of Case Closures



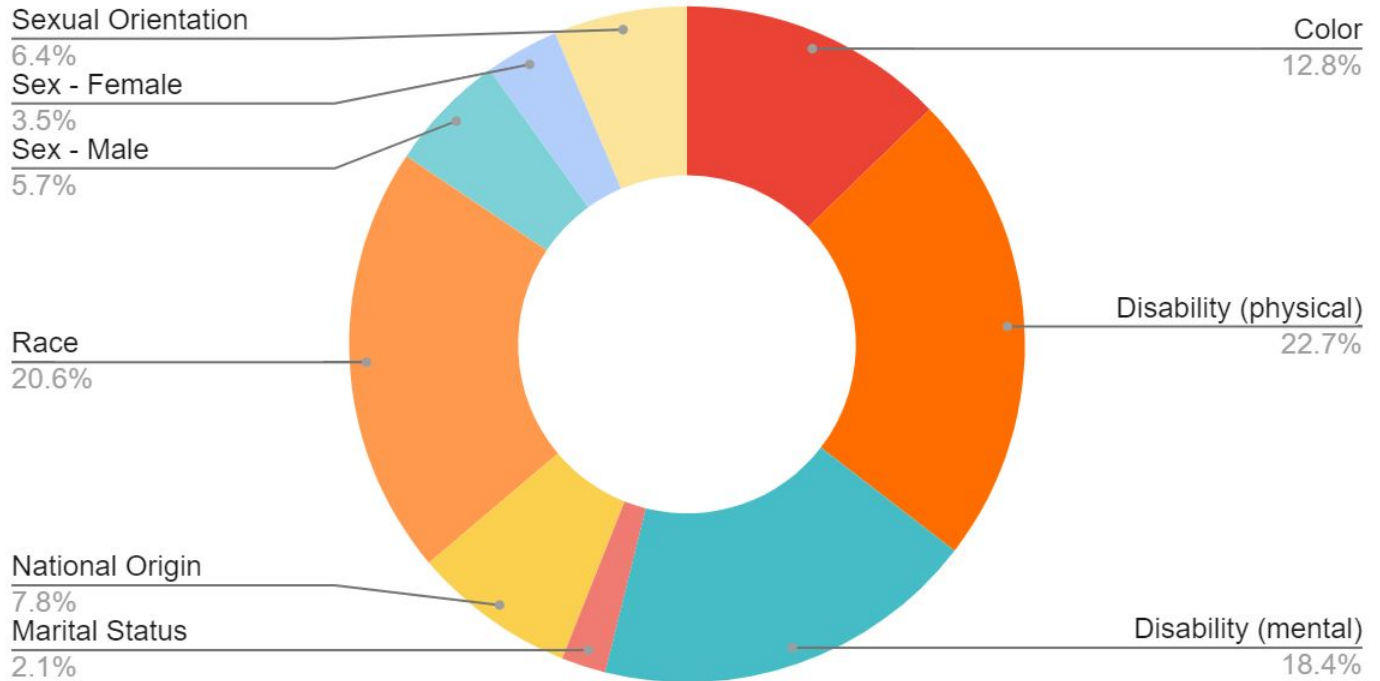
The above chart shows the total of employment discrimination complaints closed by the CCRD during fiscal year 2019 broken down by protected class as percentages. For example, 4.9% of employment complaints closed by the CCRD during Fiscal year 2019 included an allegation of discrimination based on sexual orientation.

Housing - Protected Class as percentage of Case Closures



The above chart shows the total of housing discrimination complaints closed by the CCRD during fiscal year 2019 broken down by protected class as percentages. For example, 29.1% of housing discrimination complaints closed by the CCRD during fiscal year 2019 included an allegation of discrimination based on physical disability.

Public Accommodation - Protected Class as percentage of Case Closures



The above chart shows the total of public accommodation discrimination complaints closed by the CCRD during fiscal year 2019 broken down by protected class as percentages. For example, 20.6% of public accommodation complaints closed by the Division during Fiscal year 2019 included an allegation of discrimination based on race.

Investigations & Findings

When a formal complaint is filed alleging discrimination, the Division’s investigative staff conducts a neutral investigation. Evidence is gathered from both parties in the case, witnesses are interviewed, and documents and records are requested. The investigation under Colorado law provides a transparent process to allow the parties the opportunity to provide information and evidence that corroborates their allegations and which refutes the allegations of the opposing party.

After the investigation, the Division Director or her designee makes a determination as to whether there is sufficient evidence to support a finding of “probable cause” that discrimination has occurred. If the Director finds probable cause, the parties are required to attempt to resolve the matter through a mandatory mediation process (also called “Conciliation”). If the Director finds that there is “no probable cause” to believe that discrimination has occurred, the Complainant has the right to appeal that determination to the Commission. In employment cases, if the case is dismissed, the Complainant may file a legal complaint in civil court; however, in housing cases, the complainant may file in civil court at any time without needing to

exhaust administrative remedies prior to filing in court. If the Director finds probable cause in an employment case and the case is not settled in conciliation, the Commission then decides whether the matter will be noticed for hearing before an Administrative Law Judge. In housing cases, if the Director finds probable cause and the case is not settled in conciliation, the statute requires that the case be set for hearing. *Please see the CCRD Complaint Process on page 7.*

The below chart provides statistics concerning the number of “Probable Cause” and “No Probable Cause” determinations issued by the Director in the past three years.

Findings of CCRD

Area of Jurisdiction	FY 16-17		FY 17-18		FY 18-19	
	Probable Cause	No Probable Cause	Probable Cause	No Probable Cause	Probable Cause	No Probable Cause
Employment	16	383	24	342	28	441
Housing	14	121	10	117	16	137
Public Accommodation	2	66	7	59	8	117

Appeals

As explained above, when the Director finds no probable cause in a case, the Complainant may appeal the decision to the Commission within ten days. The Commission will review the matter taking into consideration the argument and evidence that proves existing evidence was misinterpreted or new evidence presented that was not available during the investigation process. The following are the number of appeals filed with the Commission in the past three fiscal years.

Fiscal Year	Employment	Housing	Public Accommodation	Total
FY 16-17	63	23	16	102
FY 17-18	32	30	14	76
FY 18-19	47	19	28	94

Cases Completed

Cases are closed under a number of circumstances, including: probable cause/no probable cause finding, successful mediation, closed after hearing, lack of jurisdiction, right to sue issued, and withdrawal or administrative closure. The Division strives to address cases in a timely manner so that the parties are served by the process and matters can be resolved. The following chart demonstrates the number of cases that the Division closed in the past three fiscal years.

Fiscal Year	Employment	Housing	Public Accommodation	Total
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FY16-17	751	183	91	1025
FY 17-18	697	168	95	960
FY 18-19	940	172	135	1241

Significant Employment Cases

The Division issued a Probable Cause determination in a case in which the Complainant alleged discrimination based on her sex and gender identity (transgender). The Complainant, a transgender woman, applied for a Service Technician position with an automotive dealership. She has over a decade of experience working in the automotive repair industry, and has Master Mechanic certification. The evidence demonstrates that the Respondent interviewed two additional candidates, both of whom are male, cisgender, and that both of these candidates did not have the same amount of experience or pertinent mechanic certification that the Respondent was seeking. The evidence shows that the Respondent offered both of the male candidates the position, despite having less relevant work experience, and fewer qualifications than the Complainant, however, both men declined the job opportunity with the Respondent. Even when both male candidates declined the job opportunity, the Respondent chose not to offer the position to the Complainant.

The complainant, in another employment case in which the Division issued a determination of probable cause, alleged that she was subjected to harassment, unequal terms and condition of employment, and eventually compelled to resign based on her sex, female and in retaliation for engaging in protected activity. The Complainant worked in a medical office and was supervised by the male owner of the practice. The Complainant, and another employee of the Respondent, stated that the Respondent Owner viewed and displayed pornographic images of women on a computer screen that was openly visible. The record revealed that two other employees even met after work hours to discuss their discomfort regarding the open display of such images. Additionally, the investigation found that the Complainant was repeatedly contacted by the wife and step-daughter of the Respondent Owner and that contact included aggressive and accusatory statements, implying the Complainant was engaged in or attempting to enter into a romantic relationship with the Respondent Owner. The Complainant also alleged that she was told by the Respondent Owner that he would have to fire her or his wife would divorce him. The evidence demonstrated that the Complainant was required to complete duties outside the scope of her employment and in direct support of the Respondent Owner's wife, specifically paying her insurance bills. Additionally, the record demonstrated that the Complainant engaged in protected activity, when she confronted the Respondent Owner about the pornographic photos and complained of the hostile treatment from Respondent Owner's wife and step-daughter. After engaging in protected activity, the Complainant was subjected to further unfair and disparate treatment, and felt compelled to resign. When a person resigns from a position due to discriminatory treatment that renders work conditions so intolerable that a reasonable person would have felt to resign, then that person is considered to be constructively discharged.

Based on the Division's investigation, there was sufficient evidence to conclude probable cause existed that the Colorado Anti-Discrimination Act was violated. After the determination of probable cause was issued in this case, the parties participated in Conciliation which was ultimately unsuccessful. The Civil Rights Commission then decided to set the case for hearing before an administrative law judge, but the parties were able to reach a resolution in the case before a hearing commenced. The settlement agreement had several requirements, including agreement by the Respondent to engage in conduct to promote compliance with anti-discrimination laws including training, posting of anti-discrimination notices, updating anti-discrimination policies, and reporting to the CCRD regarding any internal discrimination complaints.

Significant Housing Cases

The Complainants, a mother and her son, who is a person with a disability, were in the process of moving into a new apartment when they were denied a reasonable accommodation and therefore denied housing based on the son's disability and in retaliation for engaging in a protected activity. After being approved to rent the subject property, the Complainant sought a reasonable accommodation from their prospective landlord in the form of allowing the son's assistance animal, a dog, live in the apartment. The investigation revealed that the Respondent impermissibly restricted the documentation they would consider in order to grant the reasonable accommodation request. Specifically, the Respondent required a letter from a medical doctor, submitted directly by the medical doctor to the Respondent, and additionally required that the medical doctor confirm that he or she "would be willing to testify under oath that [the Complainant son was a person with a disability and required the dog]." The evidence demonstrated after the Respondent made these specific demands related to medical documentation, the Complainants visited the Respondent accompanied by a representative of a fair housing organization to inform the Respondent of fair housing law as it relates to assistance animals and housing, including offering official guidance on the subject published by the US Department of Housing and Urban Development (HUD) and the US Department of Justice (DOJ). That same guidance provides that housing providers are entitled to "reliable information/documentation" and that the housing provider cannot require the documentation come from a specific source nor can they require it be submitted directly by the source. Additionally, the requirement that a medical doctor sign a document agreeing to testify under oath as to a legal conclusion was inappropriate under fair housing principles. Despite being provided with this guidance, the Respondent still required additional documentation from the Complainant and required the same or additional money (a pet deposit) before allowing the Complainants to move in. The Complainants ultimately were forced to secure alternative housing.

The parties were eventually able to resolve the matter through a settlement agreement which required the Respondent to have staff attend fair housing training, post notices regarding fair housing laws, and update their policies to better comport with fair housing principles. Additionally the respondent agreed to regularly report to the Civil Rights Commission any complaints of discrimination they receive from tenants for two years.

The Respondent, a Home Owners Association, retaliated against the Complainant when it assessed fines against her and placed a lien on her home in an attempt recover legal fees related to defense of a previous discrimination complaint. The Complainant had filed a previous complaint of discrimination with the Division in 2016. The investigation of that complaint resulted in a finding of "No Probable Cause."

When the Complainant filed her previous complaint of discrimination against the HOA, she engaged in a protected activity. Filing the complaint is considered a protected activity as it is done in opposition of discriminatory housing practices. Even if the underlying complaint is found to be unmerited, a person is still protected from being retaliated against for engaging in the protected activity. Retaliation occurs when a Respondent subjects a Complainant to an adverse action that would dissuade a reasonable person from engaging in protected activity. Here, the HOA retaliated against the Complainant when it sought to recover costs associated with responding to the previous complaint. Such costs are not recoverable under the Colorado Anti-Discrimination Act, and seeking to recover the costs in the form of fees on the homeowners ledger is impermissible retaliation.

After the Director issued a determination of probable cause, finding that the Respondent violated the Colorado Anti-Discrimination Act (CADA), the parties were referred to compulsory conciliation pursuant to statute. The parties were unable to resolve the matter through conciliation and the matter was referred to the Colorado Civil Rights Commission. The Commission set the matter for a hearing before an Administrative Law Judge. The parties were able to finally resolve the case through a settlement agreement which resulted in the removal of the lien on the Complainant's property, as well as requiring representatives of the Respondent to attend training and report any complaints of discrimination to the CCRD.

Significant Public Accommodation Case

The Complainant, a person who is deaf, sought the services of a medical provider, but was denied her request for an American Sign Language (ASL) interpreter and ultimately denied treatment. The investigation revealed that the Complainant contacted the Respondent to schedule an appointment to occur approximately one month later. At the time of scheduling her appointment over the phone, with the assistance of a video relay interpreter, the Complainant informed the Respondent of her need for an ASL interpreter at the appointment. Approximately two weeks before the scheduled appointment, the Respondent's Case Manager learned of the Complainant's request and contacted a Regional Accountable Entity to inquire about provision of interpreter services for the Complainant, a recipient of Medicaid. The Respondent's Case Manager was informed that because the Respondent employed more than 14 employees, the RAE would not pay for the interpreter services. As such, Respondent was responsible for any cost associated with providing the ASL interpreter to ensure the Complainant was provided with effective communication during her medical appointment. Shortly after learning that Respondent would be responsible for the cost of the ASL interpreter, the Respondent informed the Complainant they would not be accepting her as a patient after all, "based on her treatment of the [reception] staff and her demanding demeanor." The Respondent claimed that Complainant had been "extremely rude," and "repeatedly aggressive." To support their accusation of the Complainant alleged rude and aggressive behavior the Respondent referred to the Complainant stating through the video relay interpreter that she "need[ed] [her] medication, [she] will get [her] medication." The record demonstrated that the Respondent did not offer any alternative auxiliary aids at the time of her accommodation request. Additionally, after notifying the Complainant that she was not being accepted as a patient, the Respondent did not refer her to another provider. Colorado law entitles individuals who are visually or hearing impaired or individuals with a disability to the full and equal enjoyment of public accommodations, including services provided by medical practices. Full and equal enjoyment includes

effective communication, which may include ASL interpretation for a person who is deaf or has a hearing impairment.

After the Director issued a determination of probable cause, finding that the Respondent violated the Colorado Anti-Discrimination Act (CADA), the parties were referred to compulsory conciliation pursuant to statute. The parties were able to reach an agreement through conciliation which included requirements to help ensure future compliance with anti-discrimination law by the Respondent, including training, posting of notices regarding entitlement to reasonable accommodations, and reporting to the Division regarding any new discrimination complaints.

Alternative Dispute Resolution (ADR)

In order to encourage parties in a case to consider potential resolution of matters under investigation, the Division offers Alternative Dispute Resolution (ADR) as a time and cost savings alternative to investigation and litigation. This mediation program is provided at no cost to the parties. The process benefits the parties in that it allows open discussion and resolution of a matter at its lowest possible level. Prior to the initiation of an investigation, the Division provides the parties the opportunity to participate in voluntary mediation. This is a formal meeting held between the parties where a Division mediator acts as a neutral intermediary to assist the parties in reaching a compromise. As previously discussed, the ADR unit also conducts compulsory mediation (conciliation) as required by statute after probable cause is found in a case.

Fiscal Year	Mediations			Conciliations			Total		
	Number of Mediations Held	Mediations Resulting in Settlements	Value of Mediated Settlements	Number of Conciliations Held	Conciliations Resulting in Settlements	Value of Conciliated Settlements	Total Held	Total Resulting in Settlements	Total Value
FY 16-17	128	50	\$2,663,406	39	11	\$206,850	167	61	\$ 2,870,256
FY17-18	198	79	\$1,073,739	37	18	\$427,411	235	100	\$ 1,501,150
FY18-19	225	87	\$1,652,518	56	18	\$353,700	281	105	\$2,168,402.

The Division makes it a priority to provide parties with the opportunity to settle cases as often as possible. Even after a case is assigned to investigation, the parties have the opportunity to relay settlement offers through the investigator. Investigators were able to facilitate resolution of cases that resulted in \$2,551,391 in relief for Complainants.

Outreach & Education

Public education is a key part of the Commission’s and Division’s shared mission. Through the outreach and education program, the Division raises public awareness of civil rights issues and knowledge of the laws prohibiting discrimination in employment, housing and places of public accommodations in Colorado.

In addition to the monthly educational training in Anti-Discrimination in Employment and Fair Housing provided in the main office in Denver, outreach members of the staff travel around the state providing educational presentations to businesses and individuals. In Fiscal Year 2018-2019, in addition to its regular training classes offered in Denver, the Division conducted training and outreach events throughout Colorado, including: Akron, Colorado Springs, Craig, Cortez, Delta, Grand Junction, La Junta, Longmont, Pueblo, and Westminster.

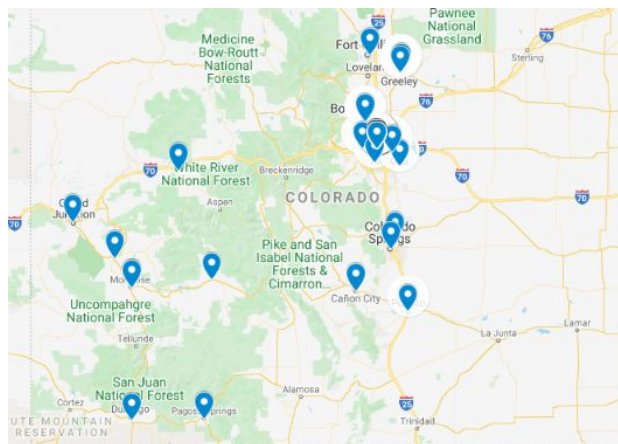
The Division partners with other organizations to provide outreach, and leverages valuable resources by working with various organizations including local governments, academic institutions, non-profit organizations, and other government agencies thereby providing a greater ability to educate the public regarding anti-discrimination laws.

The Division also maintains a website at <https://ccrd.colorado.gov/> where the public can learn about the Division and Commission, enroll in upcoming trainings, obtain information about anti-discrimination laws and rules, download our [anti-discrimination notices](#), and file a complaint of discrimination via [Case Connect](#). We welcome and encourage feedback and invite the public to contact us with any questions, concerns, or recommendations via email to dora_ccrd@state.co.us.

Training & Outreach Events

Fiscal Year	Number of Trainings	No. of Trainings as Part of a Settlement	Number of Outreach Events	Total Trainings and Outreach
FY16-17	43	5	24	67
FY17-18	46	5	25	71
FY18-19	62	10	15	77

In-Person Outreach Across Colorado





Budget

The Civil Rights Division is partially funded by the State of Colorado's General Fund. The Division's work is also supported by contractual agreements with the U.S. Department of Housing and Urban Development and the U.S. Equal Employment Opportunity Commission. Under the agreements, when Colorado and the federal government share jurisdiction, the Division conducts investigations on behalf of the federal government, avoiding duplicative effort and allowing for a more effective use of resources.

Budget FY 2018-2019

Source	Amount	Full-Time Employees
State General Funds	\$2,450,789	
Grant Funds	\$687,429	
Total	\$ 3,138,218	25.8

History of Civil Rights in Colorado

1876

The Colorado Constitution was ratified after 100 Black men demanded and were given the right to vote.

1893

Colorado expanded its laws and granted women the right to vote.

1895

The Colorado General Assembly passed the Public Accommodations Act prohibiting discrimination on the basis of race or color.

1917

Discriminatory advertising was added to the prohibitions contained in the 1895 Public Accommodations Act.

1951

The General Assembly passed the Colorado Anti-Discrimination Act creating the Fair Employment Practices Division, attached to the state's Industrial Commission, forerunner of the Colorado Department of Labor and Employment. The Division's mission was to research and provide education regarding employment discrimination and conduct hearings regarding job discrimination cases involving public employers; However, the fledgling agency was given no compliance or enforcement powers.

1955

Lawmakers gave the agency independence when they renamed it the Colorado Anti-Discrimination Commission, detached it from the Industrial Commission, and gave it enforcement authority over public agencies.

1957

The General Assembly repealed an existing statute that prohibited interracial marriage and made the Commission a full-fledged agency when they added private employers with six or more employees to its jurisdiction, and charged the Commission with enforcing the 1895 Public Accommodations Act.

1959

Colorado passed the nation's first state fair housing law to cover both publicly assisted and privately financed housing and added it to the Commission's jurisdiction.

1965

The Colorado legislature renamed the agency the Colorado Civil Rights Commission.

1969	Sex was added as a protected status under Colorado’s fair housing law.
1973	Marital status was added as a protected status under Colorado’s fair housing law.
1977	Physical disability was added as a protected status under Colorado’s anti-discrimination laws.
1979	The Colorado Civil Rights Commission passed its first Sunset Review and was placed under the Department of Regulatory Agencies. The legislature also consolidated all of the state’s civil rights laws into a single set of statutes and imposed a time limit (180 days) on the agency’s jurisdiction.
1986	The General Assembly amended the state’s fair employment statutes to include age (40-69 years) as a protected status.
1989	<p>A second Sunset Review left the Commission and the Division stronger when legislators amended the statutes as follows:</p> <ul style="list-style-type: none"> ● granted the Director subpoena power in the investigation of housing cases, ● granted Commission power to award back pay in employment cases and actual costs to obtain comparable housing in housing cases, ● added mental disability and marriage to a co-worker as protected classes in employment, ● required complainants to exhaust administrative remedies before filing a civil action in employment cases, ● made retaliation for testifying in a discrimination charge illegal, and ● made mediation mandatory after a finding of probable cause.
1990	<p>Legislators amended Colorado’s fair housing statutes to meet the federal requirement for “substantial equivalency,” as follows:</p> <ul style="list-style-type: none"> ● prohibited discrimination based on familial status (families with children under age 18), ● required builders of new multi-family dwellings to meet seven specific accessibility standards, ● required landlords to make “reasonable modifications” for persons with disabilities, including permitting disabled tenants to make structural changes at their own expense, ● gave parties to housing discrimination cases the option of having their case decided in a civil action rather than a hearing before an administrative law judge, ● gave courts or the Commission power to assess fines and award actual and compensatory damages in housing cases, ● gave title companies, attorneys, and title insurance agents power to remove illegal covenants based on race or religion,

- added mental disability as a protected status under Colorado’s fair housing law.
- In employment cases, the legislature prohibited any lawful off-premises activity as a condition of employment illegal, with sole recourse through civil suits (dubbed the “smoker’s rights” bill).

1991

The legislature gave the Director of the Colorado Civil Rights Division subpoena power in employment cases.

1992

Legislators fine-tuned the State’s fair housing law to meet certain federal equivalency requirements as follows:

- prohibited “blockbusting” and discriminating in the terms and conditions of real estate loans, and
- excluded persons currently involved in illegal use of or addiction to a controlled substance from the definition of mental disability.

1993

The time limit for processing charges was extended from 180 days to 270 days, with the provision of a 180-day right-to-sue request.

1999

Colorado Civil Rights Division’s third legislative Sunset Review left the agency with two new statutory mandates:

- gave jurisdiction to the agency for workplace harassment cases without economic loss,
- authorization to intervene in intergroup conflicts and offer voluntary dispute resolution services.

2000

The U.S. Courts of Appeals for the 10th Circuit in *Barzanji v. Sealy Mattress Co*, issued an opinion in a case that was initially filed with the Division, which placed additional limitations on the concept of “continuing violations” and reaffirmed that the date of notification of adverse employment action is the correct date of record for purposes of measuring jurisdictional filing deadlines.

2007

The legislature added sexual orientation, including transgender status, as a protected class in employment cases.

2008

The legislature added sexual orientation, including transgender status, as a protected class in housing and public accommodation cases, but exclude churches and other religious organizations from jurisdiction under the public accommodation statute.

2009

The Colorado Civil Rights Division's fourth legislative Sunset Review left the agency in place with three new statutory mandates:

- gave jurisdiction to the agency for claims involving terms and conditions of employment;
- allowed the Civil Rights Commission to initiate complaints; and
- extended the Division's subpoena authority.

2013

The state legislature passed the *Colorado Job Protection and Civil Rights Enforcement Act of 2013* which was signed by the Governor on May 6, 2013. Effective January 1, 2015, the *Act* expands the remedies a plaintiff may claim in a lawsuit in which intentional employment discrimination is proven to include attorneys' fees, compensatory and punitive damages, and front pay. Additionally, effective January 1, 2015 the *Act* permits age claims to be made by employees whose age is 40 years and over, with no ceiling as to the maximum age an individual may be in order to bring a claim of age discrimination.

2016

The state legislature passed the *Pregnancy Workers Fairness Act of 2016*, which was signed by the Governor on June 1, 2016 and went into effect August 10, 2016. This Act requires employers to provide reasonable accommodations to pregnant workers and applicants, as well as conditions related to pregnancy, such as recovery from childbirth. If an employee/applicant requests an accommodation related to pregnancy/childbirth, the employer must engage in an interactive process with the employee/applicant and provide reasonable accommodations to perform the essential functions of the position unless the accommodation would pose an undue hardship on the employer's business.

2018

The Colorado Civil Rights Division's fifth legislative Sunset Review left the agency in place with three new statutory mandates:

- Modified Commission membership to include 3 business representatives, 3 members representing Colorado workers, and one at-large member.
- Required the state auditor to complete a performance audit of the division and commission by December 15, 2019, and by December 15, 2024, and to present the audit reports and recommendations to the legislative audit committee.
- Allowed Senate rejection of Commission appointments.

