



FCHR Has Taken Steps to Improve Investigation Reports and Increase Customer Satisfaction

at a glance

Consistent with our recommendation, the Florida Commission on Human Relations has taken steps to improve its investigation process, including reviewing all cases and increasing staff training. In addition, the commission implemented a customer satisfaction survey to enable individuals who use its services to provide feedback. Survey results indicate that respondents are satisfied with commission intake services. As available resources allow, the commission should continue its efforts to electronically track complaints and expand customer satisfaction surveys to other units and services.

Scope

In accordance with state law, this progress report describes actions taken by the Florida Commission on Human Relations (FCHR) to address the findings and recommendations of our 2006 report.^{1, 2}

¹ Section 11.51(6), *F.S.*

² *Eliminating FCHR Would Limit Options and Increase Costs to Citizens Seeking Remedy for Discrimination*, OPPAGA Report No. [06-09](#), January 2006.

Background

The purpose of the Florida Commission on Human Relations is to eliminate discrimination by promoting and encouraging fair treatment, equal opportunity, mutual understanding, and respect among Florida residents and visitors. FCHR is responsible for enforcing the provisions of the Florida Civil Rights Act, Florida Fair Housing Act, and the Whistle-blower's Act.³

The commission is administratively housed within the Department of Management Services, but is not subject to the control, supervision, or direction of the department. FCHR is composed of 12 commissioners who are appointed by the Governor, subject to Senate confirmation, for four-year terms.⁴

FCHR accepts and investigates complaints from individuals who believe they have been discriminated against in the areas of housing, employment, and certain public accommodations,

³ Sections 760.01-760.11 and 509.092, *F.S.* (The Florida Civil Rights Act), prohibit discrimination in employment and public accommodations based on race, color, religion, sex, handicap, national origin, age, and marital status. Sections 760.20-760.37, *F.S.* (Florida Fair Housing Act), prohibit discrimination in housing based on race, color, national origin, sex, handicap, religion, and familial status. Sections 112.3187-112.31895, *F.S.* (Whistle-blower's Act), protect employees from any form of retaliation by the agency for which they work in cases where they disclose information about actual or suspected violations or misconduct.

⁴ Members of the commission must be broadly representative of various racial, religious, ethnic, social, economic, political, and professional groups within the state. At least one member must be 60 years of age or older.

as well as those who believe they have been retaliated against for filing a whistleblower complaint.⁵ For example, individuals may file a complaint with the commission alleging they were denied rental of an apartment because of their race or familial status, or if they believed that their employment was terminated based on a disability.

If FCHR has jurisdiction over an allegation and filing requirements are met, the complaint is docketed and accepted for investigation.⁶ Based on information obtained during the investigation, staff makes recommendation to the commission's executive director as to whether there is reasonable cause to believe that a discriminatory act has occurred. If the executive director issues a determination of reasonable cause, the complainant may either file a civil action with the court or request an administrative hearing with the Florida Division of Administrative Hearings (DOAH). If a determination of no reasonable cause is issued, the executive director dismisses the complaint and the complainant may request an administrative hearing, but by statute may not proceed to civil court. After hearing a case, DOAH issues a recommended order to the commission. A panel of 3 of the 12 FCHR commissioners reviews each case and issues a final order based on the results of their vote. Final orders can be appealed to the district court of appeals.

FCHR dismisses some complaints before making a determination. For example, the commission can dismiss complaints if it does not have jurisdiction over the respondent or subject matter of the complaint, or if the complainant fails or refuses to cooperate or did not timely file the complaint. In some instances, the complainant negotiates a settlement or voluntarily dismisses or withdraws their complaint before the investigation is completed. Some complaints also are resolved through mediation or conciliation.

The commission received 1,324 complaints and closed 2,642 during Fiscal Year 2006-07; the number of cases closed exceeds those received

⁵ Public accommodations include food and lodging establishments, certain private clubs, and places of exhibition or entertainment such as stadiums, sports arenas, and theaters.

⁶ If the investigator determines that both parties desire mediation, s/he forwards the case to the commission's mediation unit.

because it includes cases received in prior fiscal years. As shown in Exhibit 1, employment complaints made up the vast majority of complaints received by the commission during the year.

**Exhibit 1
Most Complaints to FCHR in Fiscal Year 2006-07
Involved Alleged Employment Discrimination**

Complaint Type	Number	Percentage
Employment	994	75.1%
Housing	230	17.4%
Public Accommodations	67	5.1%
Whistle-blower	33	2.4%
Total	1,324	100.0%

Source: Florida Commission on Human Relations.

In addition to investigating complaints, FCHR provides technical assistance to employers to inform them of laws, policies, and practices they can employ to ensure compliance with civil rights laws. The commission also conducts workshops on fair housing practices for tenants, homeowners, first-time home buyers, real estate brokers, and landlords. Additionally, the commission offers training in conflict resolution, provides forums for groups to discuss and settle conflicts, and assists local governments in developing human relations councils.

FCHR is funded predominantly from general revenue. For Fiscal Year 2007-08, the Legislature appropriated the commission \$5,827,845, of which \$4,310,086 (74%) was from general revenue, and \$1,517,759 (26%) was from trust funds.⁷ The commission has 64 authorized positions.⁸

Our 2006 review examined FCHR's role in providing civil remedies for individuals who feel they have been discriminated against and assessed the commission's potential duplication with other entities, effectiveness of complaint resolution services, cost-effectiveness of administrative hearings, and the advantages and disadvantages of eliminating the commission.

⁷ The primary sources of FCHR's trust fund revenues are federal reimbursements from the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development for cases the commission processes on the federal agencies' behalf.

⁸ Fiscal Year 2007-08 appropriations and FTEs reflect budget reductions made during Special Legislative Session 2007C in October 2007.

Our review concluded that

- FCHR does not duplicate the functions of other state, federal, and local agencies that enforce anti-discrimination laws due to differences in jurisdiction, types of complaints processed, and provisions of applicable laws as well as cooperative agreements between the commission and these entities;
- FCHR provides an efficient method for resolving discrimination complaints, timely disposing of most cases that proceed to the determination of reasonable cause;
- authorizing FCHR to conduct administrative hearings in-house rather than using the Division of Administrative Hearings would likely increase the state's overall costs; and
- eliminating the commission could simplify the process for pursuing discrimination complaints but would produce several adverse effects, including restricting options for individuals to address discrimination complaints, increased court costs, and lengthened resolution time.

In addition, our prior review found that although the commission provided an efficient method to resolve discrimination complaints, it had not been conducting a legal review of investigation reports as required by administrative rule.⁹ To address this concern, in May 2005 the commission began conducting legal reviews of completed investigation reports with no-cause recommendations as required. To improve the commission's investigation reports, we recommended that it

- analyze the results of legal reviews to assess whether they identify patterns of investigation deficiencies and
- develop strategies for resolving such deficiencies.

⁹ Rule 60Y-5.004, *F.A.C.*, requires the commission's Office of Employment Investigations to send completed investigation reports and associated recommendations to its Office of General Counsel if complaints were not settled or withdrawn.

Current Status

As we recommended, the Florida Commission on Human Relations has taken steps to improve its investigation process, including reviewing all cases and increasing staff training. In addition, the commission has implemented a customer satisfaction survey to enable individuals to provide feedback on its services.

FCHR improved its investigative reports through legal reviews and increased training

Since our 2006 review, the commission has conducted legal reviews of all cases, with special emphasis on "no cause" and "no jurisdiction" cases. Currently, the legal review process includes reviewing, evaluating, and analyzing all cases as well as periodic discussions with investigators about the specifics and rationale for final determinations. Based upon review results, legal staff has recommended ways in which investigators could improve investigative techniques, analysis of facts provided for each case, and style of writing used in the investigative report.

Consistent with our recommendation, the commission has used the results of these legal reviews to identify patterns of investigation deficiencies. Specifically, the commission has found that investigators tended to misapply the law to the facts; investigative reports demonstrated a lack of basic writing skills; and reports lacked thorough analysis.

To address these deficiencies, the commission has implemented several strategies. The commission increased both internal and external training opportunities for investigators to ensure that they obtain the basic skills needed for case investigation and report writing. Internal training topics include investigative techniques, evidence and data analysis, and arriving at a recommended determination. Commission investigators also have attended training conducted by the U.S. Equal Employment Opportunity Commission and the U.S. Housing and Urban Development Academy.

Moreover, the commission reports that legal staff currently spends significant one-on-one time with investigators to assess levels of understanding of investigative components and provide training and guidance when needed.

According to the commission, these efforts have increased the overall quality of investigations and reduced the number of complaints regarding investigations made by plaintiff and defense attorneys. However, the commission does not currently track such complaints in an electronic database, which impedes its ability to consistently record performance improvements or declines. FCHR officials report that the commission’s data system was modified in June 2007 to allow for the compilation of complaint data, including fields that record action taken (e.g., received, resolved, closed). The commission has not yet completed these system enhancements. As available resources allow, we encourage the commission to continue its efforts to collect complaint data in a reliable electronic format.

Customer satisfaction surveys help the commission provide better service

In addition to taking steps to improve the quality of its investigative reports, the commission also has developed and implemented a customer satisfaction survey, with the goal of providing individuals the opportunity to express concerns and make suggestions regarding commission staff, processes, and procedures.

The commission developed and distributed its first customer satisfaction survey in 2007, sending it to all customers who contacted the commission’s intake unit during the first quarter of 2007 (471 surveys were distributed and 61 were

returned, for a response rate of 12.95%).¹⁰ The survey was designed to measure the level of service that customers received from intake investigators and asked respondents to provide ratings of investigator service in seven areas.

- Courteous and helpful
- Prompt and responsive
- Neutral and objective
- Patient and understanding
- Professional
- Knowledgeable
- Clear and easy to understand

For each area, respondents provided a rating of 1 through 5, with 1 being very poor and 5 being excellent. While based on a low response rate, of the 61 surveys received, 85% (52) provided “excellent” ratings across all areas.

FCHR plans to expand its customer satisfaction surveys to other units, including enforcement and housing investigation. To ensure ongoing improvements in customer service, we support the commission’s survey efforts and suggest that as available resources allow, it regularly compile and report survey data for consistent tracking of performance improvements and declines. It should take steps to increase its survey response rate to ensure that the feedback it receives is representative of all the customers it serves.

¹⁰ In April 2007, the commission sent surveys to all of its intake customers, many of whom had minimal if any interaction with intake investigators. In July 2007, the commission determined that its true customer base includes individuals who actually receive drafted charge of discrimination forms and engage in more substantive interaction with intake investigators. In subsequent distributions, surveys will be sent to these individuals and, as a result, the commission anticipates higher response rates.

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Florida Monitor: www.oppaga.state.fl.us

Project supervised by Kara Collins-Gomez (850/487-4257)

Project conducted by Jeanine Brown (850/487-4256)

Gary R. VanLandingham, Ph.D., OPPAGA Director