

REPORT HIGHLIGHTS



MANAGEMENT OF CIVIL RIGHTS DISCRIMINATION COMPLAINTS
PERFORMANCE AUDIT, AUGUST 2019

COLORADO CIVIL RIGHTS COMMISSION
COLORADO CIVIL RIGHTS DIVISION

CONCERN

The Colorado Civil Rights Division (Division) does not investigate complaints in a timely manner and uses time extensions that statute provides to the parties to allow itself more time. The Colorado Civil Rights Commission (Commission) could not provide evidence of how it makes decisions related to discrimination complaints, resulting in processes that are opaque and prevent the public from gaining assurance that it operates in a fair and consistent manner.

KEY FINDINGS

- The Division did not complete its investigative work for 367 of the 933 complaints we reviewed (39 percent) within 270 days, as required by statute. On average, the Division took almost a year to complete its work on each of these delayed cases.
- The Division could not provide evidence that staff were actively investigating complaints for time spans ranging from 3 to 10 months for nine of a sample of 25 complaints.
- The Division's records show the Division initiated time extension requests to complete its own work in 58 of a sample of 66 such requests we reviewed, when statute only provides for the complainant and respondent parties to request time extensions. The Commission approved all of the requests, which extended the 270-day statutory deadline, but could not provide evidence that it considered whether there was "good cause" to grant the extension, as statute requires.
- The Division did not maintain complaint information that was accessible in any aggregated form to support its decision-making, achievement of objectives, or external reporting, from November 2016, when it implemented its online complaint management system, through the end of our audit period (June 2019).
- The Commission does not operate in a manner that allows for transparency or accountability. It could not provide evidence in meeting minutes or audio recordings that it discussed the cases, applied rules and policies to the reviews, and how it decided the disposition of any of the 218 cases it reviewed in Fiscal Years 2017 and 2018. Further, the Commission votes in executive session, in violation of the Colorado Sunshine Law.

BACKGROUND

- Individuals in protected classes (e.g. age, race, color, mental or physical disability, marital status, national origin/ancestry, creed, sex, and sexual orientation) may file complaints of discrimination in employment, housing, and public accommodations [Sections 24-34-301 through 805, C.R.S.].
- The Division investigates complaints to determine whether there is "probable cause" the alleged discrimination occurred and mediates settlement terms between complainant and respondent parties when there is probable cause.
- If the parties cannot settle, the Commission reviews the complaint to decide if an Administrative Law Hearing should be set to resolve the complaint.
- The Division and Commission have 270 days to investigate a complaint and determine whether a hearing should be set [Section 24-34-306(11), C.R.S.].
- In Fiscal Year 2019, a total of 1,929 complaints were filed with the Division.

KEY RECOMMENDATIONS

- The Division should improve the timeliness of its complaint investigations by establishing, monitoring, and adjusting expectations for staff on completing each milestone in the process. The Division should not use the parties' statutory time extensions for completing its work.
- The Commission should discuss complaints to determine their disposition; document its consideration of complaints; base decision-making on its discussions and on the factors that must be applied to each complaint; and vote on complaints during open meetings, in accordance with statute.
- The Division and Commission agreed with three of the recommendations and partially agreed with three of the recommendations.