

City of Chicago
COMMISSION ON HUMAN RELATIONS

ADJUDICATION DIVISION

2013 Activity
Concerning Discrimination Cases
filed under the
Chicago Human Rights Ordinance
and
Chicago Fair Housing Ordinance



Chicago Commission on Human Relations
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Adjudication of Discrimination Complaints

The authority of the Commission on Human Relations to enforce the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance is exercised through the Adjudication Division. The work of the Division is:

- To receive and investigate complaints alleging violations of the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance.
- To facilitate the settlement of cases, where possible.
- To determine, after investigation and hearing, whether discrimination occurred in violation of the Human Rights Ordinance or the Fair Housing Ordinance.
- To order remedies if the complainant proves at a hearing that discrimination has occurred.

The orders of the Commission's Adjudication Division and the rulings of the Board of Commissioners in discrimination cases carry the force of law. If the Board of Commissioners rules that discrimination occurred, it has the power to impose fines and order injunctive relief as well as the payment of out-of-pocket damages, emotional distress damages, punitive damages, attorney fees, and costs.

In investigating and adjudicating a discrimination complaint filed by a member of the public, the role of the Commission is neutral. It does not serve as either side's lawyer, advisor, or advocate. It is not a prosecutor of the case. It does not take the side of either the complainant (the person who filed the complaint) or the respondent (the alleged violator).

Adjudication on the Web

See the Commission on Human Relations web site at www.cityofchicago.org/humanrelations for more information about Chicago's discrimination ordinances and their enforcement, including –

- Copies of the Chicago Human Rights Ordinance and the Chicago Fair Housing Ordinance
- Copy of the Commission on Human Relations Enabling Ordinance
- The regulations governing enforcement of these ordinances
- Information on how to research Commission case law
- A *Board Rulings Digest* summarizing decisions about violations and remedies ordered
- A complaint form and frequently-used forms for complainants and respondents
- A *Guide to Discrimination Complaints* in English and Spanish
- Information and forms to help complainants prepare, file, and prove a complaint
- Information and forms to help respondents respond to a complaint
- Information about other discrimination laws and enforcement agencies

Also, see and “like” the Commission's Facebook page for updates and frequently asked questions.

What is Discrimination?

In general, to prevail in a discrimination case under the City of Chicago ordinances, a complainant must be able to prove by a preponderance of the evidence that:

- The complainant was subjected to *adverse treatment* by a covered individual, business, or government entity (the respondent).
- This conduct was based on the complainant's status in one or more of these *protected categories*:

Race	Sex	Age (over 40)
Color	Sexual Orientation	Disability
National Origin	Gender Identity	Source of Income
Ancestry	Marital Status	Military Discharge Status
Religion	Parental Status	Credit History (employment only)

- The conduct was in one of the following *covered areas*:

Housing	Public Accommodations
Employment	Credit or Bonding Transactions

- The adverse action took place *in the City of Chicago*.
- The complaint was filed within *180 days* of the alleged discriminatory action.
- The complainant was treated differently *because of* his or her protected status, and not for other legitimate, non-discriminatory reasons.

Filing a Discrimination Complaint

Intake staff in the Adjudication Division is available during announced business hours to answer inquiries about filing a complaint under the Chicago Human Rights Ordinance or Chicago Fair Housing Ordinance. Those interested should telephone (312) 744-4111. Intake staff will assist the public with preparation of complaints on a walk-in basis. They also provide forms for self-preparation of complaints and filing by mail. There is no filing fee.

A complaint form, along with additional information about the ordinances and the adjudication process, can also be found on the Commission's web site: www.cityofchicago.org/humanrelations.

How Cases Proceed

People who believe they have been subjected to discrimination as defined in the City of Chicago ordinances may file written complaints with the Commission following a prescribed form. After a complaint is filed, the Commission notifies each named respondent and sets a deadline to submit a written response and any documents that support the respondent's position. The complainant also receives a deadline to reply to any response and to submit any documentation that supports the allegations of the complaint.

The Commission will offer the parties the opportunity to try to settle the case before the investigation is completed. Settlement is voluntary. The Commission does not propose or advocate particular settlement terms, but staff may draft the agreed terms of a settlement for parties to sign.

If the case does not settle or otherwise close at the pleading stage, the investigator completes any additional evidence-gathering that may be needed and compiles the evidence for review by senior staff of the Commission. Investigation usually consists of interviewing witnesses and examining relevant documents or physical evidence. The investigator may seek information about the experiences of other people whose situations are comparable to the complainant's. Investigators may conduct site visits when appropriate to the case. The Commission has subpoena power along with the power to sanction parties that fail to cooperate with the investigation.

A Compliance Committee of Commission senior staff then determines whether or not there is "substantial evidence" of discrimination. A finding of substantial evidence does not mean the complainant has won the case, but only that there is enough evidence of a violation for the case to go forward. If the Compliance Committee finds no substantial evidence of an ordinance violation, it dismisses the case. The complainant may request a review of the dismissal.

If the Commission finds there is substantial evidence of discrimination (or retaliation if applicable), it notifies the parties that the case will proceed to an administrative hearing. Again, the parties may attempt to settle the case prior to the hearing.

The administrative hearing is a trial, but somewhat less formal than in a court. A hearing officer is appointed by the Commission from a pre-selected panel of attorneys with experience in civil rights litigation. The hearing officer presides over the hearing and manages the pre-hearing and post-hearing process. Commission staff do not prosecute the case or represent the complainant at this hearing. It is entirely the complainant's responsibility to prove the case and to prove entitlement to injunctive and monetary relief as well as any attorney fees and costs. Pre-hearing discovery and subpoena procedures are available to the parties to aid in obtaining evidence to support their positions.

Based on the hearing officer's recommendation and the hearing record, the Board of Commissioners makes the final determination as to whether the complainant has proved that the respondent has violated the Chicago Human Rights Ordinance or the Chicago Fair Housing Ordinance. If the Board rules that there has been a violation, it also determines what relief will be awarded to the complainant.

Relief may include a fine for each violation, an order to take steps to eliminate discriminatory practices (injunctive relief), an award of damages to be paid to the complainant, and an order to pay the complainant's attorney fees. Final orders awarding or denying relief have the force of law, can be appealed to the state court on a *certiorari* petition, and are enforceable by obtaining a state court judgment.

Summary of Filing and Adjudication Activity

The table below summarizes complaint filing and adjudication activity during 2013 in the categories of discrimination complaints accepted under the City's ordinances. The 2013 figures are compared to those for 2012.

Case Activity Summary	Housing 2013 / 2012	Employment 2013 / 2012	Public Accommodation 2013 / 2012	Credit 2013 / 2012	TOTAL 2013 / 2012
COMPLAINTS FILED	90 / 97	76 / 83	92 / 68	3 / 1	261 / 249
Staff-Assisted	45 / 38	47 / 55	40 / 39	2 / 1	134 / 133
Self-Prepared	45 / 59	29 / 28	52 / 29	1 / 0	127 / 116
CASES FORWARDED TO HEARING STAGE	13 / 10	3 / 12	11 / 7	0 / 0	27 / 29
Substantial Evidence	13 / 10	4 / 12	11 / 7	0 / 0	28 / 29
Default (investigation stage)	0 / 0	1 / 0	0 / 0	0 / 0	1 / 0
CASES CLOSED	104 / 72	114 / 96	76 / 76	3 / 1	294 / 244
Settled	31 / 22	21 / 19	13 / 11	0 / 0	65 / 52
Complainant Withdrew Complaint	28 / 21	27 / 22	18 / 12	1 / 1	77 / 55
Complainant Failed to Cooperate	11 / 2	12 / 10	6 / 10	0 / 0	30 / 22
Lack of Jurisdiction	3 / 2	0 / 10	9 / 1	2 / 0	12 / 13
No Substantial Evidence	31 / 18	53 / 34	30 / 37	0 / 0	114 / 89
Ruling After Hearing	0 / 7	1 / 1	0 / 5	0 / 0	1 / 13
REQUESTS FOR REVIEW after involuntary dismissal	6 / 6	12 / 10	0 / 8	0 / 0	18 / 24
Denied	6 / 6	11 / 10	0 / 8	0 / 0	17 / 24
Granted	0 / 0	1 / 0	0 / 0	0 / 0	1 / 0

Discrimination Claimed in New Complaints

The percentage figures in the table below show the percentage of *complaints* filed in 2013 which contained a *claim* of discrimination on the basis named. A complaint may claim discrimination on more than one basis (e.g. sex and age) arising out of the facts alleged. Thus the number of claims usually exceeds the number of complaints.

PROTECTED CLASS	Housing	%	Employment	%	Public Accom.	%	Credit	%	Total Claims	%
Race	19	21%	29	38%	26	28%	1	20%	75	28%
Color	3	3%	6	8%	2	2%	1	20%	12	5%
National Origin	2	2%	6	8%	1	1%	0	0%	9	2%
Ancestry	1	1%	5	7%	0	0%	0	0%	6	3%
Religion	3	3%	3	4%	1	1%	0	0%	7	3%
Sex	6	6%	29	38%	8	9%	1	20%	44	17%
Sexual Orientation	4	4%	10	13%	6	7%	0	0%	20	8%
Gender Identity	2	2%	1	1%	4	4%	0	0%	7	3%
Marital Status	0	0%	1	1%	1	1%	0	0%	2	1%
Parental Status	4	4%	6	8%	0	0%	0	0%	10	4%
Age	4	4%	10	13%	1	1%	0	0%	15	6%
Disability	13	14%	7	9%	56	61%	1	20%	77	30%
Source of Income	55	61%	0	0%	0	0%	1	20%	56	21%
Military Discharge Status	0	0%	0	0%	0	0%	0	0%	0	0%
Credit History	N/A		0	0%	N/A		N/A	0%	0	0%
TOTAL COMPLAINTS	116		113		106		5		337	

Trends in Discrimination Claims

In total, 261 new discrimination complaints were filed in 2013, compared to 249 in 2012. The number of new housing discrimination complaints remained high. The 90 housing discrimination complaints filed in 2013 represent a slight 7% decrease from the 97 filed in 2012; however, that is the second largest number of housing discrimination complaints filed in a single year since 2003. The most striking difference in 2013 was the number of public accommodations cases. There were 92 such complaints filed in 2013, compared to 68 in 2012, a 35% increase. As a result, the largest proportion of new discrimination complaints in 2013 concerned public accommodations, at just over 35%, while just under 35% concerned housing, 29% concerned employment, and 1% concerned credit transactions.

Sixty-one percent of the public accommodation complaints in 2013 alleged disability discrimination; specifically, denial of full use of a business establishment. The City of Chicago is an old, historical city, and many of its neighborhoods boast beautiful architecture and street grading that is not always conducive to accessibility. The Commission on Human Relations, along with other City departments, is committed to assisting businesses in making their services accessible to everyone, including those with disabilities. Race was the next largest discrimination basis claimed in public accommodation complaints, at 28%. The next most frequent type of claims in the public accommodation area was sex discrimination at 9% of new complaints. Other types of discrimination were claimed in 7% or fewer of public accommodation complaints.

The bulk of the housing discrimination complaints, or 61%, alleged source of income discrimination involving Housing Choice Vouchers, also known as Section 8 Vouchers. Discrimination against low income households who receive these federal subsidies (administered in Chicago through the Chicago Housing Authority) thus continues as a significant fair housing issue. The Fair Housing Ordinance offers the only available legal remedy for this type of discrimination in Chicago. Race discrimination was the next most frequent claim in the housing area, asserted in 21% of the complaints filed in 2013. Next was disability discrimination, claimed in 14% of housing discrimination complaints, followed by sex discrimination in 6%. Other types of discrimination were claimed in 4% or fewer of new housing discrimination complaints.

Of the 76 employment discrimination complaints filed in 2013, race and sex were the most frequently alleged discrimination bases, each appearing in 38% of the complaints. Following were sexual orientation and age discrimination, each claimed in 13% of the complaints, and disability in 9%. Claims based on the remaining protected classes appeared in 8% or fewer of new employment discrimination complaints.

Discrimination in credit transactions and bonding has never been the subject of many complaints. In 2013, there were only three such complaints, compared to one in 2012. The 2013 complaints were based on a combination of sex, retaliation, race, source of income, disability and color.

Evaluating Complaint Data

In considering the meaning of the data on discrimination complaints presented in this report, a few points should be kept in mind:

- The value of Chicago's enforcement structure is in making a *fair, neutral complaint and adjudication process readily available to anyone* who believes he or she has been subjected to discrimination in violation of Chicago's ordinances.
 - Every properly-filed complaint which a complainant chooses to pursue will be investigated and ruled upon according to established procedures and legal standards.
 - Businesses and individuals accused of discrimination have the opportunity to present their defenses under the same neutral process.
 - Although the Commission implements City policy which strongly opposes discrimination, it is careful to impose the City's powerful remedies only when justified by the evidence and applicable law.
 - At the same time, the Commission encourages utilization of its complaint filing and adjudication system so that accusations of discrimination can be resolved fairly according to the law and discriminatory conduct can be remedied and deterred.
- Complaint-filing data does not measure the amount of discrimination that actually occurs in Chicago, for several reasons:
 - There can be many reasons victims of discrimination may not pursue a legal remedy, including lack of knowledge of the laws and remedies, inability to devote time and resources to pursuing a case, and concern about the public nature of the process.
 - At the time a complaint is filed, the Commission has made no decision about whether the facts alleged are true or whether the claims have legal merit. The investigation and adjudication process is the way the Commission reaches those decisions.
 - Many types of discrimination violate federal and state anti-discrimination laws as well as Chicago's ordinances. People can choose to file claims under one or more of the available laws, which may vary in their coverage as well as their procedures. Thus the Commission's filing data reflects only a portion of the legal claims alleging that discrimination occurred in Chicago.

- Nevertheless, complaint-filing data can offer insight into what types of discrimination people believe they are experiencing as well as what types of claims people bring to the Commission on Human Relations.
- Chicago’s ordinances and enforcement mechanisms offer (1) some unique coverage not available under federal or state laws, and (2) an enforcement system that is Chicago-focused, highly accessible, and linked to other City government initiatives.
- For example, a strength of local anti-discrimination ordinances has been the ability to fill gaps in state and federal laws and to take the lead in addressing additional types of discrimination.
 - Until the end of 2013, Chicago’s Fair Housing Ordinance was the only law prohibiting source of income discrimination against holders of Section 8 Housing Choice Vouchers. The Cook County Human Rights Ordinance was amended in late 2013 to prohibit this type of discrimination. Neither the Illinois Human Rights Act nor the federal Fair Housing Act prohibit source of income discrimination.
 - Only the Chicago and Cook County ordinances cover all employers and housing providers regardless of size.
 - Only the Chicago Human Rights Ordinance prohibits employment discrimination based on parental status.
 - State and local definitions of disability remain more inclusive than the federal definition.
 - Federal anti-discrimination laws still do not cover sexual orientation or gender identity discrimination, an area in which Chicago was a leader when it enacted the present Human Rights and Fair Housing Ordinances and later amended them.

Substantial Evidence Findings

During 2013, 29 complaints advanced to the administrative hearing stage after a finding of substantial evidence that an ordinance violation had occurred. This represents 12% of 242 dispositions of cases at the investigation stage and 25% of the 118 full investigations completed with a formal decision as to whether there was substantial evidence. The remaining 124 complaints were settled or dismissed for other reasons before a determination as to substantial evidence was reached.

A finding of substantial evidence is a preliminary legal ruling which means there is sufficient evidence, if believed, to support a final ruling that an ordinance violation occurred. A substantial evidence finding allows a case to advance to the administrative hearing process and a Board of Commissioners ruling on liability and relief. To obtain relief, it remains the responsibility of the complainant to prove the case at a public administrative hearing, where any respondent not held in default is allowed to present a defense.

The breakdown of completed full investigations by case type and result appears in the table below, with the 2012 figures presented for comparison:

Findings after Full Investigations	Housing		Employment		Public Accommodation		TOTAL	
	2013	2012	2013	2012	2013	2012	2013	2012
Substantial Evidence	15	10	6	12	12	7	33	29
No Substantial Evidence	30	18	51	34	29	37	110	89
TOTAL COMPLETED FULL INVESTIGATIONS	45	28	56	46	40	44	141	118

The table below illustrates the flow of complaints from the investigation stage to the hearing stage in recent years. It also illustrates the proportion of pending cases in each stage of adjudication at the end of each year. Between 2006 and 2009, a relatively high number of cases proceeded to the hearing and final ruling process after investigation. As the number of cases advancing to the hearing stage fell back to more typical levels, the number pending in the hearing stage soon dropped accordingly. These levels can vary because it is difficult to predict how many complaints will be filed or how many cases will be active in the hearing stage during a given period of time.

Stages of Complaints	2006	2007	2008	2009	2010	2011	2012	2013
Pending Complaints (at year-end)	514	356	284	259	256	240	259	225
In Investigation Stage	464	303	224	209	220	217	238	206
In Hearing Stage	50	53	60	50	36	23	21	19
New Complaints	220	272	247	259	299	267	249	261
Complaints Forwarded to Hearing	67	56	73	62	37	28	29	33

Settlement of Complaints

A substantial number of discrimination cases close due to settlement between the parties. The Commission values settlement of discrimination complaints consistent with its larger strategy to encourage the voluntary resolution of differences where possible. Settlement may occur either prior to completion of a full investigation or after a case has advanced to the hearing process. In 2013 a total of 69 or 26% of closed cases were resolved by settlement, compared to 21% in 2012.

Settlement is voluntary between the parties. When cases settle, the respondents do not admit liability and the Commission does not decide whether a violation actually occurred. The Commission is not a party to the settlement and does not require or advocate particular settlement terms. However, Commission staff, independent mediators, and hearing officers do encourage parties to try to settle their disputes and may facilitate the process. The Commission is authorized to order parties to

participate in a confidential settlement conference conducted by one of its independent mediators. The Commission typically does this after a substantial evidence finding but before appointment of a hearing officer, if there appears to be settlement potential. In 2013, the Commission held nine such settlement conferences, compared to 12 held in 2012.

Settlement terms vary, and because the majority of settlements are concluded as private agreements between the parties, the Commission often does not know the terms including the monetary value to complainants. To encourage settlement in the future, the Commission does not announce the terms of particular settlements, although parties may choose to do so if they have not agreed among themselves to keep the terms confidential.

Hearing Stage Activity

During 2013, the Commission advanced 33 cases to the hearing stage from the investigation stage following a finding of substantial evidence or default. Nineteen of those cases were scheduled for administrative hearing; however, none actually went to hearing in 2013. Fourteen closed during 2013, either by settlement or dismissal, before the administrative hearing was held. The remaining five carried over into the following year.

The remaining 14 cases that were forwarded to the hearing process were scheduled for settlement conferences before one of the Commission's independent mediators. During 2013, 13 of those cases either settled or were dismissed based on the complainant's failure to cooperate with the process. The remaining case carried over to the following year.

Board Rulings

Administrative hearings are held before independent hearing officers appointed by the Commission from a pre-selected roster of attorneys with expertise in civil rights law and litigation. The hearing officer manages the pre-hearing process, assesses credibility, makes findings of fact, and issues a recommended decision which the Board considers as the basis for its final ruling on liability and relief. If a prevailing complainant was represented by an attorney, a second recommended and final ruling determines the amount of the attorney fees and related costs the respondent will be ordered to pay.

Board rulings are written legal opinions which explain the basis for the decision. They are available to the public and establish precedents for future Commission decisions. The *Board Rulings Digest* is a Commission publication listing all Board rulings entered after administrative hearings. The latest update of the *Board Rulings Digest* is available on the Commission's website or on request from the office.

As previously stated, there were no administrative hearings held in 2013. The Board of Commissioners did, however, issue one ruling regarding attorney fees for a case that was adjudicated in 2012.

Employment Discrimination Rulings

Jones v. Lagniappe – A Creole Cajun Joynt, LLC, et al., CCHR No. 10-E-40 (May 15, 2013)
Sex Discrimination (Sexual Harassment)

The Board ordered the respondents to pay the complainant's requested attorney fees of \$26,100 and costs of \$455. In a prior ruling on December 19, 2012, the Board found in favor of the complainant on her claim of sexual harassment by the owner of the restaurant where she was employed, imposed fines of \$500 each against the owner and the business, and ordered the respondents to pay \$19,550 in damages to the complainant.